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# The “Made in Québec” Act to Combat Poverty and Social Exclusion: The Complex Relationship between Poverty and Human Rights

*Lucie Lamarche*

In December 2002, the Québec National Assembly adopted the *Act to Combat Poverty and Social Exclusion (Poverty Act)*.<sup>1</sup> The *Poverty Act* is unique in North America. Alain Noël describes it as a remarkable achievement of collective action that started in 1994 with the election of the Parti Québécois, which remained in power until the act’s adoption but have since been replaced by the Liberal party.<sup>2</sup> I have no crystal ball and cannot predict the future of the *Poverty Act*. I live in Québec and witness now, as do my fellow citizens, the tip of the “re-engineering of the state” iceberg that is promised by the Liberal government: plans for privatization, an increase in daycare costs, the destruction of labour law protections, and so on. This makes me wonder about the true meaning of fighting poverty in Québec.<sup>3</sup> Suffice it to say that one has to keep in mind the current political context when forecasting the “future of the poor” in Québec.

Social analysts rightly hold out the *Poverty Act* as a model of participatory democracy. My interest, though, is in looking at the act in order to reflect on how poverty, as a legal or statutory topic, interplays with human rights in a context where not only trade, but also social regulation, is globalized. In such a context, does fighting poverty necessarily contribute to the promotion and the protection of human rights and, more specifically, of economic and social rights? How could institutions aimed at monitoring poverty in Québec provide such a contribution?

The *Poverty Act* was not born into a statutory and legal vacuum. As an ordinary law, the act is subordinate to the Québec *Charter of Human Rights and Freedoms*, Chapter IV of which protects some economic and social rights.<sup>4</sup> The act also has to be reconciled with the Québec *Act Respecting Income Support, Employment Assistance and Social Solidarity (Welfare Act)*.<sup>5</sup> Quite by coincidence, the *Poverty Act* was assented to the same week that the Supreme Court of Canada rendered its decision in *Gosselin v. Québec (Attorney General)*.<sup>6</sup> In sum, the adoption of the *Poverty Act* coincided with huge political change in Québec. Editorials describe this change as a liberal or neo-liberal

tornado. What can the introduction of legal commitments to fight against poverty mean in such a context?

Since there is weak quasi-constitutional protection of economic and social rights in the Québec *Charter*, it is important to examine the wording of the *Poverty Act* as well as to track its sources of inspiration. This is what this chapter intends to do. The first part introduces the act itself and its more relevant features. The second part briefly explains why and how civil society has organized itself in order to get this legislation adopted. The third part focuses on the relationship between international strategies to fight extreme poverty and the Québec *Poverty Act*. The final part of the chapter explores the issue of the complex relationship between poverty and human rights in the context of the Québec *Charter* and the act. This exploration has to be seen as the beginning of a discussion that will inevitably occur in Québec. It raises the question of assessing what happens when the reality of poverty becomes a “legal fact” in an era of globalized management of the poor, who are seen more as market risks or dysfunctional units than as human beings claiming respect and dignity. Although it was intended as a political tool in the Québec context, the *Poverty Act* may produce unsuspected legal results that may put at risk economic and social rights as protected by the spirit, if not the letter, of the Québec *Charter*. In other words, I am not convinced that this approach to fighting poverty was designed to promote and protect human rights.

### **What Is the *Poverty Act*?**

Section 1 of the *Poverty Act* states that its object is to *guide* the government as well as Québec society towards a *process* of planning and implementing actions to combat poverty and strive towards a poverty-free Québec. The model of an *ordinary* law as a guide for political action is quite unusual in the realm of poverty law. The *Poverty Act* does not substitute itself for any legislation aimed at guaranteeing social benefits, such as welfare benefits, to citizens, but it proposes a legal definition of poverty. In addition, it purports to engage all stakeholders in an exercise of participatory democracy, by assigning new duties to them in the project of fighting poverty. This part sets out: (1) the act itself; (2) the institutions it creates; and (3) some questions regarding the scope of this initiative from a Québec human rights perspective.

### **Why a National Strategy to Combat Poverty and What Is It?**

The preamble of the *Poverty Act* emphasizes the fact that the Québec *Charter* protects the fundamental right of every individual to dignity. Poverty, the preamble states, is an obstacle to the respect for human dignity. Section 2 of the act offers a definition of poverty: “[T]he condition of a human being

who is deprived of the resources, means, choices and power necessary to acquire and maintain economic self-sufficiency or to facilitate integration and participation in society.” Those who are familiar with the writings of Nobel Prize winner Amartya Sen will recognize the basic elements of the capabilities theory.<sup>7</sup> Sen claims that poverty is a deprivation of human capabilities that are essential to the exercise of human freedom.

