



United Nations

**Report of the Committee
on the Elimination of
Racial Discrimination**

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308. The Committee expresses concern about information relating to the forced repatriation of some Namibian refugees. Taking note of the responses provided by the delegation, the Committee recommends that repatriation be effected only when voluntary, and requests that more information be provided on the situation of refugees in Botswana in the next periodic report.

309. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that the possibility of doing so be considered.

310. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention which were adopted on 15 January 1992 at the Fourteenth Meeting of States Parties and endorsed by the General Assembly in its resolution 47/111.

311. With regard to the difficulties encountered in the preparation of its periodic reports mentioned by the State party, the Committee recommends that it avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights for its next periodic report.

312. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

313. Noting with appreciation the statement by the State party that it will consult with non-governmental organizations in the process of preparing its periodic reports, the Committee recommends that these reports be made widely available to the public from the time they are submitted and that the Convention, as well as the Committee's concluding observations, be widely publicized.

314. The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth periodic report, due on 22 March 2005, and that it address the points raised in the present observations.

CANADA

315. The Committee considered the thirteenth and fourteenth periodic reports of Canada (CERD/C/320/Add.5), which were due on 15 November 1995 and 15 November 1997, respectively, at its 1525th and 1526th meetings (CERD/C/SR.1524 and 1525), held on 5 and 6 August 2002. At its 1547th meeting (CERD/C/SR.1547), held on 21 August, it adopted the following concluding observations.

A. Introduction

316. The Committee welcomes the thirteenth and fourteenth periodic reports of Canada, as well as the additional information provided by the delegation. The Committee expresses its appreciation for the attendance of a high-ranking delegation and the constructive dialogue which the Committee was able to have with the State party.

317. The Committee notes that the periodic reports were submitted with a delay of about six and four years, respectively, and that they covered the period 1993-1997, although they were submitted in 2001.

318. The Committee welcomes the input from all levels of government into the State party's periodic reports, but notes that the reports do not fully comply with the Committee's reporting guidelines. In particular, the existence of different sections in the report for federal, provincial and territorial action does not give a comprehensive picture of the measures adopted by Canada to implement the Convention.

B. Positive aspects

319. The Committee notes with satisfaction the strong and steadfast commitment to human rights manifested by Canada through, in particular, the existence of numerous federal, provincial and territorial instruments and institutions aimed at enhancing human rights, such as the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, and the provincial and territorial Human Rights Acts.

320. The Committee notes the central importance and significance of the Multiculturalism Act and the relevant policy developed by the State party, which includes measures to protect and promote cultural diversity.

321. The Committee further notes with satisfaction the Statement of Reconciliation made by the Federal Government expressing Canada's profound regret for the historic injustices committed against Aboriginal people, in particular within the residential school system. The Committee further welcomes the commitment of the State party to building a new partnership with Aboriginal people and the adoption of numerous programmes for their benefit.

322. The Committee expresses its appreciation for the introduction of an amendment to the Canadian Human Rights Act to repeal the provision excluding the Indian Act from the scope of the Canadian Human Rights Act.

323. The Committee welcomes the extension of the scope of the Employment Equity Act to the federal public service and the Canadian Forces, and notes with satisfaction the progress achieved regarding the representation of Aboriginals and minorities in the federal public service.

324. The Committee welcomes the amendment to the Criminal Code (sect. 718.2) introducing racial discrimination as an aggravating circumstance.

325. The Committee welcomes the acceptance by the State party, on 8 February 1995, of the amendment to article 8, paragraph 6, of the Convention.

C. Concerns and recommendations

326. The Committee reiterates that the principal responsibility for the implementation of the Convention lies with the Federal Government of Canada. The Committee is concerned that the Federal Government cannot compel the provincial and territorial governments to align their laws with the requirements of the Convention. Noting in this connection the inter-provincial consultative procedure, in which the federal authorities are appropriately involved, the Committee expresses the hope that this procedure will be intensified so that proper implementation of the Convention is ensured at all levels.

327. The Committee notes that the Canadian Charter of Rights and Freedoms does not impose obligations on non-State actors and suggests that the possibility of enlarging the scope of this instrument in that respect be considered.

328. The Committee reiterates its concern about references to “visible minorities” in Canadian anti-discrimination policy since this term, which basically refers to non-white persons, does not appear to cover fully the scope of article 1 of the Convention.

329. The Committee notes with concern that the process of implementing the recommendations adopted in 1996 by the Royal Commission on Aboriginal Peoples has not yet been completed. The Committee regrets that no in-depth information was provided by the periodic reports on this matter, and requests that the State party indicate in detail in its next periodic report which recommendations of the Royal Commission were responded to and in what way.

330. The Committee expresses concern about the difficulties which may be encountered by Aboriginal peoples before the courts in establishing Aboriginal title over land. The Committee notes in this connection that to date no Aboriginal group has proven Aboriginal title, and recommends that the State party examine ways and means to facilitate the establishment of proof of Aboriginal title over land in procedures before the courts.

