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Sixty-fifth session

SUMMARY RECORD OF THE 1738th MEETING

Held at Headquarters, New York,
on Friday, 26 March 1999, at 3 p.m.

Chairperson: Ms. MEDINA QUIROGA

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of Canada (continued) (CCPR/C/103/Add.5)

1. At the invitation of the Chairperson, Ms. Fry, Mr. Hynes, Ms. Barnes, Ms. Beckton, Ms. Buck, Mr. Deslauriers, Ms. Karman, Ms. McClung, Mr. Thérien, Mr. Tsai, Mr. Watts, Ms. Weiser, Ms. Whitaker, Ms. Young and Mr. Zinger (Canada) took places at the Committee table.

1a. The CHAIRPERSON invited Committee members to hear the replies of the Canadian delegation to the questions under the issued headings (CCPR/C/65/Q/CAN1).

Right of self-determination and the rights of persons belonging to minorities (arts. 1, 27).

2. Ms. FRY (Canada) said that the Charter of Rights and Freedoms, far from impeding implementation of the Covenant, was the primary mechanism for achieving that purpose; indeed, the provisions of the Canadian Charter were based on the Covenant. The Covenant was also implemented through the Human Rights Act, the Employment Equity Act, the Multiculturalism Act and a number of other policies and laws and the preamble to the Youth Criminal Justice Bill was based on both the Covenant and the Convention on the Rights of the Child.

3. Turning to the issue of self-determination and indigenous peoples, she reiterated the position set forth in her country's statement of October 1996 to the Working Group on the draft declaration on indigenous rights, namely, that Canada accepted the right of indigenous peoples to self-determination, provided that the exercise of that right did not undermine the political, constitutional or territorial integrity of democratic States.

4. She stressed that the indigenous peoples of Canada were not homogenous and that even the various indigenous groups, such as First Nations, Inuit and Métis, were composed of many separate peoples. In the context of Canadian history, the right of self-determination meant restoring independent governance and the decision-making powers which those peoples had enjoyed prior to colonialism. The report of the Royal Commission on Aboriginal Peoples called for the recognition of self-determination within that meaning.

5. Mr. WATTS (Canada), elaborating on the follow-up to the report of the Royal Commission on Aboriginal Peoples and the implementation of the Gathering Strength initiative, said that approximately one fourth of the Royal Commission's recommendations had been directed at the federal Government. Approximately 75 per cent of those recommendations were being implemented either through existing programmes or the Gathering Strength initiative, which had been adopted in January 1998. In that connection, the federal Government had elaborated an agenda for action and was currently engaged in negotiations with

the Assembly of the First Nations, the Congress of Aboriginal Peoples, the Inuit and the Métis.

6. In a departure from past practice, the federal Government was seeking to form partnerships with the aboriginal peoples in implementing programmes for their benefit. A one-year progress report on the follow-up to the Royal Commission's report had been released in January 1999 and was available for consultation by Committee members. The Gathering Strength initiative - whose core goals were renewing partnership, strengthening aboriginal governance, transforming fiscal relations and building stronger communities, peoples and economies - was seeking to reinterpret historic Canadian treaties. In that spirit, the federal Government had acknowledged in a statement of conciliation, the contributions of the First Nations peoples and had expressed profound regret for past errors and a determination to learn from them.

7. The federal Government had concluded agreements with the Assembly of First Nations on a framework for establishing jurisdiction and intergovernmental relationships and for deciding matters of surrender, extinguishment and title to land. Recognizing the importance of land ownership and human and financial resources to the development of the First Nations Government, the federal Government of Canada had set up a procedure for the settlement of land claims, which had been particularly successful in negotiating title and benefits for First Nations peoples in Saskatchewan and Manitoba provinces and the Yukon Territory. In addition, the Government of the new Inuit province, would have control over one fifth of Canadian territory and would be granted $1.17 billion in financial benefits, royalties, wildlife and harvesting rights and the right to participate in decision-making bodies.

8. In July 1997, after a one-year impasse, negotiations had resumed with the Lubicon Lake Band. In the eight sessions held thus far, with the participation of the full Lubicon Council, discussions had focused on the Lubicon proposal for a land settlement agreement. In addition, a comprehensive claims policy had been formulated to deal with the Delgamuukw agreement. A joint technical committee had been established in 1998 to review the fundamental goals of land treaties and comprehensive agreements, with the participation of the First Nations people. Within that context, a joint national meeting had recently been held between representatives of the Assembly of First Nations and the federal Government.

9. A number of reports, including one published in 1994 by the Standing Commission on Aboriginal Affairs and another in 1996 by the Royal Commission on Aboriginal Peoples, had recommended that the federal Government should take an alternative approach to providing guarantees in land claim agreements; the Canadian Government was receptive to those recommendations. The Aboriginal peoples, for their part, maintained that the terms "extinguishment", "cede", "release" and "surrender" would be unacceptable.