Section 6(1) of the *Poverty Act* describes the ultimate goals of eliminating poverty. These goals are to be attained in a period of ten years<sup>8</sup> by promoting five types of action: (1) focusing on individual development (training and employability programs); (2) strengthening the social safety net; (3) promoting access to employment; (4) promoting the involvement of society; and (5) ensuring consistent interventions at all levels. These five types of intervention are all repeated from a previous strategy adopted by the government of Québec in 2002.<sup>9</sup> Sections 9, 10, and 11 of the act seem to interpret, and perhaps limit the scope of, section 45 of the Québec *Charter* because they state that it provides:

- the right for any individual to influence his/her society through the exercise of citizenship
- the right to a sufficient income to meet one’s basic needs and the right to improve one’s situation
- the right to employment, to activity, and to the means to contribute to social life
- the right to have handicaps and functional limitations taken into account in the access to the distribution of wealth
- the right to health and education services
- the right to food and clothing security
- the right to housing
- the right to have access to culture, leisure, and vacations as well as respite
- the right to develop one’s potential.<sup>10</sup>

Clearly, bearing in mind that the *Poverty Act* was assented to nearly the same day that the Supreme Court of Canada rendered its decision in *Gosselin*,<sup>11</sup> the Québec government was concerned with the scope of section 45 of the Québec *Charter* in future judicial and political debates.<sup>12</sup>

Section 9 offers a two-fold message. On the one hand, it puts an important emphasis on democratic rights (the exercise of citizenship and the contribution to social rights) and on individual liberties and responsibilities as capacities (the right to develop one’s potential). On the other hand, it assumes a possible material content of the right to an acceptable standard of living as a social right (sufficient income to meet basic needs, such as health, food, housing, clothing, culture, employment, and education). However,

the *Poverty Act* neither proposes a balance or a sequencing of responsibilities and rights nor protects explicitly a minimal threshold of “irreducible” rights.

Section 9 also focuses on the second element of the plan provided for by section 6, the strengthening of the social safety net. The section introduces the notion of “essential needs.” The concept of essential needs has not been referred to before in Québec, either in welfare acts or in the Québec *Charter*. Moreover, the content of section 9 links this notion with such things as health services adapted to the poor’s specific needs, dignified access to a food supply sufficient and nutritious at reasonable costs, and the availability of decent and affordable housing through housing assistance measures or the development of social housing.

Sections 14 to 16 of the *Poverty Act* provide more information about how the government intends to strengthen the welfare benefits program as one component of the social safety net. This section probably constitutes the clearest victory of the whole campaign from the perspective of welfare recipients. First, it sets as a target the improvement of benefit levels under the Employment Assistance program (persons capable of work) of the *Act Respecting Income Support, Employment Assistance and Social Solidarity (Welfare Act)*.<sup>13</sup> Second, it commits the government to eliminating the reductions of benefits that occur because of the application of the *Welfare Act*’s provisions on shared housing and minimum lodging costs (section 15(1)).<sup>14</sup> Third, it introduces the principle of the irreducible “minimum benefit” below which the welfare cheque cannot be reduced (section 15(2)).<sup>15</sup> Fourth, it enables adults to own property and liquid assets of a greater value than is provided for by the actual regulation (section 15(3)).<sup>16</sup> And, finally, it commits the government to stop deducting from welfare benefits income that is received for child support (section 15(4)).<sup>17</sup> These commitments are, however, subject to section 16 of the *Poverty Act*. Section 16 states that implementation shall be determined (1) as provided for by law and (2) having regard to other national priorities, such as collective wealth and the particular circumstances of the persons and families concerned. The last restriction can only refer to welfare recipients who are capable of working and are already subject to severe restrictions under the *Welfare Act*.

This apparent victory of anti-poverty activists in Québec is not without potential consequences for welfare beneficiaries. Not only does section 16 of the *Poverty Act* reiterate what is already provided by law in the *Welfare Act* as far as the consideration of “particular circumstances” of beneficiaries, but it also adds new limits, namely, the taking into account of other national priorities. If anything, this section may worsen the situation of welfare recipients, since neither the *Welfare Act* nor the Québec *Charter* make the level of welfare benefits or the right to an acceptable standard of living

subordinate to such additional or “foreign” priorities. Is section 16 taking away what section 15 seems to give?

