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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS

IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC,  
SOCIAL AND CULTURAL RIGHTS

List of issues to be taken up in connection with the consideration of the third periodic report of Canada concerning the rights referred to in articles 1–15 of the International Covenant on Economic, Social and Cultural Rights (E/1994/104/Add.17)

I. PRIORITY CONCERNS: STATUS OF THE COVENANT IN THE CANADIAN LEGAL SYSTEM

Interpretation of the Charter of Rights and Freedoms

1. What is the status of the Covenant in cases of conflict with federal, provincial and territorial legislation? Please provide information on the implementation of the Covenant by the courts in Canada.
2. With respect to paragraph 10 of its report, are governments in Canada able to plead cases under the Charter in a manner that is consistent with Canada's obligations under the Covenant.
3. What is the opinion of federal, provincial and municipal Governments as to the effect of current or proposed trade and investment agreements such as the North American Free Trade Agreement, the Free Trade Area of the Americas and the Multilateral Agreement on Investment on their ability to fulfil obligations under the Covenant and what processes have been put in place to review these questions?
4. Please provide details as to how the Government responded in cases where plaintiffs invoked their rights under the Covenant to interpret Charter rights and provide any information about cases in which the Government or the court interpreted the Charter in light of the Covenant. Please include information about: *Masse v. Attorney-General of Ontario*, *Clarke v. Peterborough Utilities Commission*, *Falkiner v. Attorney-General of Ontario* and *Gosselin v. Quebec*.
5. Does the Government agree that repealing protective legislation without replacing it would be inconsistent with article 2 of the Covenant? Provide details as to how Governments have dealt with this issue under the Charter, and explain what the Government's position was in *Ferrel v. Attorney-General of Ontario* and *Dunmore v. Ontario*.

6. Explain the position of the federal and provincial Governments in *Eldridge v. Attorney-General of British Columbia* with respect to the Charter's protection of the rights of people with disabilities, referring specially to General Comment No. 5.

7. Explain the position of the government of Manitoba in the *Fernandes* case (para. 63), of the government of British Columbia in the case of *Brown v. British Columbia* (para. 69) and of the government of Quebec in the *Gosselin* case, with particular reference to article 2 of the Covenant. Will these positions be changed in light of the decision of the Supreme Court in the *Elridge* case?

#### Human rights legislation

8. Will the Government of Canada be acting on the recommendation of the Canadian Human Rights Commission that the ambit of human rights protections in Canada be expanded to include social and economic rights? What are the views of provincial commissioners on this issue?

9. Please provide to the Committee information from each Human Rights Commission in Canada about cases in which the Covenant has been used in interpreting or applying human rights legislation.

10. Please provide an estimate of the percentage of human rights complaints filed with each Human Rights Commission in Canada which are adjudicated and explain how this is consistent with the Committee's General Comment No. 3, paragraph 5. Can the government of Quebec explain how its system is different and provide an estimate of the percentage of human rights complaints in Quebec that are not dismissed?

11. Please provide information to the Committee about the outcome of the complaint of Elizabeth Wiebe before the Ontario Human Rights Commission, (described in NGO submissions to the Committee in 1993) and state whether the Covenant was considered by the decision-maker.

#### Discrimination because of income or social condition

12. What is the position of the Federal Government and each provincial government with respect to whether "workfare" programmes discriminate against welfare recipients and are contrary to article 2 of the Covenant? Please explain the government of Quebec's position in the *Lambert* case.

13. An earlier version of Canada's report filed with the Committee contained information from Ontario's Chief Commissioner of Human Rights about proposed changes to Ontario's human rights legislation. What were the Chief Commissioner's concerns and were they acted upon by the government of Ontario?

14. What is the position of each Human Rights Commission (with the exception of Quebec's) on whether "social condition" should be added as a prohibited ground of discrimination in the light of article 2 of the Covenant, and what is the position of the provincial and federal Governments on this question?

15. Please state whether children of non-nationals of Canada seeking to stay in Canada are denied access to social services and benefits, education or medical care which children of Canadians have access to.

#### Bill C-76 and the repeal of the Canada Assistance Plan Act

16. Please indicate whether as a result of the repeal of the Canada Assistance Plan Act (CAP) by Bill C-76, people deprived of basic necessities under provincial or territorial social assistance schemes no longer have any legal recourse in federal law under the Canada Health and Social Transfer (CHST).

17. Why were the standards and entitlements maintained in health care but not in social assistance?

18. Have provinces responded by cutting social assistance rates or entitlements? Please provide information from each province about changes that have occurred from April 1995 to the present day, and any effect on the extent or depth of poverty.

