



(57)

N° 94

The Permanent Mission of Canada to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to the Secretary-General's Note No. G/50 215/51 Cana, dated 20 September 1978 requesting information and observations pertinent to the admissibility, for consideration by the Human Rights Committee, of a communication dated 29 December 1977 which was submitted by Sandra Lovelace under the procedures established by the optional protocol to the International Covenant on Civil and Political Rights.

In her communication Sandra Lovelace alleges that Canada has violated the Covenant as a consequence of her loss of status under the Indian Act pursuant to section 12 (1) of the Indian Act, Revised Statutes of Canada 1970 C.1-6, following her marriage to a non-Indian. She makes special reference to articles 26, 27 and 23 (1) and (4) of the Covenant.

The Government of Canada has no comments on the question of the admissibility of the communication of Sandra Lovelace. However, this fact should not be considered as an admission of the merits of the allegations or arguments contained in the communication of Mrs. Lovelace and the Government reserves the right to submit all necessary comments and defences on the merits, if the Committee finds the communication admissible.

.../2

The Government of Canada recognizes that difficulties exist with the present Indian Act including section 12 (1) (B). In recognition of the problems resulting from this section, the Government has publicly declared its commitment to take action with regard to section 12 (1) (B). To this end, the Government intends at the next session of Parliament to introduce legislation to amend this section of the Act so as to resolve the difficulties that have resulted from its application. Because amendment of section 12 (1) (B) will affect the criteria for determining who shall be considered an Indian under the Act and because the Act is intended to remain one that encourages Indians in Canada "to enjoy their own culture" (article 27 of the Covenant) and that maintains the Indian community in Canada as a distinct and vibrant "ethnic minority", no decisions can be taken on any changes to the Act without prior consultations with the various segments of the Indian community. However, the Government of Canada has recently indicated that it would amend section 12 (1) (B) of the Indian Act even if it could not, in the near future, reach an agreement with Indian groups.

In the meantime, the Government has undertaken specific measures, as a result of its commitment, to remedy the current legal situation as it relates to Indian women. Since mid-1976, the Governor-in-Council has refrained from issuing orders-in-council (under S.109 (2) of the Indian Act) which would simply declare that an Indian woman is no longer a status Indian, although these orders would have no legal effect. An Indian woman, on marriage to a non-Indian, by operation of existing law loses her entitlement to be registered as a status Indian under section 12 (1) (B) of the Indian Act. Although the practical effect of not automatically following up removal from the registry with formal loss of status is minimal, the practice of refraining from issuing orders-in-council was intended to serve as a clear reminder of the Government's intention to amend section 12 (1) (B). Also supportive of this stated policy direction is the fact that the Federal Government has funded and continues to fund a group, Indian Rights for Indian Women, which has as one of its stated objectives the amendment of section 12 (1) (B) of the Indian Act.

As stated above, the Canadian Government is committed to amend section 12 (1) (B) of the Indian Act. . However, the desire for quick action has been and must continue to be, balanced by an understanding and appreciation of the very basic way that such changes will affect Indian society, and care must be taken that such change is not thrust upon Indian people, but evolves with them and from them.

The Canadian Government will advise the Committee on Human Rights of any changes to the Indian Act which have relevance to the communications submitted by Sandra Lovelace.

The Permanent Mission of Canada avails itself of this opportunity to renew to the Secretary-General the assurances of its highest consideration.

Geneva, September 26, 1979

