



**UNITED NATIONS
Committee on the Elimination of Racial Discrimination
Seventieth Session
Geneva, Switzerland
February 19 – March 9, 2007**

**QUESTIONS FROM THE CENTER FOR RESEARCH-
ACTION ON RACE RELATIONS (CRARR)**

**IN RELATION TO THE COMMITTEE'S EXAMINATION OF
THE SEVENTEENTH AND EIGHTEENTH PERIODIC
REPORTS OF CANADA
- *INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION* -**

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February 9, 2007

**ARTICLE 2:
LEGISLATIVE, ADMINISTRATIVE, JUDICIAL OR OTHER MEASURES**

1. Since 2000, the State party has adopted a comprehensive action plan called *Embracing Change*, to increase the representation of visible minorities (i.e. non-whites or non-Caucasians) in the federal public service, especially where positions at management and executive levels are concerned. By the end of 2005, it was concluded by the State party and other stakeholders that *Embracing Change* had failed to reach its goals. For fiscal year 2004-2005, the Public Service Commission of Canada reported that although 25% of applicants to the federal public service were visible minorities, only 9.1% were hired. The federal Public Service Human Resources Management Agency of Canada reported in a 2006 evaluation report that systemic hiring and staffing barriers still existed; implementation and accountability remained inconsistent in different federal departments. As of March 31, 2005, visible minorities made up only 8.1% of the federal civil service, despite their workforce availability of 10.4 % (if Canadian citizenship is accounted for, since the State party in practice selects citizens over permanent residents for its civil service) or 12 % for the Canadian labor force (including permanent residents who are active). In the words of the Public Service Commission of Canada in its *2005-2006 Annual Report*, "we remain concerned about the persistent gap in the representation of visible minorities in the executive cadre." What concrete measures has the State party taken to ensure full, public and annual ministerial and administrative accountability in implementing employment equity actions to increase the representation of visible minorities in the executive and other positions of the federal public service?
2. What concrete measures has the State party taken to ensure that federal Cabinet appointments to full-time and part-time positions in federal agencies, boards, commissions and Crown corporations include members of visible minorities and Aboriginal communities?
3. The Canadian Human Rights Commission to this day has not adopted a detailed policy on racial profiling, despite receiving numerous complaints to this effect since 9-11. Without a clear policy containing, among other things, guidelines for investigation and analysis, how can the State party ensure that its national human rights commission is in a position to handle and investigate complaints of racial profiling under federal jurisdiction in a just, adequate and complete fashion?
4. Of all federal appointments to common-law courts under federal jurisdiction in the province of Quebec (Quebec Court of Appeal, with 20 judges and the Quebec Superior Court, with 144 judges), there is presently no judge from a visible minority group and only one from an Aboriginal background. The judge who could be considered of visible minority background held office until 1991. What measures has the State party taken to break the color barrier on the federally appointed judiciary in the province of Quebec and that it reflect the multicultural and multiracial character of Quebec society of the 21st century and of the City of

Montreal in particular, where visible minorities represent, in 2006, 21% of the population?

5. Since 1981, the government of the province of Quebec has repeatedly adopted plans of action, programs and other initiatives to increase the representation of visible and ethnic minorities in the provincial civil service, from 2% in 1981 to a benchmark of 9%. As of March 2006, the level of minority representation in the Quebec civil service has never risen above the 3% mark. What concrete measures is the State party taking to improve this situation by the next consideration of the periodic reports of Canada by the Committee?
6. Of the 270 judges on the provincial court (called Cour du Québec) and more than 100 judges on the 86 municipal courts in the province of Quebec, only two are Black or from a visible minority group. What concrete measures has the State party taken to racially integrate the provincial judiciary in Quebec to further diversify the court system and increase the perceptions by visible minorities and Aboriginal peoples that the judiciary is inclusive, representative and sensitive to the diverse needs of society?
7. Despite social science evidence in France and the United States to the effect that it has the effect of discriminating against youths of color, immigrant youths and economically disadvantaged persons, the City of Montreal has adopted the policy against “incivilities” for its police service (the Montreal Transit Corporation also adopts a similar policy). The policy leads to complaints all over the city to the effect that it allows for abusive, arbitrary and discriminatory targeting as well as penalization of young men of color. In December 2006, the City’s own Intercultural Council stressed the need to review this policy because it leads to racial profiling. What concrete actions is the State party taking to review and change this policy?