19. To what extent does the revoking of CAP represent a retreat from the idea of financial assistance when in need as a universal entitlement, as described in previous reports to the Committee?

20. With respect to the negotiations by the Ministerial Council on Social Policy Reform and Renewal mentioned in paragraph 86 of the report, are the Federal and provincial Governments committed to restoring legal enforceability of the right to adequate financial assistance?

21. Describe any monitoring procedures established by Governments as well as non-governmental agencies to measure the effect of the 40 per cent (\$6 billion) cut in the amount of cash transferred by the Federal Government for social assistance, health and post-secondary education between April 1995 and the end of fiscal year 1992/2000. What common effects have become evident throughout Canada?

22. Did the previous cost-sharing of all social assistance costs and specific social programmes for vulnerable groups mean that in times of greater need or in regions of greater needs the Federal Government contributed more? Please provide information on the types of services which are no longer cost-shared equally, report on any reductions in those services since 1995 and provide information about the effects of any changes on vulnerable groups.

### Self-determination

23. Does the Government intend to implement the recommendations of the Royal Commission on Aboriginal Peoples with respect to self-determination, self-governance, the control of lands and resources and the establishment of a lands and treaties tribunal?

### Right to work

24. Please provide information on any provinces which require participation in "workfare" or similar programmes and describe the appeal procedures in place with respect to any disenfranchisement from basic necessities on this ground. Are these programmes applied to single parents and, if so, what exceptions apply? Is the Committee correct to assume that these programmes would have been illegal under CAP?

25. For provinces applying a "work for welfare" scheme, such as Quebec and Ontario, please provide information concerning the application of labour standards, including minimum wage and any discriminatory criteria that are applied, such as age.

26. Will the Government implement the recommendations of the Royal Commission on Aboriginal Peoples to address the unacceptable levels of unemployment both on and off reserves?

27. According to Statistics Canada, in 1991 over 40 per cent of people with disabilities received no employment income compared with 18.5 per cent for people without disabilities, and the unemployment statistics for people with disabilities are among the highest of all minority groups. What are the steps being taken by the federal, provincial and territorial Governments to remedy this situation?

### The right to just and favourable conditions of work

28. Please provide information as to the minimum wage rate in various provinces and territories and any changes in its real value over the last few years. Please indicate how the income from a full-time job at minimum wage compares with the poverty line. What do the federal and provincial Governments intend to do to ensure that minimum wages are adequate?

29. Please provide information as to the transformation of women's work to more precarious forms (part-time, homework, etc.) and the economic consequences of these changes on the poverty of women, particularly young single women with dependent children.

30. What steps have been taken by the Federal Government to implement the recommendation of the Canadian Human Rights Commission that employers' and workers' representatives are required to take the initiative to implement pay parity between men and women?

#### The right to form and join trade unions

31. Please provide information regarding the rights of farm workers and domestic workers to organize and bargain collectively and identify any changes in provincial labour legislation which has affected these rights. Is there any justification for denying these workers collective bargaining rights accorded to other workers?

#### Social security

32. How does the Canadian Government explain the dramatic decreases in the percentage of unemployed workers receiving Employment Insurance benefits from 83 per cent in 1990 to 43 per cent in 1997? Have the changes in the EI programme disproportionately affected vulnerable groups in Canada? Has there been any decline in the number of women receiving maternity benefits?

33. In light of the surplus in the employment Insurance Programme that is expected to reach \$20 billion by the end of 1998, has the Government considered expanding coverage?

34. Under the new legislation, is the federal Government using any surplus funds to subsidize provincial workfare schemes? Since the programme has been solely paid for by the contributions of workers and employers since 1990, this seems to suggest a privatization of social assistance. What are the implications of this in terms of State responsibility for guaranteeing the rights in article 11?

35. Are there any provinces in Canada in which a person in need of financial assistance may have such assistance discontinued without a hearing or be denied interim assistance for basic necessities pending a hearing before an impartial adjudicator? Please provide information as to any cases in which this issue has been considered by the court and the positions taken by responding Governments in those cases.

36. Please estimate what it costs on average to meet the special needs arising from pregnancy and caring and providing for a newborn, including special dietary needs, etc. Are these special needs provided for in social assistance rates for pregnant women? Please provide information about any changes in those benefits.

