



**International Convention on the
Elimination of All Forms of Racial
Discrimination**

Distr.: General
26 February 2007
English
Original: French

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventieth session

SUMMARY RECORD OF THE 1791st MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 21 February 2007, at 10 a.m.

Chairperson: Mr. de GOUTTES

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION
SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE
CONVENTION (agenda item 5) (*continued*)

Seventeenth and eighteenth periodic reports of Canada (CERD/C/CAN/18;
core document HRI/CORE/1/Add.91; list of questions, document without
reference distributed in the meeting in English only) (*continued*)

1. *At the invitation of the Chairperson, the members of the delegation of Canada took places at the Committee table.*

2. Ms. FULFORD (Canada) said that, despite appearances, the delegation of Canada included several representatives of indigenous peoples or persons of foreign descent. As for the concept of “visible minority”, which the members of the Committee had criticized, it would obviously lose its meaning in a decade, because Canadian society was becoming increasingly multi-ethnic, and even now, in large cities in which more than 50 per cent of the population belonged to visible minorities, it was difficult to ascertain whether a group representing a majority actually existed. In any case, the goal of Canada’s immigration policy consisted in ensuring pluralism and encouraging every person, regardless of his or her ethnic origin, to participate in every aspect of the life of the society. The Canadian model of multiculturalism, which stemmed from the country’s unique situation, had undergone substantial changes over time, but still rested on four basic principles: absolute intolerance of racism; full representation of members of ethnic communities in all government bodies; strengthening of the potential of ethnic communities in decision-making; and reform of institutions with the understanding that they should not rely more on traditional Western values, but should adapt to the diversity and pluralistic nature of society. Although Canada was sparing no effort to promote multiculturalism and to fight against racism, it was nevertheless convinced that social unity was ensured by a balance between respect for Canadian identity, on the one hand, and the cultivation of differences, on the other. That pertained particularly to the question of how best to receive all newcomers in the country and derive benefit from their rich experience and diversity, while encouraging them at the same time to become part of the collective treasures of Canada. Canada did not feel that the best way to fight racism and racial discrimination would be to officially recognize the multitude of local languages or to facilitate the expansion of the bureaucracy. Finally, she felt it should be noted that all the initiatives in the Multiculturalism Programme were being evaluated and were geared to achieving specific results.

3. Ms. NASRALLAH (Canada) said that the action plan against racism, which was published on 21 March 2005, was the result of in-depth consultations with various ethnic communities within the framework of preparations for the World Conference against Racism organized by the UN in Durban (South Africa) in 2001. The action plan also took into account the observations of the Special Rapporteur on Racism upon his completion in 2003 of a trip to the country, as well as the results of a 2002 study of ethnic diversity, from which it emerged that 1 million Canadians felt that they had been victims of racism. The action plan, which was being implemented by 20

federal ministries and structures under the overall supervision of the Department of Canadian Heritage and the immigration, justice and labour departments, called for the adoption of measures in many areas: the improvement of access to justice for victims of racism; the fight against discrimination in the workplace, along with the creation of equal working conditions for all; betterment of the integration of newcomers in the country; and support of pluralism and diversity of the society. The action plan underwent a preliminary assessment, as a result of which a report was published on the website for the Multiculturalism Programme. Executive bodies had set to ascertaining the indicators to be measured, with an eye to assessing the effectiveness of the plan in 2010.

4. Mr. COULTER (Canada) said that, in order to fight against racial discrimination more effectively and advance multiculturalism, the federal labour department had made provisions for, beginning in the spring of 2007, enlisting racism prevention specialists who would be charged with handling issues involving ensuring diversity in the workplace and with providing assistance to workers who regarded themselves as victims of discrimination in the workplace. On a federal scale, the Canadian government was endeavouring to hire more representatives of visible minorities and accelerate their career growth. At present, representatives of indigenous peoples held 4.2 per cent of public service posts, including 3 per cent of management posts.