### **The Institutions Created by the *Poverty Act***

The *Poverty Act* creates an advisory committee on the prevention of poverty and social exclusion, which is called a *Comité consultatif*. This committee is to be composed of seventeen members, including five chosen from representative bodies or groups involved in the fight against poverty. As provided for in section 31 of the act, the main function of the committee is to advise the minister on the planning, implementation, and evaluation of actions taken as a part of the national strategy. The *Poverty Act* also establishes an *Observatoire de la pauvreté et de l'exclusion sociale*. Research, observation, and exchange are the main functions of this body. Two of the seven members of the *observatoire* are to be members of representative groups working in the anti-poverty community network. Other members are to come from the research and university sectors. According to section 42 of the act, the *observatoire's* function is to collect information, including statistical data, about poverty. Section 43 of the *Poverty Act* states that the observatory will develop indicators on poverty and poverty determinants, which the minister will make public. It will then monitor, by using these indicators, the progress achieved in combating poverty.<sup>18</sup>

In promoting the participation not only of experts but also of “anti-poverty groups” in the institutions promoted by the *Poverty Act*, the Québec government acknowledges the existence, the role, the diversity, and the expertise of community groups on the Québec political scene. These groups are numerous and different. They play a service role (working in food banks, employability projects, and on information desks) as well as a political and legal one (serving in coalitions and lobbies for reforms to the *Welfare Act* and for litigation on welfare rights). These groups belong to a very rich and active civil society network in Québec, which includes, among many other actors, those in the social economy sector. This sector, includes a wide diversity of not-for-profit service providers (employability services, care services, and literacy services) as well as others involved in economic development at the local level (forestry, fisheries, and recycling activities). The social economy sector is committed to implementing sustainable development in a manner consistent with the rules of human empowerment, democratic development, and not-for-profit economy.<sup>19</sup> The lives of welfare beneficiaries are closely intertwined with the social economy sector either because they receive services from it or because they participate actively in its development through employability activities.<sup>20</sup>

In addition to creating specific institutions, the *Poverty Act* ascribes specific responsibilities to civil society actors. Numerous sections either acknowledge

the presence and expertise of civil society actors in the field of poverty or ask for their involvement in a more sustained manner. Some examples include section 8, which describes the preventive actions to stop poverty and assigns responsibilities to the family, the individual, the volunteer, and community sectors, or section 11, which provides for actions to promote the involvement of civil society and stakeholder representatives.

Perhaps the most important of the institutions created by the *Poverty Act* is the Fonds québécois d'initiatives sociales.<sup>21</sup> This fund replaces the Fonds de lutte contre la pauvreté par la réinsertion au travail.<sup>22</sup> Section 52 of the new *Poverty Act* states that the fund will cover certain expenses such as the costs of agreements to develop local initiatives or programs specifically designed to combat poverty. According to data provided by the previous government, the fund was given a budget of \$160 million for the period 2000-3. If other sums dedicated to other funds aimed at combating poverty are added to this amount, the global estimated budget for the 2003 fiscal year would be approximately \$250 million.<sup>23</sup> Civil society as a whole, and more specifically the social economy sector, are seen and mandated clearly to be institutional and political actors in the *Poverty Act*.

### **Human Dignity, Basic Needs, and Participation of the Poor**

The human dignity of the poor is at risk everyday. The framework provided for by the *Poverty Act* in Québec acknowledges this fact. Yet it does more. It proposes a different definition of everybody's responsibility in regard to poverty, including the poor as well as limiting the scope of social safety net protection by adopting the "basic needs approach." Considering that section 9(1) of the *Poverty Act* provides for the need to raise the level of income available for families in order to satisfy their basic needs, the difference between the right to an acceptable standard of living guaranteed by section 45 of the Québec *Charter*, as opposed to the satisfaction of basic needs, may raise more than a linguistic debate. Section 7 of the *Poverty Act* seems to restrict the "acceptable standard of living" to the availability of a sufficient income to meet one's basic needs and to improve one's situation.

The *Poverty Act* is the result of a long campaign initiated, above all, by civil society and anti-poverty groups in Québec. No one questions the skills, the political commitment, or the good faith of the large coalition who urged for the adoption of the act. On the other hand, one has to acknowledge that the result, the *Poverty Act* itself, represents an important challenge to the way that Québec has previously approached poverty issues under the Québec *Charter* and under successive *Welfare Acts* adopted since the beginning of the 1970s. In fact, the *Poverty Act* is more than an anti-poverty act. It is a new framework for defining the rights and the responsibilities of the poor and of civil society in general in a context of increasing poverty. In order to better understand how the *Poverty Act* cannot be seen or analyzed

as solely the government’s initiative, it is worth returning quickly to the history of the act, which shows the specific political context in which this grassroots project was born.

