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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventieth session

SUMMARY RECORD OF THE 1790th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 20 February 2007, at 3 p.m.

Chairperson: Mr. de GOUTTES

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The meeting was called to order at 3.05 p.m.

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

Seventeenth and eighteenth periodic reports of Canada (CERD/C/CAN/18; CERD/C/CAN/CO; HRI/CORE/1/Add.91)

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, according to projections based on data from the 1996 and 2001 censuses, by 2017 one Canadian in five would be of non-Caucasian or Aboriginal background. Among the new measures her Government had taken to combat racial discrimination since the submission of the periodic report, it had set aside funds for the creation of a new agency that would offer services to expedite foreign credential assessment and recognition, in an effort to address the employment barriers faced by immigrants.

3. Furthermore, CAN$ 307 million had been provided to promote immigration settlement services and support. The "right of permanent residence fee" had also been halved in order to lessen the financial burden on new immigrants starting a new life in Canada.

4. A formal apology had been extended to the Chinese Canadian community for the "head tax" imposed in the nineteenth and early twentieth centuries, with the aim of discouraging low-income Chinese from entering Canada. Moreover, a new recognition programme was being set up to highlight the contributions of communities that might have been adversely affected by immigration and wartime measures in the past.

5. The health of Aboriginal Canadians had improved: the gap in life expectancy between First Nations and non-Aboriginal Canadians had narrowed considerably since 1980, and the gap in infant mortality rates - which had fallen by 60 per cent between 1979 and 1993 - had continued to close since. However, despite the efforts made, many Aboriginal communities continued to face particular challenges in terms of poverty, health and education; generally speaking, Aboriginal health status was below that of other Canadians. In response, in March 2006 the Government had implemented the Protocol for Safe Drinking Water for First Nations Communities, a set of standards to help ensure that clean drinking water was available in those communities. And in May 2006, the Government had approved a Settlement Agreement regarding the Indian Residential Schools to foster reconciliation among Canadians. The Agreement would broaden access to both compensation and mental health support for all former students of Indian residential schools.

6. Working in partnership with First Nations leaders, Canada was also making progress on the question of matrimonial property rights on reserves. In 2007, a Ministerial Representative had been appointed to work with the Native Women's Association of Canada and with the Assembly of First Nations in developing a plan for consultations. That nationwide consultation was the first of a series of measures to protect the rights, and ensure the well-being, of women, children and families living on reserves.

7. In March 2006, ministers in charge of women's issues within the federal, provincial and territorial governments had held a policy forum on Aboriginal women and violence called "Building Safe and Healthy Families and Communities". The forum had brought together government officials, as well as Inuit, Métis and First Nations women, in order to present promising practices in violence prevention and showcase effective programmes and services across the country.

8. Canada had based its efforts to eliminate racial discrimination on the document entitled "A Canada for All: Canada's Action Plan against Racism", which had been produced by some 20 different departments within the Federal Government. The action plan covered the following areas inter alia: workplace discrimination; youth integration; race-based issues in the justice system; hate crimes; law enforcement; and broadening access to government programmes and services. Among its accomplishments, the following were particularly noteworthy: the release of data on hate crime for the cities of London and Ottawa; and the active commitment of regional staff in the Racism-Free Workplace Strategy, aimed at eradicating racism and discrimination by facilitating the integration of skilled individuals in Canadian society.

9. Provincial governments and territories also played an important role in the fight against discrimination. Next spring, Quebec would set up a new government policy to combat racism and racial discrimination, together with an action plan. To help formulate that policy, during the fall of 2006 a parliamentary commission had held a number of meetings with more than 100 associations on issues relating to racism and racial discrimination.

10. Ontario had created a Hate Crimes Community Working Group mandated to advise the government on strategies for reducing the incidence of hate crimes and to better address the needs of victims of hate. The group had submitted a report in December 2006, and the Ontario government had used its recommendations to initiate an 18-month project for the development of a comprehensive hate crimes reduction strategy.

11. Canada received help from a number of partners contributing to the elimination of racism. The Aga Khan had chosen Ottawa, the country's capital, to establish the Global Centre for Pluralism, an international centre for research, education and discussion about the values, practices and policies underpinning pluralist societies. The Canadian Coalition of Municipalities against Racism and Discrimination, an initiative led by the Canadian Commission for UNESCO, had been established, inviting municipalities from across Canada to join an international network of cities interested in sharing experiences so as to improve their policies of fighting racism, discrimination, xenophobia and exclusion. To date, nine municipalities, including Montreal, Toronto and Calgary, had joined; the Federation of Canadian Municipalities and the Union of Municipalities of Quebec had also expressed their support.