5. Ms. BAGGS (Canada) made reference to the policy of the Quebec Government with regard to fighting racial discrimination, particularly in the area of employment. The level of unemployment among representatives of the black community (which had come about chiefly as a result of immigration and amounted to 2.1 per cent of the total population of Quebec) was higher than the level of unemployment among the rest of the population. Furthermore, that community was encountering the problem, at the provincial and federal levels, of recognition of skills acquired abroad. To rectify the situation, the Quebec Government had adopted an array of measures aimed at improving immigrants' access to additional training.

6. Mr. SECKELL (Canada) said that the Province of British Columbia had adopted a law on multiculturalism, as well as a strategy to effect multiculturalism and to fight racism and racial discrimination. In that last area, the situation in the province was, if anything, satisfactory, even despite the fact that several individuals — natives of Southeast Asia — had been victims of racist crimes. Experts had been tasked to study the problem of crimes motivated by hatred of foreigners and to formulate recommendations for eradicating xenophobia.

7. Mr. ABOUL-NASR asked the Canadian delegation to indicate whether the Canadian legacy differed from that of the United States of America and whether representatives of indigenous peoples who had been deprived of their land rights in the past had received appropriate compensation.

8. Mr. YUTZIS stressed that multiculturalism was an advantage if the State was concerned not only about respecting cultural features, but also about reducing inequality. In fact, the goal of multiculturalism would be achieved when the inequality between communities was eliminated. In that regard,

Canada still needed to make more progress in the areas of the civil, political, social, economic, and cultural rights of minorities.

9. Mr. PROSPER wanted to know what obstacles were blocking the integration of immigrants and minorities.

10. Mr. LINDGREN ALVES, noting that the population of the State party spoke a hundred languages, asked why only two languages were the official languages and were required study in school. Furthermore, he was interested in knowing whether the blacks living in Canada were grouped into a single category defined on the basis of skin colour or whether criteria involving their national or ethnic origin were taken into consideration.

11. Mr. AMIR asked the delegation of Canada to indicate whether the State party, in the name of multiculturalism and freedom of speech, would be able to tolerate the fundamentalist religious movement, even if it represented a danger to other religious communities and all of Canadian society.

12. Mr. THORNBERRY (Rapporteur on Canada), on the subject of languages, noted that, under the provisions of the Framework Convention for the Protection of National Minorities and European Charter for Regional or Minority Languages, not all languages spoken by the country's population could claim official language status and that when the decision was being made about whether a language would be declared an official language, several factors — supply and demand in particular — had to be taken into account.

13. Ms. FULFORD (Canada) said that, despite the close and longstanding ties between Canada and the United States of America, the heritage and national identity of the two countries differed. Canada's policy of multiculturalism was not a policy of assimilation, but rather a policy of mutual adaptation, respect, and tolerance, and authorities were well aware that they still had to respond to the main challenge, namely, to establish a balance between preserving the cultural identity of minorities and eliminating inequality.

14. Even though Canada had only two official languages, there was nothing preventing ethnic or cultural minorities from preserving their linguistic heritage on a basis other than the State school. For example, many minorities had created cultural centres that offered, along with other types of activity, language-study courses. Furthermore, the term "black" did not pertain exclusively to persons of African descent, but encompassed numerous individuals of varying ethnic or national origin. In that connection, she felt it necessary to note that the current head of State, Ms. Michaëlle Jean, was a black woman who had emigrated from Haiti.

15. Finally, as for freedom of speech and freedom of religion, the Government of Canada was aware of the importance of developing tolerance, in connection with which it maintained, on a regular basis, a dialogue with religious communities and was calling for the leaders of those communities to stand up for moderation, tolerance, and an interconfessional dialogue.

16. Ms. NASRALLAH (Canada) said that among the obstacles on the path to integration of minorities were the language barrier and the non-recognition of

the results of training abroad. To remove those obstacles, the Government of Canada had set up language courses for emigrants arriving in the country and had set aside budgetary funds to create a mechanism for recognizing foreign credentials.

17. Mr. GILMOUR (Canada) pointed out that, when the draft anti-terrorism act was submitted for review to Parliament, representatives of Muslim communities were consulted and their comments were taken. Then, in 2002 and 2004, when that law was being revised, new consultations included Canadian non-governmental organizations and representatives of 22 Muslim and Arab communities. Many Canadian and international non-governmental organizations, among them Amnesty International, gave their recommendations on the law to the Government. The law was now being revised again, and the committee tasked with doing so would complete its work soon and would report to the Parliament.