10. Ms. BECKTON (Canada), commenting on the judicial aspects of aboriginal self-determination, said that, although Bill C31, restored the tribal membership status of women who had lost it, such membership was still subject to bans. In that connection, the Canadian courts were attempting to establish a balance between customary law and tradition and the rights guaranteed by Canadian

legislation and the Covenant. In negotiating treaties with Aboriginal peoples, the federal Government had maintained that the Canadian Charter of Rights and Freedoms applied equally to those peoples.

11. Ms. FRY (Canada), responding to Committee members' questions concerning refugees and detention, said that Canada had a generous refugee policy. Since 1945, it had welcomed more that 7.9 million immigrants, and every year, offered protection to more than 20,000 convention refugees. Furthermore, Canada was one of the first countries in the world to acknowledge severe gender discrimination as a criterion for granting refugee status.

12. Mr. TSAI (Canada), responding to a question on the length of time necessary for refugees to acquire permanent residence status, said that the concept of temporary protection did not exist in Canada. The country hosted refugees with the aim of integrating them into society in the shortest possible time. Permanent residence was generally granted in about 12 months; permanent residents could apply for Canadian citizenship three years thereafter. The lack of identification papers was one of a number of complications that tended to prolong the waiting period.

13. In January 1997, the Government had established a new class of refugees, known as the "undocumented convention refugees," in order to facilitate the granting of permanent residence status to refugees from specific countries, currently Afghanistan and Somalia. Under planned legislative reforms, the waiting period for that class was to be reduced from five to three years.

14. Indefinite detention was prohibited under the immigration laws of Canada. After a 48-hour period, the reasons for detention were reviewed by an adjudicator. That process was repeated within seven days and every 30 days thereafter. The reviews were public and the adjudicators were attached to the administrative court, which functioned as a unit of the Commission of Immigration and Refugees and took its decisions independently from the federal Government. The Committee might wish to consult the report of the Inter-American Commission on Human Rights, which had recently visited Canadian detention centres. The average length of detention in federal centres was 8 days; the average length of detention in provincial centres, where those with criminal records were held, was 18 days.

15. Mr. THÉRIEN (Canada) said that Canada had established a number of mechanisms for hearing the complaints of those denied refugee status and evaluating the risks of expulsion, including exposure to torture and family and other humanitarian concerns. In addition, the Canadian courts had rendered decisions in that connection and the Supreme Court had established principles governing the assessment of the risk of torture. The complaints process included a fair hearing by an independent arbiter and an independent tribunal known as an Immigration Refugee Board, which decided on the need for protection under the Geneva Conventions and other human rights instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. At the moment, the process was not legally enforced; however, that aspect would be reviewed in connection with the proposed revision of the Immigration Act.

16. Ms. FRY (Canada) added that the Minister of Citizenship and Immigration of Canada was currently holding public hearings and seeking input for purposes of updating the Citizen and Refugee Act now in force.

17. Ms. BECKTON (Canada), replying to questions concerning extradition, said that the Ministry of Justice took into account international standards concerning the death penalty in deciding extradition cases. In that context, she noted that the Covenant did not prohibit capital punishment.

18. In reply to the question concerning judicial review as opposed to appeal, she said that judicial review was the practice of the special tribunals established to hear complaints of discrimination. While issues of law could be fully reviewed by the courts, the special tribunals were deemed to have expertise in human rights issues.

19. In response to the question on the screening process, she said that a commission to investigate complaints of discrimination had been established as a cost-free alternative to expensive court procedures. Such complaints were generally referred to human rights tribunals or resolved amicably. At the federal level, direct access to the tribunals would be considered during the forthcoming overall review of the Canadian Human Rights Act.

20. Although the permanent tribunal had been restructured in 1998, the pay equity case initiated in 1991 had been completed under the previous system. While the Supreme Court had held that there was no separate common law tort of discrimination, complaints of discrimination could be filed through other grievance procedures, under the Canadian Charter or in unjust dismissal lawsuits. Heritage Canada disseminated information on the Covenant, the Canadian Human Rights Commission and the tribunals which dealt with anti-discrimination issues. The question of broader protection in accordance with the Covenant could be discussed in the context of the review to be carried out by the Ministry of Justice.

21. Ms. FRY (Canada), who served as Secretary of State of the Department for the Status of Women, said that a gender analysis of all policies affecting women's economic status was being carried out. Such efforts were focused on training, access to education and the valuation of informal or unpaid work for purposes of pension and retirement income. Efforts were also being made to intensify training programmes for women in the paid workforce and to facilitate women entrepreneurs' access to capital. Supplemental income and child benefits were offered to impoverished women heads of household and a child-rearing drop-out arrangement ensured that pensions of women who took time off from work to raise children were not affected. In addition, Canada's old-age security plan largely benefited senior women.