### **The Fight against Poverty in Québec: From a Political Project to a Legal Framework**

Following the election of the Parti Québécois in 1994, civil society responded to numerous cutbacks in public services by demanding major investments in “social infrastructures.”<sup>24</sup> The emerging social economy sector was ready to take on this challenge. In 1996, the Québec government convened two major conferences on employment and the economy (Conférence sur le devenir social et économique du Québec and Sommet sur l’économie et l’emploi). At these summits, the government, in exchange for the agreement of civil society to a “zero-deficit” budget strategy, committed itself to a “zero-poverty” strategy. From this point on, community groups led by the Carrefour de pastorale en monde ouvrier (CAPMO) launched the idea of a law for the elimination of poverty. This initiative dramatically accelerated in 1998 when the Collectif pour une loi sur l’élimination de la pauvreté was created.<sup>25</sup> By the end of 2000, the *collectif* had collected 215,000 signatures and had obtained the support of some municipal governments and politicians. In 2001, the *collectif* initiated its own consultation about an act to eliminate poverty.<sup>26</sup>

There is a strong connection between the harsh effect of the adoption, in 1998, of the *Welfare Act* and the subsequent campaign to eliminate poverty.<sup>27</sup> This 1998 *Welfare Act* put an end to the entitlement of every person to social assistance that was provided for by the previous *Act Respecting Income Security*.<sup>28</sup> Furthermore, it introduced severe penalties, mostly for those who refused employment opportunities. This had the effect of mobilizing the “welfare network,” which saw in the idea of an anti-poverty act the potential to claim a guarantee for a “minimum income.”<sup>29</sup>

However, the campaign for an act to eliminate poverty did not solely revolve around the question of the poverty of welfare recipients. During the mid-1990s, Québec witnessed a spectacular development of the social economy sector, largely supported by the publicly funded and supported Fonds de lutte contre la pauvreté par la réinsertion au travail. The fund was financed through a special tax and helped by the creation of numerous projects in different sectors such as recycling, micro-development projects, home care, adult education and literacy, collective kitchens, and so on. Accordingly, people on welfare, as well as those committed to the social economy, had an apparent common interest in seeing more money directed towards the fight against poverty.

Finally, the campaign gained strong support from those who, although not welfare beneficiaries or involved in the social economy initiatives, shared

the view that poverty is a manifestation of an unbalanced distribution of wealth in a society such as Québec. Thus, the proposal promoted by the *collectif* tried to combat the notion, described as undemocratic and technocratic, that the “problems of the poor are to be fixed.” The campaign was therefore driven by two major concepts: dignity and democratic participation. At this time, the movement was structured by the following *mot d’ordre*: “the increase of the income of the poorest fifth of the population has to take precedence over the increase of the income of the richest fifth.”<sup>30</sup>

The campaign for an act to eliminate poverty revealed a complex set of different political understandings. At one end of the spectrum, some were rallying around the obligation of the state to provide for a decent or minimum income made up of welfare benefits or of such benefits combined with employment wages. At the other end were community representatives from the social economy sector who saw the project of a law to combat poverty as not only a job-providing opportunity but also, and foremost maybe, a democratic empowerment and development process. They wanted more money for more independent initiatives at the local level. Across the spectrum, community groups wished to be part of a political process whereby wealth would be redistributed according to the needs of the poorer. Interestingly, during the campaign for the adoption of the act, the link between poverty and human rights did not receive special attention.

Human rights organizations in Québec, such as the *Ligue des droits et libertés du Québec*,<sup>31</sup> were hesitant to subscribe to the campaign for the elimination of poverty.<sup>32</sup> Taking as a starting point the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*,<sup>33</sup> they saw in the campaign for the elimination of poverty a misunderstanding of the most basic of human rights standards – economic and social rights in a developed and wealthy society should not be understood only as a commitment to raise the income of the poorest through their participation in political and public budget decisions. They were not at ease with the idea that a decline or delay in the implementation of economic and social rights could be traded off for a guaranteed minimum welfare benefit and funds for the development and promotion of the social economy sector. The social economy sector, so far, has not succeeded in providing decent wages and conditions of living to its workers, and it relies largely on employability (some would say workfare) programs at the local level. The *ligue* and its partners would have preferred to join a campaign to amend the *Welfare Act* and Chapter IV of the Québec *Charter*, which are both dedicated to the protection of some economic and social rights and which are deeply in need of improvement.<sup>34</sup> This would have been a better fit with the human rights methodology promoted by the *ligue*.