12. Ms. TUDAKOVIC (Canada), replying to question 1 of the list of issues to be taken up in connection with the consideration of Canada's report (CERD/C/CAN/18), said a key challenge in the collection of data on stateless persons was that individuals applying for refugee status or permanent residence were required to identify themselves as "stateless persons". However, since 2002, changes had been made to data systems to better capture the number of stateless persons who were granted permanent residence. That had permitted the collection between 2002 and 2006 of new data which showed that on average some 1,200 stateless persons had been

granted permanent residence in Canada each year. Those figures included persons afforded refugee protection, those whose application was accepted on humanitarian and compassionate grounds, and persons in the categories of skilled workers and family reunification.

13. Ms. EID (Canada), referring to question 2, said that the Committee seemed to have misunderstood Canada's use of the term "visible minority". Canadian law prohibited discrimination on grounds similar to those listed under article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The list of grounds of discrimination in the Canadian Constitution was not exhaustive and could be expanded to recognize additional grounds. Similarly, the Canadian Human Rights Act prohibited discrimination on the basis of race, colour, national or ethnic origin, religion and other grounds. The same was true for the provincial and territorial human rights codes. The Government thus believed that Canadian law covered the scope of article 1 of the Convention.

14. The term "visible minority" was not used for the purpose of defining racial discrimination in Canadian law; it was specific to the Employment Equity Act, which focused on conditions of disadvantage in employment experienced by particular groups. In that sense, the Act could be considered as containing "special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups", as stated in article 1, paragraph 4, of the Convention. The term "visible minority" referred to a particular group warranting special measures to address disadvantage, particularly in employment.

15. Mr. WATSON (Canada), responding to question 3, said the report of the Royal Commission on Aboriginal Peoples (RCAP) released in 1996 had sought to establish a new relationship of mutual respect and responsibility between the Crown and Aboriginal peoples. The report contained 440 recommendations, of which 357 were addressed to the Federal Government and 83 other parties, including provinces, territories and First Nations.

16. In 1998, his Government had responded to the RCAP report with a long-term action plan to improve the quality of life of Aboriginal peoples and further their self-sufficiency. Canada's response to RCAP was outlined in "Gathering Strength", Canada's Aboriginal Action Plan, which focused on renewing partnerships, strengthening governance, developing a new fiscal relationship, and supporting strong communities, people and economies. The plan had begun to implement many of RCAP's recommendations; its progress reports could be accessed at the Indian and Northern Affairs Department's website.

17. Since February 2006, Canada's new Government had focused on practical results-oriented action, such as empowering individuals to take greater control and responsibility for their lives, accelerating efforts to deal with land claims, and promoting vocational and entrepreneurship training.

18. Ms. TUDAKOVIC (Canada), replying to question 4, pointed out that the 1954 Convention relating to the Status of Stateless Persons to a large extent duplicated the 1951 Convention relating to the Status of Refugees; in the Canadian context, therefore, there was no need for both. Furthermore, Canada believed that it had the necessary safeguards in both its citizenship and immigration legislation to adequately cover the situation of stateless persons. Stateless persons were eligible to make refugee protection claims with respect to their country or countries of former habitual residence. Individuals whose claims for refugee protection had been

rejected could apply for “pre-removal risk assessment”, or apply to remain in Canada for humanitarian and compassionate reasons. Successful refugee claimants, as well as those whose applications were accepted on humanitarian grounds, could apply for permanent residence within Canada with the prospect of becoming permanent citizens once they fulfilled the requirements applicable to all permanent residents of Canada. Stateless persons were also eligible to apply in other categories, including skilled immigrants or family reunification.

19. Stateless persons could only be removed if another country would accept them, and if it was determined they were not at risk if removed to that country. As part of Canada’s overseas refugee resettlement programme, stateless persons could be selected for resettlement in Canada under the Convention Refugees Abroad or the Humanitarian-Protected Persons Abroad classes.

20. Ms. BELOPOLSKY (Canada), in response to question 5, said that detention of undocumented asylum-seekers was always used as a last resort and was not systematic. In 2006 less than 3 per cent of refugee claimants had been detained for identity reasons; the average length of detention had been 18 days.