18. Despite the fact that Muslim and Arab communities had expressed their concern over the fact that, as they understood it, the anti-terrorism law allowed the police to perform racial profiling, nothing in the law gave reason to claim that it applied specifically to a given ethnic or religious group. In fact, it defined terrorist activity as deliberate acts specifically intended to cause the death of or serious bodily injury to any person, to cause serious harm to the health or safety of the population, to cause property damage, or to cause serious interference with or disruption of essential services. It should be stressed, however, that actions taken in the context of the statement of demands to show dissent or work stoppages whose purpose was not to cause the above-mentioned consequences were excluded from the purview of that definition and therefore could not be regarded as acts of terrorism. Moreover, in response to the concern of religious and ethnic communities, an interpretive clause was added to clarify that the expression of religious views or opinions of a political, religious, or ideological nature was included in the definition of the concept of terrorist activity only if it constituted an act that met the criteria given in the definition.

19. Furthermore, the Criminal Code specified that the names of groups suspected of supporting terrorist organizations could be placed on a list, and their assets could be frozen, if the State had sufficient grounds to believe that those groups had intentionally supported the activities of terrorists or that they had acted knowingly in the interests of a terrorist organization. Listed groups could demand that the national security ministry remove them from the list and, if denied, go to court. In addition, there was a mechanism designed to identify potential errors in the identification of suspected individuals. Finally, the list had to be updated every two years and had already been revised twice since it was first compiled.

20. In the prosecution of an individual suspected of terrorist activities, the State bore the burden of proving, and had to prove, that the individual concerned had knowingly taken part in terrorist activities and had acted intentionally. What is more, the Attorney General's consent was required for the institution of such proceedings. Since its entry into force in 2001, the anti-terrorism law had been applied in only rare cases, and the most prominent

case had been the arrest and conviction in 2006 of 20 individuals implicated in preparing attacks on Canadian territory.

21. Ms. BELOPOLSKY (Canada) said that, since its creation in 2005, the cross-cultural “round table” on security had dealt with problems associated with national security, such as racial profiling and the impact of security measures on certain ethnic and religious communities. Within the framework of the round table, an array of meetings had been organized, and activities had been carried out that made it possible for members of interested communities and representatives of security agencies to enter into a dialogue and to better understand each other’s problems. Specific measures taken to build trust between minorities and the police had been taken concomitantly with the meetings, and in 2005 and 2006, campaigns conducted throughout the country had made it possible to engage in a dialogue with interested communities and to discuss those problems with them.

22. Persons who wished to file complaints against the police, the security services, or customs personnel could file them in court or, if the complaint pertained to personnel of the Royal Canadian Mounted Police, with the Commission for Public Complaints. That body was independent and was authorized to receive complaints from the public, carry out investigations, report findings, and make recommendations. As for complaints against the Canadian Security Intelligence Service, complaints could be filed with the Security Intelligence Review Committee or the Service’s inspector general, since both bodies performed the functions of internal review of the activities of its personnel.

23. Security certificates made it possible for the authorities to deport permanent residents or foreigners who represented a threat to national security for espionage, human rights violations, or affiliation with organized crime. The provision enabling such a measure was introduced into Canadian law in 1978 and, thus, preceded the terrorist attacks of 11 September 2001. The security certificates currently being issued were not for any single ethnic group — they were for Islamic terrorists, secular Arabs or Sikhs, Russian spies, and right-wing extremists. The delegation, however, was unable to provide precise information on the number of non-citizens of African descent who had been deported, because the Canadian Border Services Agency (CBSA) did not have the right to collect or compile statistical data broken down by race.

24. Ms. ROBIN (Canada) said that a law was recently passed in the Province of Ontario with regard to investigative or security agencies, and it specified that personnel of private security agencies had to have authorization from the minister of public safety and had to undergo mandatory training, including, inter alia, courses involving the study of diversity issues. The new law required the adoption of a code of conduct that extended to all personnel of security services.