#### Right to an adequate standard of living

37. The Committee has received information that food bank use has continued to increase in Canada and has approximately doubled over the last 10 years. Can the Government explain why the number and use of food banks has continued to increase? Does the Government consider the need for food banks in so affluent a country as Canada consistent with article 11 of the Covenant?

38. Please provide information as to the number of people paying more than their shelter allowance for housing and indicate whether paying for housing out of money needed for food may lead to hunger in these households.
39. What proportion of children who use food banks go hungry and how often do parents go hungry?
40. Explain how school food programmes fit into federal and provincial strategies to address hunger and how the Government intends to ensure that the dignity of children and their parents is respected in those programmes.
41. Please provide any available data on the extent of homelessness in various cities in Canada. At what point would the Government consider homelessness in Canada to constitute a national emergency?
42. Please provide information on any disparities between Aboriginal housing and other housing with respect to piped water, flush toilets, need for repairs and other indicators of adequacy.
43. At paragraph 275, the report states that federal funding for new social housing units was terminated in 1993. How can this be justified when so many households are unable to secure appropriate housing in the private market?
44. According to information provided to the Committee from Statistics Canada, the percentage of government expenditure on housing has declined since 1993. There has been extensive media coverage of a growing crisis of homelessness in Toronto, Vancouver and elsewhere, emphasizing primarily charity-based efforts to address the problems. Is the Government applying the "maximum of available resources" to eliminating homelessness and does it agree that guaranteeing the right to housing is a core responsibility of Governments and a matter of the highest priority?
45. Could the Government of Ontario provide information as to how many households have been forced to move out or been evicted for non-payment of rent because of the cuts to social assistance?
46. The Committee understands that new legislation in Ontario will remove rent control on any apartment which is rented to a new tenant. Does the government of Ontario expect any additional increase in evictions because of this measure? Please provide the Committee with any information that becomes available prior to the review of Canada's report in November.
47. Does the Government support the recommendations of the Royal Commission on Aboriginal Peoples that the Canadian Human Rights Act should be amended to authorize inquiries into whether relocations of Aboriginal peoples were legal and that court action to obtain redress should be permitted?
48. According to the 1996 Report of the National Council of Welfare (Poverty Profile 1996), 91.3 per cent of families led by single-parent mothers under 25 live below the level of poverty. Child poverty is at a 17-year high of 20.9 per cent, meaning that nearly 1.5 million children live in poverty in Canada. Although the last recession ended in 1991, poverty rates have risen steadily since then. Please provide to the Committee the most up-to-date information on single parents, children, people with disabilities and Aboriginal people and explain how this unacceptable situation has been allowed to occur.
49. The Chief Commissioner of the Canadian Human Rights Commission was quoted in the Globe and Mail on 25 March 1998 as saying: "Poverty is a serious breach of equality rights which I believe has no place in a country as prosperous as ours." Does the Government agree with this statement?

50. What measures did the federal and provincial governments take to follow up on the recommendations of the Committee in 1993 to reduce the gap between welfare rates and the poverty line? Has this gap been reduced? If not, what is the explanation for the Government's failure to address this pressing need during a time of relative economic prosperity?

51. It has been reported in Canada, close to one in four persons with disabilities lives below the poverty line. What are the steps taken by the federal, provincial and territorial governments to remedy this situation?

52. What are the implications of removing civil legal aid from federal/provincial cost-sharing, which was previously under CAP? Do restrictions on civil legal aid deny the right to benefit from effective remedies in the case of violation of their economic and social rights or result in a "hierarchy of rights" with respect to access to justice?

53. In 1993 the Government informed the Committee that section 7 of the Charter at least guaranteed that people are not to be deprived of basic necessities and may be interpreted to include rights under the Covenant, such as rights under article 11. Is that still the position of all governments in Canada?

### Right to health

54. Does the Canadian Government have any evidence of restrictions in access to health care for the poor? If so, what is the Government doing to remedy the situation?

55. The Committee understands that a high percentage of discharged psychiatric patients are ending up homeless. Please provide as accurate evidence as is available in relation to this problem and explain what is being done to address it.

56. Please provide any information available on the particular health problems of the homeless, including tuberculosis rates, and identify any barriers faced by the homeless in getting access to appropriate health care.

57. To what extent is increased reliance on expensive drug therapy for HIV/AIDS and other illnesses eroding universal access to health care? Will programmes such as pharmacare be introduced to cover drug costs?

58. What steps are being taken in Canada to ensure that changes in health service delivery do not adversely affect the most vulnerable groups in society?