It is one thing to all agree that poverty constitutes a threat to human dignity. It is another more complex matter to choose a useful framework for

defining human dignity. Part of the anti-poverty lobby is connected, perhaps loosely, to the church network. They may define human dignity in a manner that is slightly different from those who work, methodologically and politically, in a human rights framework. Visions may converge or diverge, especially in regard to a person’s responsibility for her living conditions. What became clear was that the project to promote a law to combat poverty was not designed within a human rights framework. This meant that issues that were at the centre of the theory of human rights, and, even more so, at the centre of economic and social rights guaranteed, *inter alia*, by the ICESCR, were not addressed directly – for instance, the notion of the progressive realization of rights or the obligation of the state to promote, protect, and fulfil all human rights without discrimination, including social and economic rights.

The participation of Québec civil society, in collaboration with Canadian non-governmental organizations (NGOs), in the review by the UN Committee on Economic, Social and Cultural Rights (CESCR) of the third periodic report of Canada (1998) did not apparently influence the concurrent work of the Collectif pour l’élimination de la pauvreté au Québec.<sup>35</sup> As a matter of principle and strategy, those who contributed to the shadow report process would not agree with the idea that the realization of economic and social rights could be delayed for an additional decade because of the priority given to the elimination of poverty.

However, from the start, the promoters of a law to combat poverty in Québec took inspiration from “non-treaty” material at the international level. The anti-poverty activists had been closely linked with the international movement to fight extreme poverty and to the UN Decade for the Elimination of Poverty as well. This movement took off after the UN Copenhagen Social Summit of 1995, where, already, human rights NGOs and international cooperation organizations had a hard time understanding each other over the issue of the relationship between human rights, development, and poverty, including extreme poverty.<sup>36</sup> The preamble to the *collectif’s* proposal for a law against poverty<sup>37</sup> explicitly refers to three elements of this international context: the *Copenhagen Declaration on Social Development*,<sup>38</sup> the 1996 UN Year for the Elimination of Poverty, and the UN First Decade for the Elimination of Poverty, which started in 1997.

In an era of globalization, not only goods but also ideas travel faster. When they entered into a political dialogue with the Québec government of the time, the promoters of a law to combat poverty in Québec were part of the international campaign for the eradication of poverty and extreme poverty. Recalling the benchmark moments of this campaign, which led to more recent proposals about the nature of the relationship between poverty and human rights at the international level, is necessary. It raises an interesting, although unanswerable, question: Considering the “globalized” attention

given now by all international institutions to poverty (including the World Bank and the United Nations), how can a project aimed at combating poverty help promote human rights provided for in the Québec *Charter* as well as in international instruments? The next section surveys the last decade of developments at the United Nations and at the international level regarding the issues of poverty and extreme poverty to illuminate their influence on the actions in Québec.

### **Québec Poverty Act: Taking Inspiration from the International and Regional Systems in a Globalized World**

Québec is a society that lives in a constant “inspirational” relationship with the world. Its specific position as a distinct society in North America largely explains this quest for “different models.” This state of mind is a characteristic of the Québec state as well as of Québec civil society. Although some commentators claim that the *Poverty Act* is a purely “made-in-Québec” initiative, I do not believe that it is. As noted earlier, the CAPMO, as part of the international ATD Quart Monde Network, had been closely following the work of some “non-treaty” bodies of the United Nations, such as the Sub-Commission on the Promotion and Protection of Human Rights in the context of the UN Decade for the Elimination of Poverty. The Québec government has always kept an interested eye on the European model, as far as social protection and social programs were concerned. In addition, the Québec government recently discovered the ICESCR and the work of its committee. This section will briefly identify the principal benchmarks and initiatives that influenced the Québec *Poverty Act*. First, I will introduce the relevant reports issued since 1996 by the UN Sub-Commission on the Promotion and Protection of Human Rights. Second, I will note the importance, from a Québec perspective, of some statements issued by the CESCR.

#### **UN Sub-Commission on the Promotion and Protection of Human Rights and the Fight against Extreme Poverty**

In 1996, the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities (which became the Sub-Commission on the Promotion and Protection of Human Rights) issued the *Report on Human Rights and Extreme Poverty*.<sup>39</sup> According to Rapporteur Leandro Despouy, in order to pin down the links between extreme poverty and human rights, it was first necessary to examine some of the fundamental principles of human rights in light of the experiences of very poor people. The insistence of the Despouy report on the participation of the poor in development strategies is closely connected to Nobel Prize winner Amartya Sen’s theory about human capabilities.<sup>40</sup> For Sen, poverty is the transformation of a person into a being that is incapable of satisfying her or his minimum needs for survival.