25. Ms. EID (Canada) noted that the Criminal Code specified punishment for the incitement of racial hatred, particularly via the use of the Internet; she added that, since December 2001, judges had been able to issue an injunction against sites that contained text inciting hatred, if those sites were on servers located within their jurisdiction.

26. The Canadian Human Rights Commission, which received and reviewed discrimination complaints filed by employees against employers, placed emphasis on mediation in its activities. Negotiations could result in an apology and in the reinstatement of an employee who had been released, along with monetary compensation for wages lost, i.e., it could be accompanied by a re-orientation of the policy that underlay the discrimination. In addition to streamlining investigative procedures, the mediation made it possible to reduce considerably the complaint review time, to nine months from 25.

27. All human rights commissions participated indirectly in the preparation of Canada's periodic reports, because they submitted reports of their activities to the federal, provincial, and territorial judicial authorities to which they were attached.

28. In response to the concern of UN treaty bodies regarding the ineffectiveness of the mechanism for reviewing human rights complaints in the Province of Ontario, the Human Rights Code Amendment Act was adopted on 5 December 2006, providing for the creation of a new mechanism for reviewing complaints. The Act called for providing victims guarantees that their complaints would be exhaustively reviewed by independent judges of the Human Rights Tribunal of Ontario, as well as for creating a system of legal support for the victims. Thus, the Ontario Human Rights Commission would no longer be able to accept individual discrimination complaints, but would continue to play a primary role in the system for protecting human rights. In addition to its work to educate the public, conduct studies in the field of fundamental human rights, and monitor the human rights situation in Ontario, it would, specifically, see to the elimination of structural obstacles to providing equality for all and the protection of the public interests. The Human Rights Code Amendment Act also called for the creation of an anti-racial discrimination office, as well as an office for the rights of the disabled, in the Commission.

29. Ms. BELOPOLSKY (Canada) said that the wearing of the veil, which was allowed in educational institutions, had caused no controversy whatsoever in Canada, which indicated freedom of religion.

30. Ms. ROBIN (Canada) said that a safe schools action team had been created, and it was tasked with studying the question of whether the Safe Schools Act of 2000, which allowed the suspension or expulsion of abusive students and students who were prone to violence or aggression, was actually having a disproportionate impact on students belonging to racial minorities and on disabled students. Based on a wide range of public consultations, the action team identified the need for measures to prevent violence in the schools and for graduated discipline. She added that the Government had undertaken to study the report and to report the decisions it would take before the fall of 2007.

31. Ms. EID (Canada) said that the Department of Canadian Heritage was seeing to it that the conclusions of the various United Nations bodies created under international human rights treaties were systematically accessible online at its Internet site. Those conclusions were also being reviewed in the Continuing Committee of Officials on Human Rights, which consisted of representatives of the Federal Government, the provinces, and the territories

and, thus, were being taken into account in the development of human rights programmes and strategies.

32. Mr. SICILIANOS asked whether the State party intended to adhere to paragraph a) of article 4 of the Convention, which bound States parties to “declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred”, rather than, as in the past, regard such acts as “aggravating factors” in the assignment of punishment. He was interested in learning whether the provincial and territorial police forces, in the context of the fight against racial profiling, used the same training and educational programmes for such issues as were used by the Royal Canadian Mounted Police.

33. Mr. KJAERUM was interested in knowing whether, in the near future, the State party intended to ratify the Additional Protocol to the Convention on Cybercrime it had signed on 8 July 2005, which concerned the criminalization of acts of a racist or xenophobic nature committed through computer systems. Then he wondered about the justification of the Human Rights Code Amendment Act of Ontario, which, in a certain sense, was a step backward, particularly since victims could no longer be represented by a lawyer and that decisions of the court were now final. Finally, he was interested in learning about the fate of the children whose parents did not have proper documents in the country, which had aroused concern in the Committee when it was considering the thirteenth and fourteenth periodic reports of Canada.

34. Mr. YUTZIS, in speaking of the fight against terrorism, raised the question of the concept of a threat and asked whether the State party had done everything necessary to adopt a policy to fight stereotypes, in order to avoid unfairness and even violations, particularly for border crossings. In that connection, he pointed out that the issue was not so much an issue of security as it was an issue of public life. Without question, it was necessary to prevent potential terrorists from entering Canadian territory; but it was also extremely important to behave in such a way that the children of immigrants did not take that path, as had happened in the United Kingdom.