21. The Immigration and Refugee Protection Act imposed a shared onus on both refugee claimants and the Canada Border Services Agency to establish a person’s identity. Undocumented asylum-seekers were given the opportunity to explain why their documents were unobtainable. The Agency’s decision to detain a person was reviewed by the Immigration and Refugee Board on a regular basis: after 48 hours, then within the next 7 days and every 30 days thereafter. There was also a legislative provision to release an undocumented refugee claimant if that person had cooperated in providing information and if, despite all efforts, the Agency had been unable to establish identity.

22. Ms. TUDAKOVIC (Canada), replying to question 6, said that there was no plan to introduce a new citizenship bill. The Government’s priority was to amend the current citizenship legislation so as to facilitate access to citizenship for adopted children. As a result Bill C-14 had been introduced in Parliament in May 2006 in response to a number of criticisms of the current provisions for adopted children. The Bill would reduce the steps and processing time needed to acquire citizenship for children adopted by Canadians by eliminating the permanent residence process, which required three years of residence in Canada before granting of citizenship. The Bill proposed to reduce distinctions between foreign-born adopted children and children born abroad to Canadian citizens, who did not have to become permanent residents.

23. Ms. NASSRALLAH (Canada), responding to question 7, said that there were a number of mechanisms through which the provincial, territorial and federal governments shared “good practices” in combating racism. Since 1975, the Continuing Committee of Officials on Human Rights had maintained federal-provincial-territorial consultation and coordination on human rights issues, including sharing best practices with the aim of enhancing the implementation of Canada’s international human rights treaties, including the ICERD. The Canadian Association of Statutory Human Rights Agencies was a national association of government agencies in charge of administering provincial and territorial human rights legislation. Its goals were to foster collaboration and to serve as a national voice on human rights issues of common interest. In 2006, federal, provincial and territorial officials had established a network of officials responsible for multiculturalism in Canada. The goal of the network was to share information and best practices and establish closer collaboration on multiculturalism issues of mutual

interest, including racism. In October 2006, officials representing 11 jurisdictions had met to share information and discuss areas of collaboration. Provinces also met regionally to discuss common issues. For instance, British Columbia, Alberta and Manitoba would hold a meeting in March 2007 to share best practices, combat racism and create welcoming communities.

24. Ms. TUDAKOVIC (Canada), referring to question 8, said that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families had aims that her Government fully supported. However, it did not consider that Convention to be an effective instrument in improving the rights of migrants in Canada, and did not intend to ratify it as several of its provisions were incompatible with Canadian immigration legislation. In Canada's legal system, the rights of migrants were protected by virtue of the provisions of the Canadian Charter of Rights and Freedoms, as well as under international human rights instruments to which Canada was a party.

25. As to ILO Convention No. 169, it was not apparent to her Government how Canada's foreign policy position on that Convention related to the implementation of ICERD. Consultations in 1991 with federal, territorial, provincial and Aboriginal representatives had not resulted in consensus on Canada's ratification of that ILO Convention, in particular with regard to the scope and meaning of the lands and resources provisions, and the provisions concerning the administration of justice and education. Some Aboriginal representatives had expressed concern that the ILO Convention did not include recognition of the right to self-determination. There were no plans to ratify it at the present time.

26. Ms. EID (Canada), replying to question 9, said that, between 1994 and 2004, 12 prosecutions resulting in 2 prison sentences and 4 probation sentences had been instituted under section 318 of the Criminal Code. Over the same period, 93 prosecutions had been instituted under section 319 of the Code, resulting in 27 prison sentences and 5 conditional sentences. According to preliminary, albeit incomplete, estimates concerning the consideration of racist motivations as an aggravating circumstance, the relevant Criminal Code provision had been invoked in 26 court cases between 1996 and 2006. However, the courts sometimes applied the principle without making specific mention of the provision. In order to address the problem of underreporting of hate crimes, a survey was currently being carried out on the willingness to report hate crimes, trends in hate crimes targeting religious communities, and their impact on communities. In addition, the Centre for Justice Statistics had stepped up efforts to improve the collection of police-reported hate crime statistics.

27. Turning to question 10, she said that the Criminal Code prohibited advocating or promoting genocide or incitement of hatred against any section of the public distinguished by race, ethnic origin, colour, religion or sexual orientation. Members of organizations and organizations themselves were criminally liable under those provisions. Individuals and organizations were also prohibited from aiding, abetting, conspiring or counselling others to commit those offences. However, mere membership of any given organization, including terrorist organizations, was not a criminal offence. Rather, legislation focused on punishing criminal action, in an effort to protect other civil rights such as freedom of association.

