



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

**List of issues to be taken up in connection with the consideration
of the fifth periodic report of CANADA (CCPR/C/CAN/2004/5)**

Right to self-determination (art. 1)

1. Please provide information on the concept of self-determination as it is applied to Aboriginal peoples in Canada, including Métis people, as promised in paragraph 8 of the fifth periodic report (previous conclusions (CCPR/C/79/105), para. 7).
2. Please be more specific about the new approaches adopted at federal level when negotiating comprehensive land claims agreements with Aboriginal peoples. What precisely are the legal and practical differences between, on the one hand, the “modified rights model” and the “non-assertion model”, and on the other hand, extinguishment of land rights? Please also inform the Committee about the practices of provinces and territories in this regard. What is the policy regarding past extinguishment of land rights, such as those of the Innu people (fifth periodic report, para. 186; previous conclusions, para. 8)?
3. What steps have the federal, provincial and territorial governments taken to promote the equal participation of Aboriginal women in the negotiations of self-government agreements, treaties, and any agreement relating to Aboriginal people?

**Constitutional and legal framework within which
the Covenant is implemented (art. 2)**

4. Please provide more detailed information about the recommendations made by the independent Panel charged with conducting a review of the Canadian Human Rights Act and the Senate Standing Committee on Human Rights, as well as on action taken by the Government to

follow-up on these recommendations. Please also elaborate on the discussion regarding the establishment of a public body responsible for overseeing implementation of the Covenant and for reporting on any deficiencies (periodic report, paras. 12-16; previous conclusions, para. 10).

5. What action has been undertaken to address the Committee's concern about the inadequacy of remedies for violations of articles 2, 3 and 26 of the Covenant? Please indicate the extent to which human rights legislation, at the federal, provincial and territorial levels, still confers authority to human rights commissions to refuse to refer a human rights complaint for adjudication. Please provide statistical data on the number of human rights complaints that have been dismissed by human rights commissions in all jurisdictions since 1999 (previous conclusions, para. 9).

6. Please explain how the State party reconciles its commitment to consider in good faith the Committee's final decisions under the Optional Protocol, and its reluctance to consider that it is under an obligation to implement the Committee's recommendations for interim measures (periodic report, paras. 47-48; previous conclusions, para. 14).

Counter-terrorism measures and respect of Covenant guarantees

7. Please provide more detailed information about the definition of terrorist activities in the federal Anti-Terrorism Act, and the results of the comprehensive review of this act directed by Parliament. Please also describe briefly the provisions adopted at the provincial and territorial levels to prevent or reduce the threat of terrorist activities (art. 4) (periodic report, paras. 62, 66, 565).

8. Please indicate whether persons arrested under the provisions of the Anti-Terrorism Act that enable preventive arrest have the right of access to an independent counsel, and if so, at what stage of the procedure. Do the amendments to the Canada Evidence Act introduced by the Anti-Terrorism Act enable a criminal court to condemn a person on the basis of evidence to which that person does not have full access? Please indicate how often these provisions have been applied, and provide examples if possible (arts. 9 and 14) (periodic report, paras. 63 and 91).

9. Please report to the Committee on the procedure for the issuance of "security certificates", which enable the State party to detain and expel immigrants and refugees on the ground of security concerns. Please also provide information on the number of affected persons and the extent to which effective remedies are made available to them (arts. 7, 9 and 13).

Prohibition of discrimination, gender equality, equality in and before the law (arts. 2, 3 and 26)

10. Does the State party intend to repeal section 67 of the Canadian Human Rights Act and what concrete steps does it envisage to take in this regard? Please also indicate what measures the State party intends to adopt on the issue of matrimonial real property on reserve lands (periodic report, paras. 14 and 29-31).

11. What actions have been adopted to assess the situation of the Afro-Canadian community in the areas of employment, habitat, health and education, as recommended by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance?