35. Mr. KEMAL asked whether the number of Asian and African foreign students had not fallen off in the State party after the events of 11 September 2001.

36. Ms. BELOPOLSKY (Canada) said that members of provincial and territorial police forces were receiving training and education with regard to the issue of racial profiling to the same extent as were the members of the Royal Canadian Mounted Police.

37. Ms. DESMARAIS (Canada) clarified that 2003 had seen the creation, in Quebec, of a working group on racial profiling that concluded that there was a need to set up training on that issue for the police and jurists. That is why the topic was incorporated into the curriculum of the Quebec Police Training Centre. Furthermore, the Quebec Police Ethics Commissioner had undertaken educational and fact-finding visits to various cultural communities in order to increase their awareness of the Police Code of Ethics that law-enforcement officers adhered to.

38. Ms. EID (Canada) said that, in the context of the fight against terrorism, the Canadian Border Services Agency (CBSA) was taking the measures necessary to set up cooperation with its foreign colleagues and that the annual G8 summit was a convenient opportunity to do that.

39. Ms. ROBIN (Canada) said that the Human Rights Amendment Act of Ontario was a step forward by comparison with the Code itself, on whose basis the Ontario Human Rights Commission decided whether or not to transfer cases under its review to the courts. As for the new law, it allowed an individual to file directly with the Human Rights Tribunal of Ontario and guaranteed that the individual's case would be reviewed exhaustively. Furthermore, the decisions of the Human Rights Tribunal of Ontario could be appealed both by the claimant and the respondent.

40. Mr. BULLER (Canada) indicated that, in the period between the 2003/2004 and 2004/2005 school years, the number of foreign students had increased by 7.3 per cent and that half of those students were Asian immigrants.

41. Mr. WATSON (Canada) indicated that Canada was committed to making progress on the issue of indigenous rights both on the national level and the international level. He added that some 600,000 square kilometers of land — an area equal to the France, Belgium, and Switzerland combined — had been transferred to indigenous peoples. Canada was proud of its achievements in safeguarding indigenous rights, while at the same time acknowledging that decisive efforts had yet to be undertaken in certain areas. Referring to the draft United Nations Declaration on the Rights of Indigenous Peoples, he explained that that text, which called for the protection of those peoples individually and collectively and which explained the responsibilities of the State and the indigenous communities, could not be approved by Canada, because some of its provisions were too ambiguous and opened the door to differing interpretations. As a result, Canada had proposed resuming negotiations of a text that more clearly enunciated the rights of indigenous peoples.

42. In addressing the legal weight of treaties (or agreements) signed with indigenous peoples, he indicated that the discussion pertained not to the issue of whether rights established on the basis of a national agreement could be changed, but rather to the issue of whether such treaties contained provisions that were clear with regard to whether or not the agreement could be carried out on the territories of indigenous peoples. In point of fact, the discussion pertained to the rights that were defined or not defined by the treaties. He indicated that, on the whole, agreements that pertained to the use of the territories of indigenous peoples were protected by section 35 of the Constitution Act, 1982, on protection of the title and rights of aboriginal residents. On that basis, federal and provincial laws governing the title to land of aboriginal peoples could be sent for review to the appropriate courts, which determined their conformity to section 35 of the Constitution.

43. Ms. DESMARAIS pointed to the importance that the Canadian Government attached to its relations with indigenous peoples. In 1998, the Quebec Government signed several trilateral agreements with indigenous peoples, specifically framework and sectoral agreements. The agreement signed in 1976, for example, with the Grand Council of the Crees was re-

opened in 2002 with an eye to codifying the division of functions between the Council and the Government of the Province. A number of other agreements signed by the Quebec Government and indigenous peoples pertained, inter alia, to funding and to the responsibility to indigenous peoples in the areas of health care, education, public safety, and land management. Several agreements also pertained to sharing the economic benefits of the development of natural resources located on the lands of indigenous peoples.