22. Mr. DESLAURIERS (Canada), replying to questions concerning the language laws in Quebec, said that persons temporarily residing in Quebec were entitled to enrol their children in English-language schools, provided they obtained the proper authorization. Subsidies were granted for education in French-language public or private schools; there were also a number of non-subsidized French- and English-language private schools. Although 80 per cent of Quebec's population was French-speaking, English-language schools were operating

throughout its territory. English-language education was permitted in Quebec, if a child's mother or father was a Canadian citizen and had received primary education in English in Canada; if his or her mother or father was a Canadian citizen and the child had received most of his or her primary education in English in Canada; if the parents were not Canadian citizens but had received English-language education in Quebec; or under the above-described conditions of temporary residence. If a child received English-language education in Quebec, his or her siblings were entitled to do so as well. There were no restrictions on admission to English- or French-language universities.

23. He had a flyer on human rights in Quebec, in both English and French, which he would be pleased to distribute to Committee members. In response to another question, he said that Committee members might wish to contact the Canadian Commission on the Rights of the Individual for additional information on the statistics on Quebec provided in the report. They might also wish to consult the reports of the Committee on the Elimination of Racial Discrimination in that connection.

24. Ms. FRY (Canada) said that religious freedom was enshrined in Canadian law, and that both traditional and non-traditional religions were protected and encouraged. It should be noted that the fastest growing religion in Canada was Islam.

25. The law on multiculturalism was intended to welcome and encourage religious practice and tradition, particularly in State institutions. For instance, Sikhs in the Canadian armed forces wore turbans, and similar flexibility was exhibited in other areas with the aim of ensuring that all persons living in Canada could implement their religious beliefs. While the Charter of Rights and Freedoms in fact superseded all other legislation and policy, where religious practices were considered harmful, they were identified in the criminal code; for instance, genital mutilation was prohibited. In principle, any practice that contravened fundamental rights and protections was outlawed.

26. At the request of the Committee, the delegation could provide a copy of the court decision concerning the secession of Quebec from Canada; any member who had questions could then forward them to the Government via the Permanent Mission. The Canadian Government was prepared to respect the findings of a referendum, which it regarded as an optimal means of consulting the population. It hoped, however, that Quebec, which was an integral part of the Canadian heritage, would remain part of Canada.

27. The federal Government had enacted transfers to the provinces in the areas of health, social assistance and post-secondary education. With a view to efficiency, the Government had chosen as its vehicle the Canada Health and Social Transfer, which the provinces had deemed easy to administer. That approach had, however, jeopardized portability and mobility rights. In its continuing effort to create agreements among the federal Government, the provinces and the territories which would effectively ensure economic and social rights, the Government had recently agreed that those rights should be re-evaluated. In future, portability and mobility rights would form part of the national standard.

28. Mr. THÉRIEN (Canada) said, with regard to deportation to a country where immigrants risked torture, the Government routinely conducted an evaluation of the facts to determine whether such a risk in fact existed. In the unusual case that the person in question had committed a serious crime or an act of terrorism, the Government might choose to expel him whether or not there was such a risk. Request for the establishment of interim measures short of immediate expulsion submitted to the Government by treaty bodies were considered with the utmost seriousness, but as stated before the Committee Against Torture, the position of Canada was that those requests were recommendations and therefore were not binding on the Government. As a general rule, however, those requests were fulfilled.

The right to life (article 6 of the Covenant)

29. The CHAIRPERSON read out the questions relating to the right to life (article 6): an inquiry into the death of Mr. Dudley George, an Aboriginal activist; the ratification of the Second Optional Protocol; and the outcome of the investigation into abuses by Canadian soldiers during a UNOSOM II mission in Somalia.

30. Mr. HYNES (Canada) said that the response to those questions had been forwarded to the delegation by the Government of Ontario, the province in which the shooting of Mr. Dudley George had occurred. It declared that the incident at Intuwash had been a tragedy and that, since there were matters outstanding before the courts, it was not at present in a position to order an inquiry. The Government of Ontario would consider other options only after matters before the courts had been concluded.

31. Ms. FRY (Canada), replying to question 21, said that there had been a de facto moratorium on the death penalty in Canada since the early 1960s. Amendments to the National Defence Act that had entered into force in 1998 had removed all reference to the death penalty; Canada was now an abolitionist jurisdiction both de facto and de jure.