28. Referring to question 11, she said that, since 2002, proceedings had been instituted in two cases where discriminatory messages posted on the Internet had targeted Arab and Muslim communities; the offenders had received fines of $7,500 and $1,000 respectively.

29. Mr. GILMOUR (Canada), replying to question 12, said that the Anti-Terrorism Act had been adopted by Royal Assent on 18 December 2001 and had come into effect shortly thereafter. The Act strengthened existing legal protection against racial or inter-ethnic hatred by, inter alia, enabling courts to delete publicly available hate propaganda from computer systems; establishing the specific crime of mischief against property primarily used for religious worship; and prohibiting the posting of hate messages against particular religious or ethnic groups on the Internet.

30. Turning to question 13, he said that two parliamentary committees had been tasked to review the impact of the Anti-Terrorism Act on different communities. The committees had been provided with the outcome of civil society consultations conducted in November 2004, and had been engaged in dialogue with representatives of civil liberties groups and ethnic and religious minorities. Their reports were due in February and March 2007 respectively. Following the recommendation emanating from the 2004 consultations to include a so-called "anti-discrimination clause" in the Act, the definition of "terrorist activity" had been amended to include an interpretive clause to ensure that the mere expression of political, religious or ideological beliefs or opinions could not be regarded as terrorist activity.

31. The Department of Justice had conducted research into the impact of the Act, using focus groups composed of members of minority groups and the community at large. The outcome of that research, the views of a group of experts on the issue and the results of the 2004 consultations had been published on the Department's website. In response to one of the recommendations made during the consultations, the Department had actively engaged in dialogue on the impact of the Act at the community level. The Cross-Cultural Round Table on Security, composed of 15 members from different ethnocultural and religious communities, had been set up to engage in a long-term dialogue on matters relating to national security as they affected a diverse and pluralistic society. The Round Table cooperated with senior government officials, was engaged in outreach activities, assisted the Department of Public Safety in improving interaction with ethnocultural communities to enhance public understanding of government security measures, and provided advice and cultural sensitivity training for security agency officials.

32. Ms. BELOPOLSKI (Canada), replying to question 14, said that her Government had recently issued an official apology and Mr. Arar had been awarded financial compensation. The Government was currently considering the recommendation of the Commission of Inquiry to establish a new review mechanism for national security activities of the Royal Canadian Mounted Police (RCMP). The Commission's report had revealed that the measures taken by the police in the incidents under review had resulted from racial profiling. With regard to the recommendation for agencies conducting security investigations to adopt a clear policy prohibiting racial, religious or ethnic profiling, she said that such a policy already existed for the RCMP, and that neither the Canadian Security Intelligence Service nor the Border Services Agency engaged in profiling of that nature. With regard to the recommendation for Canadian agencies involved in anti-terrorism investigations to continue and expand relevant training activities for staff, she said courses in cultural diversity, human rights, anti-harassment and anti-discrimination were a key component of the training of Canadian security, intelligence and law enforcement professionals.

33. Ms. EID (Canada), replying to question 15, said that action taken to address race-based issues in the justice system included training for law enforcement agents to improve their interaction with ethnocultural, racial and Aboriginal communities, initiatives to address hate propaganda on the Internet and measures to assist victims of hate crimes. Steps had been taken to develop a policy framework for establishing clear principles on the inappropriate use of race in law enforcement and security decision-making. Existing relevant legislation and policies had been reviewed, consultations had been held with law enforcement and security agencies, and experts had been commissioned to study the issue of racial profiling. The parliamentary committees examining the Anti-Terrorism Act had also been tasked to address racial profiling and make relevant recommendations.

34. In order to tackle the overrepresentation of Aboriginal people and persons of African descent in the justice system, a strategy had been adopted to support community-based justice programmes administered by Aboriginal people. In 2006, 111 such programmes had been introduced to serve 390 communities. Measures included diversion to community programmes outside the justice system, sentencing alternatives and mediation.

35. Mr. CORMIER (Canada), addressing question 16, said that an estimated 600 to 800 persons were trafficked into Canada each year; between 1,500 and 2,200 persons were transited through Canada on their way to the United States. Most victims came from South-East Asia, Eastern Europe and Africa. Victims of trafficking were entitled to short-term, temporary-residence permits that provided access to essential and emergency health services, including trauma counselling. Eligibility and services depended on the jurisdiction of residence.