44. Mr. SECKELL (Canada) said that British Columbia and indigenous peoples were about to sign three treaties that, after their ratification by the provincial parliaments, would be protected by section 35 of the Constitution. Those treaties clarified aspects of title to land arising from customary law and defined the area in which the rights of indigenous peoples would still prevail.

45. Ms. EID (Canada) said that the Government of Canada had taken specific measures to combat violence against women, particularly indigenous women, and to ascertain the fundamental causes of that scourge. After 1988, several intersectoral projects had been implemented that made it possible to invigorate the struggle against violence against women. Within the Aboriginal Women's Programme, which was being implemented by the minister of Canadian heritage, the Family Violence Initiative was helping groups of aboriginal women to research and address the problems of violence in aboriginal families and to develop responses to family violence. Recently, the Government had allocated some \$5 million to indigenous women's groups to fund their activities aimed at preventing and eliminating this kind of violence. In the near future, Canada would provide the Committee on the Elimination of Discrimination against Women information on that issue.

46. Mr. SICILIANOS stressed that Canada, in all likelihood, was encountering difficulties in connection with many provisions of the draft Declaration, specifically not just articles 26, 27, 28, 29 and 32, but also articles 4, 10, 30 and 36. He pointed out that the draft Declaration had been under review since 1994 and that it was supposed to have been adopted during the International Decade of the World's Indigenous Peoples, i.e., before 2004. He said he would like to see Canada, which had been a driving force in the development of the text, show greater flexibility in the forthcoming negotiations, so that the Declaration on the Rights of Indigenous Peoples, which affected some 300 million people throughout the world, could be adopted without delay.

47. Ms. DAH, following Mr. Sicilianos's example, suggested that the Government of Canada soften its position on the draft Declaration and asked the African Group in the General Assembly to speed its work with an eye to adopting the document. Furthermore, she was interested in knowing whether the signed open agreements between the indigenous peoples and the federal Government or provincial governments specified procedures for conciliation or arbitration in the event that there were differences between the federal Government or provincial governments and the indigenous peoples, since, according to the delegation, indigenous peoples were refusing to accede to the Canadian legal and judicial system.

48. Mr. PILLAI asked the Canadian delegation to explain why, in the 2001 census, the number of people who declared themselves to be indigenous grew

by 22% over the number recorded in 1996. He found that situation surprising, particularly given the high mortality rate recorded for that group of the population.

49. Mr. CALI TZAY was interested in learning whether the indigenous residents, according to research done in Canada, regarded themselves as victims of racism and discrimination.

50. Mr. WATSON (Canada) said that it was, in fact, the opinion of indigenous peoples that they were victims of discrimination in Canada. As for the text of the Declaration on the Rights of Indigenous Peoples, he pointed out that, for 20 years, Canada had worked on the adoption of a text that would satisfy all parties, but some of the provisions of the draft presented to the United Nations General Assembly in September of the past year were unacceptable to Canada in their existing form. Canada had proposed resuming negotiations on that draft for the purpose of producing a text that would satisfy all parties.

51. As for the procedures for arbitration or conciliation on the basis of the agreements signed with the indigenous peoples, he pointed out that, on civil matters, some of the agreements provided for the possibility of the indigenous peoples creating mechanisms for settling differences similar to the arbitration tribunals. As to the growth in the number of people recorded between 1996 and 2001 who regarded themselves as indigenous peoples, he pointed out that, under Canadian law, no one was prohibited from declaring himself a member of any ethnic group and that the growth was caused, in all likelihood, by a change in awareness and by the high level of fertility of indigenous women.

52. Ms. FULFORD (Canada) was satisfied with the quality of the dialogue with the Committee members. She gave assurances that the Committee's observations and the questions that had aroused its concern would be carefully studied and analyzed. She thanked the members of the Committee for their recognition of the efforts made by her country to build a society free of discrimination, despite the fact that progress had yet to be made in some areas.

53. Mr. THORNBERRY (Rapporteur on Canada) was gratified by the substantiveness of the dialogue with the Canadian delegation and by its thorough responses to the numerous questions posed.

54. The CHAIRPERSON said that the Committee had thus completed its consideration of the seventeenth and eighteenth periodic reports of Canada.

The meeting rose at 1. 05 p.m.