32. Replying to question 22, she said that the investigation into the involvement of Canadian forces in abuses during a UNOSOM II mission to Somalia had resulted in a set of recommendations, most of which had been implemented or were in the process of implementation. Civilian monitoring committees had been established to ensure that those recommendations would be respected. In addition, the individuals responsible for those abuses had been court-martialled and prosecuted.

33. In the way of further action, the Canadian forces had published a doctrine manual containing both the law of armed conflict and the code of conduct for armed forces personnel. Educational courses in the law of armed conflict were also being given to army personnel on a regular basis. In addition, a compendium of the principal international treaties and domestic laws had been made available to forces in the field. A CD-Rom was being developed, which would include publications, reference materials and training modules.

34. Ms. BECKTON (Canada) said that the Canadian Criminal Code provided for the imprisonment for an indeterminate term of high-risk offenders. That measure

applied only to serious violent crimes and was imposed only after conviction and following a special hearing to assess whether the offender showed a pattern of violent behaviour constituting a long-term risk to society. Such prisoners were guaranteed their right to due process, permitted to institute an appeal and allowed to seek parole. The Supreme Court had ruled that that procedure did not violate the Charter of Rights and Freedoms and did not constitute arbitrary detention or cruel or unusual punishment. It was most often applied to sex offenders with long histories of violent conduct.

35. The answer to question 24 applied not just to Newfoundland and Nova Scotia but to Canada as a whole. The Criminal Code set out the legal grounds for pre-trial detention and established that the prosecutor must provide justification for such a measure before a judicial officer. It was presumed that an offender would be released pending trial unless he met the specific criteria set out in those provisions.

36. In cases of grave crimes such as murder or piracy, or of crimes committed by a person who has been released pending trial, it fell to the accused to establish why he should not be detained in custody. Detained persons were entitled to a review after thirty days if held for summary convictions; and after ninety days if held for indictable offences. The review judge considered whether the prosecution had valid reasons for delay, and determined whether continued detention without bail was justified.

37. Turning to question 26, she said that the federal Government provided funds for legal aid programmes throughout Canada and played a leadership role in related policy development. Legal aid was administered, however, by the provinces and territories, which were responsible for ensuring that minimum jointly agreed standards were respected and for establishing eligibility criteria and delivery models. Furthermore, the provinces and territories had recently undertaken a number of initiatives designed to render the legal aid system more efficient and cost-effective. Ontario, Alberta and British Columbia were among those which had undertaken progressive efforts to reform legal aid services. In addition, the federal Government had signed access-to-service agreements with both the Yukon and the Northwest Territories inaugurating programmes adaptable to their unique needs.

38. Mr. WATTS (Canada) said that the reply of the Government of Ontario to question 25 stated that, as periodic influx of prisoners and poor utilization rates sometimes resulted in population pressures on the correction system, the Government of that province had initiated a major restructuring of its correctional institutions. Its aim was to replace older structures with larger, more efficient facilities, and to redistribute the prison population to underutilized facilities in less populous parts of the province. Under that plan, the Don jail would be closed in the summer of 2000, and its inmates would be transferred elsewhere. Public safety was a primary consideration in making decisions with regard to release into the community.

39. Ms. McCLUNG (Canada) said that the Canadian federal prison system administered the sentences of offenders sentenced to terms of more than two years. It was responsible for 20,000 prisoners, 7,000 of whom were on conditional release into communities. Canada's constitutional, statutory and

human rights framework protected the residual rights and freedoms of federally sentenced offenders and assured their right to be treated in a fair and decent manner and not to be subjected to cruel, inhuman or degrading treatment or punishment. That framework also provided offenders who alleged that their human rights had been violated with both internal and external remedies, including access to a fair internal grievance resolution process and review procedures and the right to appeal to the courts or to such non-judicial controls as the correctional investigator, who was independent from the correctional services system and in effect functioned as a prison ombudsman.

40. As a result of the incident that occurred at the Prison for Women in Kingston in 1994, and of the inquiry that ensued, it had been established that male correctional workers should at no time observe or conduct searches of female prisoners, although in an emergency they could be called on for secondary assistance. A member of the judiciary had been appointed to monitor the assignment of male correctional workers to correctional facilities for women.

41. Ninety per cent of the female prison population was held in institutions for women only so as to promote respect for their sense of human dignity. Measures had also been undertaken to honour the traditional cultures and ancestral rights of Aboriginal persons during their imprisonment with a view to their subsequent social reintegration. It was worth noting that there were few women recidivists. The 30 women offenders now in institutions harbouring male inmates - most of them women with severe psychological problems - were never in communication with the male prison population. The correctional service considered that a mixed population had an adverse effect and should not be envisaged as a long-term solution.

42. Finally, the correctional service acknowledged that AIDs was not only a health but a human rights issue. On World AIDs Day, the Solicitor General had announced a national HIV programme in the prisons to provide testing, treatment and care.