36. Ms. EID (Canada), replying to question 20, said that the Official Languages Act made no distinction between non-European and other French-speakers. Access to French-language services was provided without discrimination, subject to availability. The Act guaranteed equal employment opportunities for French and English-speakers. The Canadian Charter of Rights and Freedoms specified which Canadians had the constitutional right to have their children educated in either language, without distinction based on linguistic or ethnic origin.

37. Ms. DESMARAIS (Canada), replying to question 21, said that one of the key objectives of the Action Plan “Shared Values, Common Interests” launched in 2004 was to combat racism. In 2005, a parliamentary working group had held public consultations to identify ways to achieve the full integration of persons of African descent. In its report, the group had highlighted the need to combat racism, facilitate access to employment and education, and support low-income families and entrepreneurship. In 2005, legislation had been adopted to combat poverty and social exclusion. Action had been taken to facilitate access to employment for immigrants and members of ethnocultural communities, to facilitate foreign credentials recognition and so promote employment, and to encourage children from ethnocultural communities to remain in education.

38. Ms. McPHEE (Canada), replying to question 22, said that a feasibility study had been conducted on the reconstruction of Seaview Baptist Church on the former site of Africville and the establishment of an interpretive centre on the history of that community. An interim report had been presented to the former residents for consultation. Work on appropriate recognition of the history of Africville was ongoing.

39. Turning to question 23, she said that health-care services in Canada were ensured through provincial and territorial health insurance plans, which shared common features and basic standards of coverage. Legal residency was the only criterion for eligibility for both health care and social assistance. Asylum-seekers were eligible for interim health coverage under separate provisions. The Immigration and Refugee Protection Act guaranteed every minor child other than a child of a temporary resident not already authorized to work or study the right of access to education.

40. In response to question 25, she said that a series of initiatives had been introduced to address critical health problems in Aboriginal communities, in cooperation with national Aboriginal organizations. Implementation, however, was sometimes hampered by the remoteness of certain communities. Measures to combat diabetes focused on health promotion, primary prevention, screening and care, capacity-building, research, evaluation and monitoring in First Nations and Inuit communities. Programmes were also in place for Métis, First Nations people living off-reserve and urban Inuit. The National Aboriginal Youth Suicide Prevention Strategy comprised mental health promotion, suicide prevention, crisis response and knowledge development. Her Government intended to step up funding progressively to combat HIV/AIDS among First Nations peoples. Efforts to reduce the incidence of tuberculosis, which continued to affect Aboriginal peoples disproportionately, involved all levels of government.

41. Mr. SECKEL (Canada) said that the government of British Columbia had entered into a series of agreements with the First Nations Leadership Council to promote mutual respect, recognition and reconciliation and to close the gaps between the quality of life of First Nations peoples and other British Columbians. In that context, a First Nations health plan containing 29 actions was currently being developed to close the health status gap.

42. Ms. McPHEE (Canada), turning to question 26, said that measures taken by provincial and territorial authorities to improve equal access to education had, inter alia, improved school completion rates among Afro-descendants. Initiatives included the establishment of an African-Canadian Services Division within the Nova Scotia Department of Education; the introduction of a transition year programme at Delhousie University in Nova Scotia designed to allow African-Nova Scotian students to prepare for university admission; the Black Youth Internship Programme in Manitoba designed to encourage African or Caribbean students to remain in school; an action plan for ethnocultural equity in education in Manitoba; and efforts to find community-based solutions to increase secondary school completion rates in Alberta by addressing specific factors such as socio-economic status, ethnicity and language barriers.

43. Ms. ROBYN (Canada) said that the government of Ontario provided considerable financial assistance to enable schools to provide educational support for African-Canadian students and students from other groups with disproportionately high drop-out rates. A programme had been launched to promote higher education for traditionally underrepresented groups, including immigrant and Aboriginal students and students from low-income families. Academic upgrading support had also been increased to improve labour market readiness for early school-leavers. The government of Ontario further supported African-Canadian educational initiatives at the local level.

44. Ms. NASSRALLAH (Canada) said that the issue raised in question 29 was currently before the courts and could not be commented on.

45. Mr. WATSON (Canada), replying to question 30, said that, on 13 December 2006, Canada had introduced Bill C-44 to repeal section 67 of the Canadian Human Rights Act. The Canadian Human Rights Commission had commenced outreach activities to inform First Nations communities about the new legislation. The Bill did not contain an interpretive clause to guide the Canadian Human Rights Commission and Tribunal in adjudicating complaints involving First Nations peoples. Rather, the Commission was given authority to develop guidelines for addressing any interpretive needs.