Sen’s theory significantly influenced the UN *Human Development Report 2000*. In fact, Sen provided the conceptual framework for this report.<sup>41</sup> Both the World Bank, with the “Voices of the Poor” initiative,<sup>42</sup> and the UN millennium development goals<sup>43</sup> are now integrating this approach.

In 1998, the UN sub-commission issued the report *Poverty, Income Distribution and Globalization: A Challenge for Human Rights*.<sup>44</sup> Special Rapporteur José Bengoa was given a mandate to explore the relationship between the enjoyment of human rights (specifically, economic, social, and cultural rights) and income distribution. He noted that “[e]conomic, social and cultural rights establish the ‘ethical boundary’ between living as human beings and not living as human beings.”<sup>45</sup> This report found an echo in another mandate given to independent expert Anne-Marie Lizin by the UN Commission on Human Rights. Lizin, so far, has published six reports on extreme poverty,<sup>46</sup> which promote the need for national minimum income legislation as a means to combat extreme poverty.<sup>47</sup>

A closer examination of the 1995 *Copenhagen Declaration on Social Development*<sup>48</sup> shows how much the whole plan of action was crafted with societies in mind where the immediate realization of basic human needs is still an unreachable goal. The follow up by the United Nations and its agencies to the Copenhagen social development agenda mostly paid attention to extreme poverty. This type of poverty, by almost any standard, cannot be associated with Québec.

In the context of the UN Millennium Summit,<sup>49</sup> the UN General Assembly adopted a series of resolutions aimed at reaffirming the role of the state in regard to the promotion of the human rights of the poorest. Resolution S-24/2 specifically states that the poor shall be at the centre of development strategies and the realization of the millennium commitments.<sup>50</sup> Without specifically referring to human rights, the resolution emphasizes the need for public spending focused on the needs of the poorest<sup>51</sup> as well as the responsibility of the state regarding basic social services.<sup>52</sup> The World Bank’s *World Development Report 2000/2001: Attacking Poverty* followed the adoption of the eight broad millennium development goals.<sup>53</sup> Participatory governance aimed at reducing extreme poverty is not exclusively promoted for the poorest countries of the world. Within the Organisation for Economic Co-operation and Development, as an example, participatory governance is a way of introducing a stronger political economy dimension into the debate and practice of poverty reduction.<sup>54</sup>

Recent UN developments in the field of poverty and human rights seem to echo the World Bank’s highly debated poverty reduction strategies framework. Thus Rapporteur Bengoa’s report for the UN ad hoc working group, which was established to prepare a study to contribute to the drafting of an international declaration on extreme poverty and human rights, stated that

[t]he members of the ad hoc working group therefore decided to study “contemporary forms of poverty,” that is, the most extreme forms of poverty, systems of absolute destitution that endanger the right to life and dignity of persons and which are the consequence of the economic, political and social processes that currently dominate the world. The group is aware that there are many other forms of poverty, generally known as “relative poverty,” “traditional poverty” or “structural poverty,” which vary from country to country and from society to society and which undoubtedly cause very serious problems for individuals and have a huge impact on human society. While it can be said that poverty in general violates the enjoyment of economic, social and cultural rights in many ways, extreme poverty is a gross violation of the right to life and human dignity and thus strikes at the heart of the human rights system.<sup>55</sup>

The sum of all of these concerted initiatives aimed at fighting (or attacking) poverty at the international level reveals a very weak link with the *ICESCR*. In fact, it seems that rights guaranteed by the *ICESCR* are seen as rights by the UN sub-commission only in so far as their violations put directly at risk the right to life. Yet there is more in the *ICESCR*, and in the right to dignity, than the objective protection of the right not to die from poverty.

In short, it appears that we have entered a decade of “extreme poverty management.” As everybody lines up behind the UN millennium development goals, we understand better that the fight against extreme poverty is limited, in fact, to providing essential basic needs to and developing the capabilities of the most vulnerable populations of the world. The fact that such a strategy is an urgent and absolute necessity does not mean that other populations and vulnerable groups around the world, such as in Québec, can expect no more from their states in the domain of economic and social rights. This would represent a repudiation of states’ commitments and obligations under the *ICESCR*.