### Right to education

59. The Committee has received information that between 1990 and 1995 the average tuition fees for post-secondary education rose by 62 per cent in real terms. The average student debt at graduation seems to have almost tripled since 1990. What steps are being taken to ensure that post-secondary education remains equally accessible to all, regardless of income?

60. At paragraph 372 of the report, the Government reports on the results of the International Adult Literacy Survey (IALS) conducted in 1994 in Canada. Almost half of Canadians would appear to lack the minimal literacy skills necessary for coping and managing in such basic activities as, for example, comprehending a bus schedule. Can the Government provide the Committee with an estimate of the number of Canadians who are currently receiving literacy training and describe any strategies that are being considered to deal with this problem?

### The right to culture

61. What steps have been taken in Canada to extend knowledge of, and respect for, the culture of Aboriginal people?

## II. OTHER MATTERS

### British Columbia

62. Please explain why the new BC Income Assistance Act provides for situations where the right to financial support when required is denied, such as in the case of refusing to participate in an employability (workfare) programme or the existence of outstanding charges in another jurisdiction.

### Alberta

63. The minimum wage in Alberta is the lowest in Canada. What measures will the Alberta government take in order to bring it into line with standards of adequacy?

### Saskatchewan

64. Can the Saskatchewan government explain if the provincial social assistance rate has contributed to the increased reliance on food banks considering that the rate had remained very low in the last decade?

### Manitoba

65. In May 1996, social assistance rates in Manitoba were cut by 10 per cent in the case of single persons and couples without children. Can the government explain what guarantees it has that these specific cuts will not deprive recipients of an adequate income?

### Ontario

66. Why did Ontario repeal its employment equity legislation and what steps are being taken to protect the right of disadvantaged groups to work?

67. Describe the impact of the Labour Relations and Employment Statute Law Amendment Act, or Bill 7, on the collective bargaining rights of agricultural and other workers.

68. Describe any changes in Ontario's budgetary allocation for social housing and any reduction or elimination of programmes in housing, including funding for organizations, assisting tenants or disadvantaged groups in housing.

69. Which programmes has the Ontario Government devolved to municipalities and what will be the effect on the province's ability to ensure compliance with the Covenant in these areas?

### Quebec

70. The new legislation in Quebec relating to social assistance provides for the Minister responsible for social security to order that part of the social assistance accruing to a beneficiary be used to pay for his or her unpaid rent. This provision applies only to beneficiaries of social assistance. Is this not a discriminatory measure on the ground of the social condition of the recipients?

71. In the light of the candid assessments regarding single-parent families, unemployed youth and the homeless in Quebec, what measures have been taken, and with what results?

72. Apart from the "Programme d'enseignement des langues d'origine (PELO)" what has Quebec done to provide educational services to indigenous minorities, other than French– or English–speaking Québécois?

### New Brunswick

73. The maximum amount of welfare that a single person can receive per month in New Brunswick is \$277 (the average cost of housing in Canada is \$513). Is this adequate to find adequate and appropriate housing?

### Nova Scotia

74. In many rural areas, the Nova Scotia government cut back on access to specific health services such as dental care or medical transportation. How is this situation compatible with the right of all Nova Scotia residents to health?

### Prince Edward Island

75. In 1996, separate urban and rural rates of shelter allowances for welfare recipients were abolished and replaced by a single lower rate. During this time, the vacancy rate had decreased as well as the social housing investments. Is the lower rate adequate to pay for housing in urban areas?

### Newfoundland

76. In 1996, the Newfoundland Dietetic Association estimated that food banks and other emergency outlets in Newfoundland were inappropriate solutions to problems of food security. It is also estimated that the cost of food security in Newfoundland is about 84 per cent of the social assistance rate. How is this situation compatible with the right to food of all Newfoundland residents?

### Yukon

77. In Yukon, no one is eligible for full social assistance benefits unless they are deemed a permanent exclusion from the workforce. Single parents are deemed excluded until their children reach the age of two but they are required to wait for a six–month period before they receive full benefits. The cost of living in Yukon is higher than in most areas of Canada. Explain how this situation is compatible with the right to an adequate standard of living.

78. Please explain what measures are planned or taken to reduce the very considerable lower lone–parent family incomes in Yukon.

79. Please provide more data as regards literacy programmes in Yukon.

### Northwest Territories

80. The new welfare programme of the NWT provides for a shelter provision limited to \$450 per month for single persons. This is less than what was provided in 1997. Explain how this situation is compatible with the right of NWT residents to housing and to adequate standard of living.

81. Has the positive trend in the reduction of school drop–outs in the Northwest Territories been upheld since 1991?