ARTICLE 5: EQUALITY BEFORE THE LAW

8. Under the United States State Department’s *International Traffic in Arms Regulations* (ITAR), Canadian private companies in the aerospace industry that receive defense contracts from the U.S. Government or companies in that country, must comply with ITAR security measures. These measures require them to deny access of data, products, services, and employment to their own employees if those employees are Canadian citizens and permanent residents who were born in countries deemed to be threats of American national security (such as China, Cuba, Haïti, Iran, Lebanon, Syria, Vietnam, Venezuela, etc.). As a result, many workers are being subject to practices involving segregation, isolation, interdiction, increased surveillance on the job and early termination; engineering students born in these “proscribed countries”, even if they are Canadian citizens, are slowly being denied internship and employment upon graduation due to ITAR. What has the State

party done to protect its own citizens and permanent residents from foreign protectionist rules that racially profile and discriminate and that intentionally and explicitly violate Canadian civil rights, citizenship privileges and sovereignty?

9. Under the *Quebec Electoral Act* (R.S.Q. c.E-3.3), provincial, municipal and school board electoral ridings are drawn on the basis of the number of electors, i.e. individuals who hold Canadian citizenships and who are therefore eligible to vote. This effectively excludes and discriminates against permanent residents, among others, who are not counted in the electoral districting process; this results in the under-representation of members of visible and ethnic minorities in Quebec, particularly those living in the metropolitan region of Montreal (where more than 90% of immigrants and members of minorities live). In addition, the law restricts political donations and employment of electoral staff to those who are voters – in effect, discriminating against permanent residents and violating their right to equality under the *Canadian Charter of Rights and Freedoms* and the *Quebec Charter of Human Rights and Freedoms*. Despite the fact that CRARR has brought this situation to the attention of the Directeur général des élections du Québec and the Quebec human rights commission since 2000, no changes have been made. What concrete actions is the State party taking to protect the political freedoms and democratic rights of permanent residents in Quebec, many of whom are also members of visible minorities?

**ARTICLE 6:
EFFECTIVE PROTECTION AND REMEDIES**

10. Due to a decision of the Quebec Court of Appeal in 1997, victims of discrimination whose complaints are dismissed by the Quebec human rights commission can no longer appeal such decision directly before the specialized Quebec Human Rights Tribunal. This results in many complainants simply abandoning their claims, or having to apply to the Quebec Superior Court for a judicial review of the commission's decision, a procedure that is both financially prohibitive and legally difficult due to Canadian jurisprudential standards. Even the Quebec human rights commission has recommended, in a comprehensive report in 2003, that the Quebec National Assembly (the province's legislature) amend the law to restore complainants' right to appeal to the Tribunal; since then, no change has been made. What concrete measures is the State party taking to guarantee to victims of discrimination in the province of Quebec easier access to the Quebec Human Rights Tribunal when their complaints are not upheld by the commission?
11. Despite its policy on clientele services that stipulates a 15-month deadline for the completion of an investigation into a complaint of human rights violations that it receives, the Quebec human rights commission often takes three (3) years to render a decision on a complaint. If a respondent refuses to comply with its decision, the commission then has to apply to the Quebec Human Rights Tribunal to have its order enforced, which may take up to two more years before a court decision can

be issued. In several cases of racial discrimination in employment, the commission refuses to act even when the victims claim reprisals and additional harassment during this lengthy investigation period. These delays often result in victims' loss of interest, loss of crucial evidence, inability to trace respondents and witnesses, and the deterioration of the victims' health and material conditions. Some have even had to spend money to seek a mandamus action against the commission, to compel it to continue its investigation – in which case, the commission may claim that the mandamus action deprives it of its ability to fairly and objectively investigate a complaint and assist the complainant; as a result, the complaint is automatically rejected. What concrete measures has the State party taken to reduce the unacceptable problem of long delays in the handling of complaints by the Quebec human rights commission?

12. The Police Ethics Commissioner of Quebec is an independent provincial agency that receives complaints from the public against provincial and municipal police officers whose conduct may breach the *Quebec Code of Police Ethics*. However, despite the fact that racial profiling is discriminatory and illegal conduct that falls within the purview of the *Code*, the Commissioner has not, since 2003, adopted a clear and detailed operational definition of racial profiling for its investigation, analysis of complaints and referral of cases to the Police Ethics Committee, a specialized administrative tribunal. As many cases assisted by CRARR have shown, this situation leads many race-based claimed being “de-racialized” and the racial profiling elements inadequately investigated, documented and presented before the Committee. What concrete measures has the State party taken to ensure that complaints of racial profiling filed by members of visible minorities with the Police Ethics Commissioner of Quebec are properly and fairly treated?