Right to privacy (article 17 of the Covenant)

43. The CHAIRPERSON read out the questions relating to the right to privacy (article 17): the right to privacy under the Ontario social assistance procedure and the compatibility of articles 17 and 24 with the Young Offenders Act.

44. Mr. HYNES (Canada) said that the response of the Government of Ontario to question 30 stated that the privacy rights of social security recipients continued to be protected under provincial and municipal freedom of information and protection of privacy legislation. Participation in the Ontario works programme, a work-for-welfare programme, which provided financial and employment assistance to participants, was mandatory; all procedures were conducted in accordance with law.

45. Ms. FRY (Canada), replying to question 31, said that the Ministry of Justice had introduced a new youth criminal justice act in 1999, which acknowledged the greater dependency and lesser maturity of young persons. It also provided for rehabilitation and reintegration of youth into the community,

and required that police officers should consider other alternatives before instituting judicial proceedings, such as warnings or referrals to community programmes. Such measures were considered acceptable if the young person had not committed a violent crime and was not a repeat offender. Youth court justices had a broader range of options, including ordering a youth to make restitution, to pay a fine, or to be committed to custody. The law provided that youths under the age of 18 should not be held in adult facilities, unless very particular circumstances prevailed.

46. In keeping with article 17, the relevant legislation sought to balance the accused youth's need for privacy with the importance of a public trial as well as of public confidence in the juvenile justice system. The privacy of most young persons was protected during and after their trials, but the Government now permitted public disclosure after conviction in certain cases. It proposed that in future the identity of those young offenders who qualified for serious adult sentences should be made public and that the cases of those over the age of 14 who had committed certain grave offences could be publicized even if they did not receive adult sentences; the judge would have discretion as to whether the offender's name should be revealed. Finally, the new legislation recognized the principles set out in the preamble to the Convention on the Rights of the Child.

Right of association (article 22 of the Covenant)

47. The CHAIRPERSON read out the question relating to the right of association (article 22): the right to strike, lock out and collective bargaining, and the situation of agricultural workers in that respect.

48. Ms. BECKTON (Canada) said that the Charter of Rights and Freedoms guaranteed the freedom of association. However, the courts had determined that that right did not apply to the right to strike or to engage in collective bargaining no matter how fundamental to the association in question.

49. The right to strike was nevertheless protected by labour legislation in all the provinces and at the federal level. Federal law governed collective bargaining for public servants; the Canada Labour Code established the framework for collective bargaining in the federal private sector. The Code also provided that all persons could join the trade union of their choice and could participate in lawful activities associated therewith, and guaranteed freedom to bargain collectively. Federal law also established the conditions under which legal strikes and lockouts could be called, and provided that those activities should be restricted or prohibited exceptionally to ensure the provision of services deemed essential to public safety and health.

50. Finally, although most of the provinces and territories included agricultural workers under their collective bargaining statutes, Ontario, Alberta and New Brunswick excluded them to varying degrees.

Prohibition of forced labour and protection of family and children (articles 8, 23 and 24 of the Covenant)

51. Ms. FRY (Canada), replying to question 33, said that her Government was committed to providing children with a better start in life through programmes such as the community action programme, the prenatal nutrition programme and the Aboriginal head-start programme. It was committed to helping Aboriginal children and children living in poverty - those most at risk - through a number of federal initiatives. The Community Action Programme for Children (CAP-C), with a total federal budget of $52.9 million in 1997, aiming to promote the health and social development of vulnerable children, developed programmes designed and administered by each community. Health Canada had programmes for Aboriginal children living in reserves, administered through the First Nations and Inuit component of the Child Development Initiative and the Canada Prenatal Nutrition Programme. The latter, with a 1997 federal budget of $12.8 million, was a comprehensive programme providing food supplementation, nutrition counselling, education, counselling to pregnant mothers and the like. An expanded Aboriginal head-start programme, with a 1997 budget of $19.4 million, was aimed at children under five in both urban and rural communities and, in consultation with local Aboriginal groups and parents, worked with preschool children to promote their culture, language, education, health and social support. Additional support was provided by the National Child Benefit per child and the Working Income Supplement for needy families.

52. The preferred term in Canada for the wording of question 34 was the "commercial sexual exploitation of children" rather than the "prostitution" of children. Legislation which had come into force in 1997 had amended the Criminal Code to impose mandatory jail terms for pimps who exploited young people and children for sexual purposes through violence and coercion and had proved helpful in apprehending offenders and protecting prospective witnesses. Moreover, additional legislation was pending in the Senate, which would amend the Criminal Code by making it a crime to communicate with a view to obtaining children for sexual purposes.