In fact, by taking inspiration from the capabilities model and the various reports issued over the Decade for the Elimination of Poverty by the United Nations as well as by UN agencies, Québec civil society and the Québec government may have crafted a subtle conceptual shift from the welfare state approach to human dignity (redistribution of wealth for everybody, including the poor, through social programs and benefits) to the neo-liberal state’s approach (management of dysfunctional levels of poverty and an increase of individual responsibility for well-being). This shift is clearly expressed in section 2 of the *Poverty Act*, which, as we have previously stated, describes poverty as a lack of necessary conditions to support economic self-sufficiency.

This shift is also expressed by the fact that the *Poverty Act* distributes roles to various stakeholders, including the poor, in order for poverty to be

eradicated. In the context of a developed society such as Québec, this is an obvious perversion of Sen’s capabilities model, where democratic participation means participation in programs aimed at building freedom and not more poverty. Exporting the fight against extreme poverty into a society such as Québec puts at risk a central element of the human rights framework with respect to economic and social rights – that is, the state’s obligation to continuously improve the realization of those rights. The Québec government was well aware of this obligation.

The strategy promoted by the Collectif pour l’élimination de la pauvreté au Québec focused on one central issue – increasing the income of the poorest fifth of the population. The availability of a guaranteed minimum income for the poor (through welfare benefits or other means, such as working wages) certainly contributes to the promotion of all human rights. However, it does not encompass the full scope of those rights. As an example, what if, at the same time as increasing the welfare benefits or the minimum wage, a government decides to privatize most services related to health, drinkable water, or education? Having to pay for services related to social rights puts at risk the poorest as well as constituting a potential violation of the state’s duty to uphold the non-regression principle in the field of partially realized social rights.

#### **CESCR Statement on Extreme Poverty**

In May 2001, the CESCR adopted a statement about poverty and the *ICESCR*.<sup>56</sup> The CESCR expressed concerns about the fact that the human rights dimensions of poverty eradication policies rarely receive the attention they deserve. According to the committee, a human rights approach to poverty can reinforce anti-poverty strategies and make them more effective. Human rights help in balancing the distribution of power in a society and promoting equality for the most vulnerable. The CESCR underlined the fact that poverty is not only an issue of available income but also is primarily the result of a lack of basic capabilities to live in dignity. Most importantly, the CESCR noted that this understanding of poverty corresponds with numerous provisions of the *ICESCR* and that poverty may be defined as “a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.”<sup>57</sup> According to the CESCR,

[t]he Covenant empowers the poor by granting them rights and imposing legal obligations on others, such as States. Critically, rights and obligations demand accountability: unless supported by a system of accountability, they can become no more than window dressing. Accordingly, the human rights approach to poverty emphasizes obligations and requires that all

duty-holders, including States and international organizations, are held to account for their conduct in relation to international human rights law.<sup>58</sup>

Nearly a decade after the Copenhagen Summit, the CESCR's statement helps us to realize that the historical tension between development and human rights is not resolved. At the centre of this tension is the fundamental principle of human rights instruments – that states are duty-holders. Human rights instruments propose a dignity agenda much more encompassing than the one promoted by the millennium development goals, which, when analyzed from the CESCR perspective, represents at best the “minimal content” of the many rights guaranteed by this instrument. Five years after putting the need to adopt an act to eliminate poverty on the political agenda, the *collectif* itself wonders where to go, especially now that “the fight against poverty” is also a priority for all institutions, starting with the World Bank. It is probably why the *collectif* now turns its attention to the social forum initiative.<sup>59</sup> Has the “poverty” agenda been co-opted by international institutions?

The *Poverty Act* proposes an amputated definition of poverty taken from the CESCR's statement on poverty.<sup>60</sup> Article 2 of the act states that poverty means the human condition of being deprived of resources, means, choices, and power “necessary to acquire and maintain economic self-sufficiency or to facilitate integration and participation in society.” By comparison, the CESCR statement defines poverty as “a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.” As it stands, the *Poverty Act* totally ignores the fact that poverty is both a cause and a consequence of human rights violations.