46. Referring to question 18, he said that the "cede, release and surrender" model requiring Aboriginal groups to give up all undefined Aboriginal rights in exchange for those set out in a treaty was no longer a requirement in treaty negotiations. The new models described in paragraph 39 of the periodic report took account of the specific characteristics of each negotiation process and the context of agreements concluded with a given Aboriginal group. Under the Nisga'a and Tlicho agreements, for example, Aboriginal rights had not been extinguished; provision had been made for a fallback release mechanism that became operative only if a court determined that release was necessary to give effect to the particular provisions of the relevant treaty.

47. Ms. EID (Canada), replying to question 32, said that Canada was not considering making a declaration under article 14 of the Convention. In addition to domestic remedies, persons alleging discrimination currently had three other international or regional complaint mechanisms available to them. They could complain under the Optional Protocol to the International Covenant on Civil and Political Rights or the Optional Protocol to the Convention on the Elimination of Discrimination against Women, or could directly address the Inter-American Commission on Human Rights. Canada also participated in non-conventional international mechanisms such as the 1503 procedure and cooperated with the Special Rapporteur on racism. The Government therefore considered that the domestic and international remedies currently available adequately addressed the needs of persons alleging discrimination.

48. Moreover, the Committee's broad interpretation of article 4 was incompatible with domestic legislation. According to the Committee, article 4 (a) of the Convention required that all dissemination of ideas based on racial superiority should be declared an offence punishable by law and should incur penalties, regardless of intent. However, a fundamental principle of Canadian criminal law and the Canadian Constitution was that criminal liability should not be imposed unless the perpetrators intended their actions. The Committee had asserted that under article 4 (b) States should declare organizations that promoted racism illegal and that participation in those organizations should be punishable in law. In order to protect freedom of association, membership of such organizations was not criminalized. Rather, the focus was on the actions of racist individuals and organizations, and where appropriate, those actions were subjected to criminal sanctions. Canada therefore supported an interpretation of article 4 that was consistent with other human rights and freedoms. The Committee's interpretation did not, in her Government's opinion, recognize the need for balance between protecting people from hate speech and protecting freedom of opinion, expression, and association and the right not to be deprived of liberty without due process.

49. Mr. THORNBERRY, Country Rapporteur, commended the State party's human rights record and its pioneering approach to multiculturalism as a celebration of diversity. While

noting Canada’s broad spectrum of international commitments, he asked whether the Government would consider ratifying ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, and the UNESCO Convention against Discrimination in Education. He also commended the State party on its strong reporting record.

50. Reiterating the concern he had expressed during consideration of Canada’s previous periodic report, he said that the term “visible minority” was troublesome. It seemed to suggest that whiteness was a standard, white people being invisible and others visible, in spite of the delegation’s assertion that the scope of the term was limited. He asked whether the term “African Canadians” was used in the legal system.

51. While he understood that the Government was unable to compel the provincial authorities to align their laws, he wished to know whether it could exert influence to ensure that the provisions of the Convention reached throughout the Canadian system. In particular, he would be interested in additional information on any proactive approaches that had been taken to ensure coordination of legislation, including vetting of draft laws.

52. He asked whether the reporting State had any mechanisms in place to monitor follow-up of the Committee’s recommendations. It would be useful to learn whether there was a system for the ongoing assessment of implementation of those recommendations and to what extent the recommendations were disseminated.

53. He asked whether the various affirmative action programmes implemented by the provincial governments had been successful, and whether other such programmes existed elsewhere in the Canadian system.

54. Had there been any consultation with potentially affected communities during the drafting of the Action Plan against Racism? It would be useful to know whether there were measurable goals or a framework of accountability within the Plan.

55. The Committee had received several reports suggesting that the multiculturalism policy did little to address the realities of racism. He wondered whether a more focused approach based on anti-racism might be useful.

56. He asked to what extent nationwide disaggregated statistics based on colour and race were available. Such data were fundamental to measuring the scale of discrimination and targeting programmes appropriately.

57. He requested additional information on the safe schools policy in Ontario, particularly since there seemed to be a disproportionate level of expulsions and suspensions of African-Canadian students.

58. The Committee would appreciate information on any issues that had arisen on the wearing of the hijab or other Muslim dress. It would be useful to know whether there had been any notable developments as a result of the problems that had arisen in that regard in the mid-1990s.

59. He asked why Canada had voted against the draft declaration on indigenous peoples in the Human Rights Council in 2006.