53. At a follow-up meeting in British Columbia to the 1996 first World Congress of Commercial Exploitation of Children held in Stockholm, Canada had developed a new set of priorities and policies based on areas for action identified in particular by participating young people. It had launched a public education campaign titled "Stolen Innocence" in partnership with community groups, former child victims of sexual exploitation, and those in the private sector tourist trade who could offer assistance. Various departments of the federal Government supported the rehabilitation of young people involved in prostitution through national educational campaigns, a National Youth Network Conference, and a nationally coordinated law-enforcement strategy.

Right to take part in the conduct of public affairs (article 25 of the Covenant)

54. The CHAIRPERSON read out the related question: general rule for disqualification of candidates for election to public office; outcome of the Supreme Court ruling on the compatibility of the judgement in Harvey v. New Brunswick with the Canadian Charter.

55. Ms. BECKTON (Canada) said that the Supreme Court had ruled that the judgement in the Harvey case, which prohibited persons convicted of illegal election practices from sitting in the provincial legislature infringed section 3 of the Canadian Charter of Rights and Freedoms. Insofar as section 1 of the Charter was concerned, the judgement was justified as a reasonable limit on electoral rights, given the need to enhance and maintain the integrity of the electoral process and to promote public confidence in the system. The Canada Elections Act, it should be noted, contained similar provisions to those upheld by the Supreme Court: it prohibited those convicted of corrupt and illegal practices - ranging from inducing false votes to exceeding expense limits - from sitting in Parliament or running for office for five to seven years.

56. Mr. SOLARI YRIGOYEN, referring to article 6 of the Covenant, asked whether the Government had undertaken an official investigation of the disturbing 1995 case of Dudley George, a peaceful activist who seemed to have been executed extrajudicially by Canadian security forces, and of the reports that unarmed demonstrators had subsequently been fired upon by the police. Also, while he welcomed Canada's abolition of the death penalty, he would like to know what steps it had taken to ensure the right to life of a criminal being extradited to a country in which capital punishment was still applied, and whether it was possible for Canada to expel a refugee to a country likely to torture that person.

57. Mr. LALLAH noted that the rights of children under article 24 had to be considered in conjunction with their right to life and the rights of the family under article 6 and article 23, paragraph 1, of the Covenant. He had nonetheless been very impressed by Ms. Fry's outline of the child-benefit programmes in Canada. It was unclear, however, whether the federal Government intended, in all but two provinces, to continue taking clawbacks from its social assistance appropriations for those programmes. He would also like to know the percentage of poor children in Canada, and how the right to protection of the family unit under article 23, paragraph 1, could be enforced where the children in a family enjoyed the right of residence but the non-citizen parents did not.

58. He asked for assurance that the rights under the Labour Relations Act outlined in the report (para. 582) had not in the interim been taken away in Ontario province. If the 1998 Ontario Bill No. 22, preventing unionization as a manifestation of Community participation under the Ontario Works Act had indeed become law, he would appreciate an explanation of that extreme restriction of the Aboriginal right of freedom of association, particularly in the light of article 22, paragraphs 2 and 3, of the Covenant.

59. LORD COLVILLE said that he would welcome comment with regard to the repeal in Ontario province of the Police Services Act and the consequent elimination of any civilian control over the police (report, para. 554), which seemed to him to be a retrograde measure.

60. Mr. ANDO, endorsing Mr. Lallah's comments with respect to article 22 of the Covenant, requested more information on the right to strike in general and further explanation of the differences between the various provinces, and Ontario in particular, in respect of the right of civil servants to strike. Discrepancies among constituent provinces raised article 50 issues and he would

like to know how the federal Government was implementing its international obligations by setting minimum standards in that respect for all its territories and provinces.

61. He would like verification of reports that Canada had amended its election laws to stipulate that any political party which could not nominate at least 50 candidates would lose its privileges, including its right to assets; and that the amendment had been declared incompatible with the Canadian Charter of Rights and Freedoms.

62. Mr. WIERUSZEWSKI said that he was not satisfied with the answers given regarding the rights of Aboriginal peoples to self-government, as discussed in paragraph 607 of the report. He also asked whether there had been any legal obstacles preventing the federal Government from carrying out a public inquiry into the shooting death of the Aboriginal activist, Dudley George; apparently the Government was empowered to undertake such an inquiry under the federal Inquiries Act.

63. Referring to the Committee's general comment on article 6 and noting that the right to life encompassed the right to satisfaction of basic needs, asked whether the abolition of the Canada Assistance Programme had caused widespread homelessness and threatened the lives of vulnerable groups. Also, he would like information on what the Government was doing to improve the current situation of detainees, in particular, Aboriginal offenders who were imprisoned far from their home communities.