**Right to life, and prohibition of torture and cruel, inhuman
or degrading treatment (arts. 6 and 7)**

12. According to certain information, Aboriginal women are five times more likely to experience a violent death than other Canadian women. It is reported that about 500 Aboriginal women have been murdered or been reported missing over the past 15 years, and that these cases have not yet been solved. Please provide statistical data and indicate what measures have been adopted at the federal, provincial, and territorial levels to address this issue.

13. It is reported to the Committee that nine people have died following the use of taser guns by police since April 2003. Please provide information on the results of any investigations conducted into these deaths. Please also indicate what the regulations are for the use of taser guns by police.

14. Please provide data on the extent of homelessness in Canada as compared with the situation in 1999, on the number of deaths of people living on the street since that date, as well as information on measures adopted to address this issue (previous conclusions, para. 12).

15. Does the State party intend to revise its policy that, in exceptional circumstances, persons could be deported to a country where they would be at risk of torture or cruel, inhuman or degrading treatment (periodic report, para. 51; previous conclusions, para. 13)?

Liberty and security of the person, and treatment of prisoners (arts. 9 and 10)

16. What measures has the Government adopted or planned to adopt in response to the Canadian Human Rights Commission's recommendations on women prisoners? Please be more specific about the provisions of the Youth Criminal Justice Act that enable "possible imprisonment of young persons with adults", and indicate whether territorial and provincial legislation provides for the same possibility (periodic report, paras. 74 and 76).

17. Please provide more information on rules governing detention of irregular migrants in correctional facilities, at the federal as well as provincial and territorial levels (periodic report, para. 653). According to some information, there has been an increase in detention of unaccompanied minor migrants since 1999. Please report on efforts undertaken to ensure that detention is used as a last resort, on alternative measures to detention that have been developed, and on the counselling for asylum-seekers in detention, including children.

**Right to freedom of opinion and expression,
right of peaceful assembly (arts. 19 and 21)**

18. According to some information, police forces, in particular in Montreal, have resorted to massive preventive arrests of demonstrators. It is alleged that between 1999 and 2003, about 1,700 persons were arrested and detained in relation to involvement in political activities. Please comment.

Right to freedom of association (art. 22)

19. Will certain legislative texts in different provinces be amended in order to ensure the full enjoyment of the right of association in general, and the right to engage in trade union activities in agriculture, as recommended in 2004 by the International Labour Conference Committee on the Application of Standards and in 2003 by the ILO Committee of Experts on the Application of Conventions and Recommendations?

Protection of the child (art. 24)

20. Please indicate whether and how the State party ensures the provision of the National Child Benefit to all low income families, regardless of province, as recommended by the Committee (previous conclusions, para. 18).

Right to take part in public affairs (art. 25)

21. What are the concrete results of the Government of Canada's commitment to establish a representative and inclusive public service, which reflects the diversity of the Canadian population, including women and persons with disabilities? Please provide statistic (periodic report, paras. 164-165).

Rights of persons belonging to minorities (art. 27)

22. According to various sources of information, the land of the Lubicon Lake Band continues to be compromised by logging and large-scale oil and gas extraction, while no comprehensive agreement on this issue has been reached with the federal Government. Please comment, bearing in mind the views adopted by the Committee on this case (Chief Bernard Ominayak and the Lubicon Lake Band, Communication 167/1984).

23. Please provide information about any action adopted by the State party in order to remedy the discriminatory effects of the Indian Act against Aboriginal women and their children, and in particular to address the issue of second- and third-generation loss of reserve membership if an Indian woman marries outside her community (previous conclusions, para. 19).

24. What is the national strategy for the preservation, revitalization and promotion of Aboriginal languages and cultures, and what recommendations, if any, have been adopted by the task force of 10 Aboriginal people (periodic report, para. 197)?

Dissemination of information relating to the Covenant (art. 2)

25. Please indicate how the Canadian public has been informed about the Committee's concerns and recommendations of 1999. Were these conclusions distributed to all members of Parliament, and has a parliamentary committee held hearings on issues arising from the Committee's observations, as anticipated by the delegation (periodic report, para 4; previous conclusions, para. 3)?