60. He would appreciate the delegation's comments on Aboriginal people who were not recognized as status Indians and did not fall under the jurisdiction of the Indian Act. They were often urban-dwellers who felt they had indigenous ancestry. He would welcome the delegation's comments on the role of self-definition in aboriginality.

61. It was unclear whether the Government's current policy on Aboriginal rights as outlined in paragraph 39 of the periodic report truly differed from a policy of extinguishment of those rights. Attempting to subsume all the traditions, customs and developmental potential of indigenous peoples into a statutory scheme was difficult to reconcile with a notion of inherent cultural rights. It would be interesting to learn whether the legal certainty to which the delegation had referred was genuinely to the benefit of all, or whether the burdens of that certainty disproportionately fell on indigenous groups.

62. A report on the implementation of jurisprudence in relation to indigenous groups litigating their claims had included many examples suggesting resolute denial by the Crown of the existence of the groups and of Aboriginal title, putting the burden of proof on the claimants. The delegation should indicate whether it was indeed difficult for indigenous people to secure recognition for their claims and understanding of who and what they were, and whether the tone of the cases was more adversarial than should be expected.

63. General Recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system urged States to give preference to alternatives to prison for indigenous peoples. The Committee was concerned at the incarceration rates for indigenous peoples in Canada and would welcome the delegation's reaction to the recommendation.

64. Similarly, there appeared to be an unusually high proportion of indigenous children in State care. He asked what caused such removals and what effect they had on the communities concerned.

65. It was unclear what uses of land were ruled out by the statement in paragraph 40 of the periodic report, and whether all indigenous peoples enjoyed the right to develop as they saw fit.

66. Reports had been received about Canadian companies operating in other countries in ways that were inconsistent with international standards. He asked whether there were any methods of control or influence that Canada could use in order to bring such operations into line with those standards.

67. He requested statistical and other information on reports that removals from Canada disproportionately affected peoples of African descent. The delegation should respond to the claim that the security regime applicable to non-citizens gave them little or no due process under the Immigration and Refugee Protection Act. The Committee would welcome an update on action currently being taken to challenge the constitutionality of the security certificate provisions before the Supreme Court of Canada.

68. Ms. JANUARY-BARDILL emphasized the Committee's concern at the State party's definition and labelling of different groups in diverse societies. While the Government's commitment to addressing diverse populations was excellent, its use of the word "ethnicity" was

problematic, as it sometimes excluded the dominant group from also being an ethnic group. She asked whether the 200 ethnic origins mentioned in paragraph 10 of the periodic report included Caucasians.

69. She wished to know whether the Action Plan against Racism objective of full participation in society included involvement in politics, economics, culture and government. Future reports should demonstrate the extent to which social cohesion existed across the whole society. Additional information should be provided on affirmative action, particularly the participation of minority groups in political parties and in the private sector.

70. While racial profiling was clearly prohibited in law, staff working in State institutions sometimes abused their power. Training was not a panacea for change. She recommended that the State party should monitor its racial profiling policy in terms of practice on the ground.

71. Mr. LINDGREN ALVES said that although Canada had a model of multiculturalism that seemed effective, he did not think that model would be appropriate in other countries. He wished to know whether there was a bureaucracy in place to address the needs of the 200 different ethnic groups, and if so, how such a bureaucracy could ensure that all the rights of all of the groups could be adequately protected. He asked whether it was compulsory to provide education in the 100 languages used in Canada. He wished to know how the Government defined the term “Caucasian”, as found in paragraph 32 of the periodic report, and requested clarification on what constituted “intermarriage”. Since Canada was a member of the Organization of American States, and therefore did not intend to make a declaration under article 14 of the Convention, he wondered whether the Government intended to ratify the American Convention on Human Rights in order to enable cases to be brought before the Inter-American Court of Human Rights.

72. Mr. VALENCIA RODRIGUEZ asked what measures were being taken to remove the uncertainty over Aboriginal land rights. He wished to know how violence against Aboriginal women was being combated and requested further information on the political and legal situation of Aboriginal women. He wondered whether efforts to increase Aboriginal access to employment had been successful.

73. He requested further information on efforts to criminalize racist acts committed through the use of computer systems. He wished to know more about the results of measures to combat manifestations of racism in the local and mass media. He asked whether any complaints had been received from the Arab and Muslim communities about having become targets of the application of the Anti-Terrorism Act solely on ethnic grounds, and whether they had become victims of persecution. He would appreciate further information on the application of the three undertakings mentioned in paragraph 74 of the periodic report.