64. Ms. EVATT observed that despite the vast federal and provincial structure erected to deal with rights under the Canadian Charter, there was no public agency - beyond the private, non-responding body referred to in the report (para. 19) - that exercised oversight and issued public reports on Canada's compliance with its human rights treaty obligations. It was hard for the Committee to assess gaps in protection without such continuing Government review. She concurred with her colleagues' comments on what appeared to be the extrajudicial killing of an indigenous person over land claims. Further to the right to privacy under article 17 of the Covenant, she said that she would welcome comment on allegations that all welfare recipients had to be fingerprinted, scanned for identification and enrolled in compulsory work programmes, and she joined Mr. Lallah in asking about legislation designed to prevent the unionization of such persons.

65. The report (paras. 45 to 48) gave a very positive response to the Committee's concerns regarding infant mortality and malnutrition under article 6 of the Covenant, and further useful information had just been given orally on the Community Action Programme for Children. Nevertheless, poverty and homelessness were on the rise in Canada, threatening the disadvantaged groups. Did Canada approach that problem as a general right-to-life Aboriginal issue?

66. Mr. SCHEININ, noting the disproportionate suicide rates, low life expectancy, high rates of death from substance abuse and tuberculosis, and family violence, within Aboriginal Communities, asked whether the Government did not have an obligation under articles 1, 27 and 6 of the Covenant to give

Aboriginal peoples a more meaningful say in their own lives, as recommended by the Royal Commission on Aboriginal Peoples.

67. With regard to the rights of the family and of children, he asked the Canadian delegation to confirm that the break-up of a family did not constitute an obstacle in Canada to deportation proceedings.

68. Ms. FRY (Canada), referring to the Dudley George case, said that the federal Government recognized that the citizens of Ontario province had legitimate questions, but that it took the position that only an inquiry by the Ontario Government held as soon as the outstanding legal issues were resolved could clarify the situation. No federal inquiry was planned.

69. Ms. BECKTON (Canada) said that the question whether an accused person would face the death penalty in the country that had applied for his or her extradition was always taken into account when such requests were considered. The Supreme Court of Canada was currently examining that issue.

70. Ms. FRY (Canada) said her Government agreed that the family was the fundamental group unit of society, and it was committed to protecting families, particularly those with children. Social services were delivered by provincial governments with funding from the federal Government, which was allocated on a per capita basis. The type and scope of services provided were determined by mutual agreements and contracts executing them. Ministers and officials from the departments of social services at the various levels of government met regularly to coordinate their activities. They had recently adopted new rules to ensure the mobility and portability of social programmes. She recognized, however, that the system required improvement, and that the departments did not always act in unison. There was a need for minimum national standards and they were under consideration.

71. With regard to the so-called clawback of child benefit, she said that the provincial governments had contracted with the federal Government to provide certain services in exchange for an infusion of cash. The beneficiaries were families living on incomes of $29,000 per annum or less. Under the terms of the contract, some forms of direct financial assistance were being replaced by assistance in kind, such as access to dental treatment and help with childcare.

72. Mr. THÉRIEN (Canada) said that, in accordance with Canadian citizenship laws, children born in Canada automatically acquired Canadian citizenship, irrespective of their parents' legal status. Even if a child's parents were subject to deportation proceedings, the child's rights as a citizen were not affected. There were no international standards that required the country of a child's birth to grant permanent residency to his or her parents. Nevertheless, his Government recognized the need to balance the State's right to restrict immigration against the interests of the individuals facing deportation and the impact on their families. Immigration officers already received training on Canada's international human rights obligations, and the new guidelines issued to them examined the interests of the family.

73. Mr. HYNES (Canada) said that responsibility for ensuring compliance by Canada with the international human rights instruments to which it was a party

was shared between the federal Government and the provincial governments. An elaborate machinery was in place to ensure that Canada met its reporting obligations under those instruments. While the complexity of that machinery presented certain difficulties with regard to his delegation's interaction with the Committee, he considered that the division of power between the federal Government and the provinces not only reflected Canada's democratic character, but was also a major factor in ensuring the fullest possible realization by all Canadians of their internationally recognized human rights. His delegation had taken careful note of the questions posed by the Committee on the right to form trade unions, the right to collective bargaining, civilian involvement in police complaints procedures and the use of intrusive methods to identify social assistance recipients, inter alia - which might best be answered by the provincial governments, and their replies would be included in Canada's next report.

74. Ms. FRY (Canada) said that, while Canada had an Office of the Ombudsman which monitored compliance with the Charter of Rights and Freedoms, there was no analogous agency to review and report on Canada's compliance with its international human rights obligations. She had noted the Committee's concerns in that respect, and their observations would be taken into account in the formulation of future public policy.