ARTICLE 7: EDUCATION, CULTURE AND INFORMATION

13. Unlike the province of Ontario where school boards and the Ontario human rights commission are adopting policies and programs to address race-based discrimination in the imposition of school disciplinary measures such as expulsion and suspension, no policy guidelines exist in the province of Quebec. Yet the Quebec human rights commission is increasingly seized with complaints of this nature. In many cases represented by CRARR under the provincial *Charter of Human Rights and Freedoms*, Black and other visible minority youths are expelled without due process and charged with criminal offenses without solid evidence of wrongdoing; this leads to the marginalization and criminalization of visible minority youths, particularly young men of color. What concrete measures is the State party taking to ensure that the Quebec human rights commission and the educational system of that province are equipped with tools and resources to prevent, combat and correct race-based discrimination in school sanctions and the ensuing criminalization of young men of color?

APPENDIX

CRARR

ITS MISSION

CRARR is a Montreal-based independent, non-profit public interest organization that was founded in 1983 with the mandate to promote racial harmony and equality in Canada. It is considered as one of the leading non-profit race relations organizations in Canada.

CRARR's main government partners include the Department of Canadian Heritage, Human Resources and Skills Development Canada, the Ministry of Immigration and Cultural Communities of Quebec, the National Crime Prevention Strategy and the Secrétariat à l'action communautaire autonome du Québec. It also receives technical and financial support from a wide range of public and private business institutions, unions, educational institutions and individuals. RBC, Banque Nationale, CHUM Ltd, Canadian Auto Workers, the National Council of Visible Minorities in the Federal Public Service, the Canadian Jewish Congress and the Canadian Race Relations Foundation have also been key partners.

CRARR is a member of the Court Challenges Program of Canada, the Indigenous Bar Association's National Secretariat against Hate and Racism, the Table de concertation des organismes au service des personnes réfugiées et immigrantes du Québec and the Quebec Press Council. It is also part of national networks on media and racial/ethnocultural diversity, hate crimes and employment equity.

CRARR has a staff of 3, plus intern-students from universities in Montreal and Ottawa who study law, political science, social work and communications. Six lawyers work closely with the CRARR team. A team of experts and advisors in different Canadian cities are always associated with CRARR.

ITS ACTIVITIES & SERVICES

CRARR's activities and services include:

- ❑ **Conferences and seminars** on different race relations and equality rights issues. In 2004-2005, CRARR held a conference on youth crime prevention (Montreal); a luncheon-conference to honor the Hon. Rosalia Abella, former Chair of the Royal Commission on Equality in Employment (Ottawa); and a new *Annual Lecture on Diversity in Canadian Media*, co-sponsored with the department of Communications Studies of Concordia University;
- ❑ The prestigious **bi-annual Frederick Johnson Award** to honor an individual or a non-profit organization that has achieved outstanding results in fighting racism. Its 2004 recipients are four Black farm workers who won a landmark civil rights case; Mothers United Against Racism and the Hon. Irwin Cotler, Canada's Minister of Justice and Attorney-General;
- ❑ **Research-action** projects on race relations, diversity and civil rights. Since 2004, CRARR has conducted a major project on the prevention of criminalization of racial minority youths, to help set up prevention policies and programs in different neighborhoods. In

2006, it will host a conference on model programs in North America on crime prevention supported by the private sector. It will also receive the President of the National Organization of Black Law Enforcement Executives of the United States, Chief Richard Pennington (also chief of police of Atlanta) to discuss diversity competency in policing;

- ❑ **Policy interventions** with legislative, administrative, regulatory and judicial authorities. In 2004-2005, it made major submissions to legislators on private security, immigration, legal aid, urban safety issues, democratic renewal and workplace equality;
- ❑ **Advocacy and defense** for victims of discrimination based on race, religion, ethnic or national origin, citizenship status and related characteristics. In 2004-2005, CRARR represented and assisted more than 250 individuals in Montreal, Ottawa and Toronto before human rights commissions and other administrative and common-law tribunals. Its service is the only one of its kind in Quebec. CRARR is also establishing a national mediawatch program to promote fair representation of Canada's diversity in Canadian media;
- ❑ **Consulting and strategic development advice** to public and private institutions on diversity and race relations. It also assists broadcasters in license applications;
- ❑ **Community development and mobilization.** In 2004-2005, CRARR continued to play a leadership role on racial profiling, hate crimes and employment equity in the public service.