74. He asked what mediation was used by the Canadian Human Rights Commission, and whether any of the victims of the cases brought before that Commission had been granted redress. He wished to know the outcome of the conference of the Indigenous Bar Association.

75. Mr. SICILIANOS asked why there had been a change in the Government’s attitude to the draft United Nations declaration on the rights of indigenous peoples, and whether there was

any incompatibility between the draft declaration and Canadian domestic legislation. The Committee had been informed that systemic discrimination occurred against African-Canadians with regard to employment. The delegation had only provided answers on that issue as it related to Quebec. He asked what was being done to combat discrimination in employment at the national level.

76. Although the Canadian Government considered that a broad interpretation of article 4 of the Convention was required in order to make a declaration under article 14, the Committee's General Recommendation XV described the compatibility of article 4 on non-discrimination with article 19 of the Universal Declaration of Human Rights relating to freedom of opinion and expression. The General Recommendation recalled article 29 of the Universal Declaration, which stated that citizens' enjoyment of freedom of opinion and expression carried certain duties and responsibilities, including the obligation not to disseminate racist ideas. The link between freedom of expression and the dissemination of racist ideas had been under discussion since the Committee had first come into existence. Article 4 of the Convention contained a firm obligation relating to the non-dissemination of racism, and a balance must therefore be struck between that and the exercise of the right to freedom of opinion and expression.

77. Mr. PILLAI asked how the increase in the number of people who identified themselves as belonging to one of the three Aboriginal groups could be explained, since there had been reports of concerns about the health status and high mortality rate of the Aboriginal people, particularly children. He wondered whether self-identification as Aboriginal had affected statistics.

78. He asked why only 2 of the 68 NGOs canvassed in the preparation of the State party report had responded, and what the Government thought of that lack of participation. The Canadian Human Rights Commission should be encouraged to participate in the State party's dialogue with the Committee. National human rights commissions often participated in the Committee's meetings, forming an additional delegation to that representing the Government.

79. Mr. KJAERUM asked whether there was a link between the Committee's concluding observations and recommendations on Canada, and the content of the Canadian Plan of Action to address racism. The Committee was making efforts to ensure that States parties did not consider reporting to be a burden, but rather an integral part of the development of domestic plans of action. He wished to know the Government's opinion on the revised legislation relating to the Ontario Human Rights Commission, which appeared to weaken the Commission's status.

80. In its previous concluding observations on Canada, the Committee had expressed concern about the children of illegal migrants being excluded from the education system. He wished to know if that was still the case. In paragraph 354 of the periodic report, the Government stated that in Northwest Territories parental residency "would likely be sufficient" to register children in school. He asked how the word "likely" was understood in that context.

81. He asked what measures were taken to ensure that private police forces complied with anti-discrimination standards and did not engage in racial profiling. He hoped that Canada would make a declaration under article 14 of the Convention, since other mechanisms did not deal with racism in such a comprehensive manner as the Convention.

82. Mr. AVTONOMOV said that paragraph 89 of the core document (HRI/CORE/1/Add.91) spoke of self-government arrangements for Aboriginal peoples. He wished to know at what level that self-government occurred, and what possibilities it offered for indigenous peoples. Long discussions had been held on the issue of indigenous people's land rights, and he wondered what stages those discussions had reached, and whether the many agreements that were being negotiated with indigenous groups would be concluded. He would appreciate information on the status in domestic law of the agreements of that type that had already been reached, and particularly wished to know whether they could be invoked in court. He wondered whether there were textbooks in indigenous languages, and schools where indigenous languages were used, if they had a written form.

83. Mr. CALI TZAY asked how many First Nations organizations had been consulted during the drafting of the State party report. He requested further information on the religion of First Nations peoples, and on measures taken to restrict the rights of those peoples, in particular through the granting of licences to non-indigenous companies to exploit indigenous resources. Amnesty International had informed the Committee that the level of discrimination experienced by indigenous peoples in Canada was particularly serious, and had been for a number of decades, particularly in the context of displacement of indigenous children and lack of support for indigenous families. He requested statistics relating to First Nations' perceptions of discrimination.

84. Mr. TANG Chengyuan said that the Committee had received conflicting information from the Government and NGOs on the treatment of Afro-descendants, particularly in relation to the provision of education and housing. He wished to know what measures were being taken to ensure that positive government policies were effectively implemented.

85. Mr. ABOUL NASR asked why African-Canadians and indigenous groups were not represented in the Canadian delegation.

The meeting rose at 6 p.m.