331. The Committee views with concern the direct connection between Aboriginal economic marginalization and the ongoing dispossession of Aboriginal people from their land, as recognized by the Royal Commission. The Committee notes with appreciation the assurance given by the delegation that Canada would no longer require a reference to extinguishment of surrendered land and resource rights in any land claim agreements. The Committee requests that in the next periodic report, information be provided on the significance and consequences of limitations imposed on the use by Aboriginal people of their land.

332. The Committee is concerned that some aspects of the Indian Act may not be in conformity with rights protected under article 5 of the Convention, in particular the right to marry and to choose one’s spouse, the right to own property and the right to inherit, with a

specific impact on Aboriginal women and children. The Committee recommends that the State party examine those aspects, in consultation with Aboriginal peoples, and provide appropriate information on this matter in its next periodic report.

333. The Committee reiterates its concern about the high rate of incarceration of, violence against and deaths in custody of Aboriginals and people of African and Asian descent, and recommends that the next periodic report contain information on the efficacy of programmes adopted with a view to reducing these phenomena and on the results of any inquiries undertaken.

334. The Committee is concerned with the high number of incidents of discrimination targeting Aboriginals and people belonging to minorities in the field of employment. The Committee recommends that the State party submit more detailed information on the results achieved to eradicate racial discrimination in the field of employment, including management positions, at federal, provincial and territorial levels and in the public and private sectors, and provide the Committee with disaggregated data, as well as an assessment of the activities of the employment equity review tribunals.

335. The Committee expresses concern about information on patterns of racial discrimination affecting people of African and Asian descent and at expressions of prejudice in the media against such people, as well as against foreigners and refugees. It is further concerned that the State party focuses on the prohibition of activities conducted by racist organizations rather than on the prohibition of such organizations, as required by article 4 (b) of the Convention. The Committee wishes to receive more information on the practical implementation of article 4 of the Convention and of section 718.2 of the Criminal Code, which establishes racial discrimination as an aggravating circumstance.

336. The Committee notes with concern that current immigration policies, in particular the present level of the “right of landing fee”, may have discriminatory effects on persons coming from poorer countries. The Committee is also concerned about information that most foreigners who are removed from Canada are Africans or of African descent. The Committee recommends that greater attention be given to the possible discriminatory effect of Canadian immigration policies.

337. The Committee is concerned about allegations that children of migrants with no status have been excluded from the school system in some of the provinces and hopes that the situation will be remedied.

338. The Committee notes with concern that, in the aftermath of the events of 11 September 2001 Muslims and Arabs have suffered from increased racial hatred, violence and discrimination. The Committee therefore welcomes the statement of the Prime Minister in the Ottawa Central Mosque condemning all acts of intolerance and hatred against Muslims, as well as the reinforcement of Canadian legislation to address hate speech and violence. In this connection, the Committee requests the State party to ensure that the application of the Anti-terrorism Act does not lead to negative consequences for ethnic and religious groups, migrants, asylum-seekers and refugees, in particular as a result of racial profiling.

339. The Committee notes a significant discrepancy between the number of complaints relating to racial discrimination brought before Canadian human rights commissions and the relatively small number of positive admissibility decisions. It recommends that the State party ensure the efficiency and accessibility of the complaint system, in conformity with article 6 of the Convention.

340. The Committee invites the State party to reconsider the possibility of making the declaration provided for in article 14 of the Convention.

341. Despite the reservations expressed by Canada on the Durban Declaration and Programme of Action, the Committee strongly recommends that the State party take into account the relevant parts of these documents when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement them at the national level.

342. The Committee suggests that the State party consult with non-governmental organizations in the process of drafting its periodic reports. It further recommends that these reports be made widely available to the public from the time they are submitted and that the Committee's concluding observations be similarly publicized.

343. The Committee requests that, when drafting the next report, the Government of Canada follow the sequence of the articles of the Convention and include subsections on measures adopted at all levels, including by provincial and territorial governments. The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth, seventeenth and eighteenth periodic reports on 15 November 2005 and that it address the points raised in the present observations in that report.

ESTONIA

344. The Committee considered the fifth periodic report of Estonia (CERD/C/373/Add.2) at its 1542nd and 1543rd meetings (CERD/C/SR.1542 and 1543), held on 16 and 19 August 2002. At its 1549th meeting (CERD/C/SR.1549), held on 22 August 2002, the Committee adopted the following concluding observations.

A. Introduction

345. The Committee welcomes the detailed and comprehensive report submitted by the State party, which was drafted in accordance with the guidelines for the preparation of reports, and the additional oral information provided by the delegation. The continuation of an open and constructive dialogue with the State party is equally welcomed.

346. The Committee is also encouraged by the detailed answers given to the questions and issues raised in its previous concluding observations.