75. Ms. BECKTON (Canada) said that, under the Canada Elections Act, parties must field at least 50 candidates in elections in order to be remain registered, and those that failed to do so could not be identified by name on ballot papers. The Act also made the return of one half of the $1,000 deposit paid by candidates conditional upon their obtaining at least 15 per cent of the vote. It further provided that, in the event of deregistration, parties must be liquidated, their debts paid off and the remaining assets remitted to the Crown. In a judgement of 10 March 1999 in the litigation between the Communist Party, which had been deregistered following the 1993 elections, and the Attorney General of Canada, the Ontario Court (General Division) had ruled that all the provisions of the Act contested by the Party violated the Charter of Rights and Freedoms in a manner that could not be justified under section 1 (reasonable limits).

76. Ms. McCLUNG (Canada) referring to the detention of Aboriginal prisoners, said that the federal Government had recently concluded agreements with four indigenous groups on the establishment of correctional facilities within their communities. Some 20 more agreements were in the pipeline.

77. Ms. FRY (Canada) said that, according to the most recent studies, homelessness had a number of causes, including mental illness, drug addiction, family conflict and poverty, as well as lack of housing. Given those complexities, her Government had concluded that the problem of homelessness, although of national importance, could best be tackled at the local level. The newly appointed Minister for the Homeless would hold meetings with elected representatives and officials of those cities where the problem of homelessness was particularly acute, with a view to finding the most appropriate solutions. Initiatives were also being taken within each province to improve cooperation between the various departments working with the homeless.

78. The Royal Commission on Aboriginal Peoples had concluded in its final report that comprehensive and far-reaching change was necessary in order to give Aboriginals a greater stake in the decision-making process, and it had proposed a 20-year plan to that end. Aboriginal groups were currently being consulted within the context of the federal Government plan, "Gathering Strength", on the precise steps to be taken. Some communities had expressed a lack of readiness for full self-government, and various capacity-building initiatives had therefore been implemented. The issue of Aboriginal rights was examined at greater length in the report of the Canadian Human Rights Commission, which had been circulated informally.

79. Mr. LALLAH said that the Canadian Government must make greater efforts to ensure that its State party reports were more widely available to non-governmental organizations, which would then be able to make a more focused contribution to the consideration of those reports by the Committee.

80. The CHAIRPERSON thanked the Canadian delegation for its detailed replies. She had been impressed by the fact that the composition of the delegation reflected Canada's cultural diversity. Canada was an open society with an excellent record in the field of human rights, and Canadians were familiar with their rights under the Charter of Rights and Freedoms. However, there was no public mechanism for supervising Canada's compliance with its international human rights obligations, and Canadian jurisprudence did not focus sufficiently on the Covenant. Moreover, there appeared to be a lack of effective remedy in the case of certain human rights violations.

81. The areas of particular concern included the following: discrimination against Aboriginal women persisted; the draconian restrictions on freedom of association appeared to be incompatible with the Covenant; and Canada's immigration policy did not adequately reflect the provisions in articles 23 and 24 concerning the rights of children. The Committee was especially concerned that national security issues and crime prevention appeared to serve as justification for deporting or extraditing persons to countries in which they might be subjected to torture. Such deportations and extraditions were expressly prohibited in article 7 of the Covenant, from which no derogations were permitted. With respect to the Aboriginal Communities, it seemed that the problems described in paragraph 279 of the report still obtained. The Canadian delegation had spoken of long-term solutions, but the rights of those communities, particularly in the fields of education and health, must be realized in the short term, and Aboriginals must be placed on an equal footing with other Canadians.

82. The Government must, as a priority, launch a campaign to make the provisions of the Covenant more widely known and establish a mechanism to monitor compliance with those provisions.

83. Ms. FRY (Canada) said that her delegation welcomed the Committee's constructive criticisms, which had drawn attention to the gaps in Canada's complex legislative framework, policies and programmes on human rights. With respect to the situation of Aboriginals, the Committee had challenged her Government to move from good intentions to concrete results. Asylum and immigration policy had also been identified as areas where improvements were necessary.

84. Her Government recognized the vital contribution made by non-governmental organizations towards the full realization by Canadians of their civil and political rights. Some 250 organizations had been invited to comment on the current report before its submission to the Committee. There was, however, a need to communicate still more effectively with those organizations, to increase funding and to develop their ability to participate in human rights activities.

85. She undertook to ensure that the Committee's concluding observations on the report would be publicized widely. A copy would be sent to every member of Parliament. She intended to hold a press conference upon her return to Canada at which she would report frankly on the Committee's comments and criticisms. She would recommend that the Canadian Human Rights Commission should be empowered to raise public awareness of the international instruments to which Canada was a party and to advise Parliament on the implications for Canada's international treaty obligations of all proposed legislation. Parliamentary hearings would be held to discuss all future reports to the Committee.

The meeting rose at 5.55 p.m.