In sum, the *Poverty Act* in Québec is definitely the result of a globalized and internationalized approach to fighting poverty. The future may show that the act carries the limitations of the international agenda's truncated understanding of poverty. In the context of a developed society such as Québec, it raises the issue of the progressive and continuous implementation, in a non-discriminatory manner, of all human rights but, more specifically, of economic and social rights. The strategies for the fulfilment of basic human needs occupy first place with all UN agencies, which makes sense. However, what is at stake in the Québec context is the replacement of a commitment explicitly based on the *ICESCR* by a functional agenda aimed at individualizing any risk above a minimal fulfilment.<sup>61</sup>

In August 2002, the Québec government presented its national strategy to combat poverty and social exclusion. The strategy was introduced and adopted while the content of the *Poverty Act* was still being debated in the

parliamentary commission. The Québec community network was shocked by the strategy’s feeble response to a then huge social mobilization in the campaign for the adoption of *Poverty Act*.<sup>62</sup> Yet, from this point, one could have figured out what the government had in mind. The government stated in its strategy: “The strategy is derived from the recognition of economic and social rights in keeping with the Québec *Charter of Human Rights and Freedoms*, and part of an international movement linking the fight against poverty and social exclusion with the struggle for human rights.”<sup>63</sup> Human rights activists in Québec learned from this experience that the “human rights framework” does not automatically or significantly influence the political agenda of the Left, even though it may be highly sensitive to new trends when looking for international solidarity. Poverty may be a cause and a consequence of human rights violations, but civil society actors may not understand or believe in more than the rhetoric of this statement.

Chances are that the expertise about poverty, and its causes and consequences, will increase in Québec. Yet will this increased knowledge contribute to the protection and promotion of human rights and, more specifically, to the economic and social rights of the poor? This question raises the issue of the complex relationship between the Québec *Charter*, the *Poverty Act*, and the *Welfare Acts*, current and future.

### **The Complex Relationship between Poverty and Human Rights in the Context of the Québec Charter and the Poverty Act**

This last section revisits the legal nature of social and economic rights from a Québec perspective. For a long time, with no success, Québec human rights activists have been asking for an amendment to the Québec *Charter* that will give economic and social rights the same precedence over any ordinary law that other rights in the *Charter* have been given. Instead, the government passed an act to combat poverty. Is fighting poverty the answer to the need for more protection of economic and social rights? It is certainly *an* answer. Yet any answer has to be put in context. This section divides the analysis according to two different concerns: the relationship between human dignity of the poor and the terms of the Québec *Charter* and the relationship between the right to an acceptable standard of living set out in the Québec *Charter* and the new legal framework aimed at attacking poverty in Québec.

#### **From One Preamble to Another: The Issue of Human Rights and Dignity**

As opposed to the *Canadian Charter of Rights and Freedoms*,<sup>64</sup> the preamble of the Québec *Charter* explicitly emphasizes the relationship between human dignity and the respect, promotion, and protection of human rights. Interestingly, few judicial decisions had referred to the concept of dignity in

defining the scope of the rights guaranteed by the Québec *Charter* until the *Gosselin* decision.<sup>65</sup> *Gosselin* was based, *inter alia*, on section 45 of the Québec *Charter* and on the equality provision of the Canadian *Charter*.<sup>66</sup> Chief Justice Beverley McLachlin, on behalf of Justices Charles Gonthier, Frank Iacobucci, John Major, and Ian Binnie, concluded that the age-based distinction (below and above thirty years old) provided for by the *Welfare Act* of Québec in the 1980s was part of an ameliorative program designed to improve the situation of young people and to enhance their dignity and their capacity for long-term self-reliance.<sup>67</sup> Accordingly, the program was not discriminatory.

In contrast, dissenting Justices Michel Bastarache, Louise Arbour, Claire L'Heureux-Dubé, and Louis LeBel, applying a contextual test, concluded that the regulation was not sustainable from a human rights perspective. According to L'Heureux-Dubé J., the need to respect human dignity has to be scrutinized from the victim's perspective and not from the government's broad statement about the purpose of a regulation.<sup>68</sup> *Gosselin's* dignity had been put at risk by the program. As a consequence, L'Heureux-Dubé J. established a necessary connection between human dignity and poverty, implicitly recognizing that in many cases poverty is a cause and a consequence of human rights violations.

The *Gosselin* decision is, from a Québec perspective, somewhat disconcerting. The majority decision tells us that there is "good discrimination" – that is, discrimination that enhances the capacity of the poor for long-term self-reliance. "Good discrimination" for younger people, at least theoretically, promotes human dignity. The majority ignored the fact that penalizing welfare recipients does not work and that *Gosselin* constantly put her security and her health at risk by trying to survive on less than \$200 a month. Further, with the exception of the dissents of Arbour and L'Heureux-Dubé JJ., the Court agreed that section 45 of the Québec *Charter* guarantees no better protection in terms of a decent standard of living than what is provided for by the law itself (in this case, no better protection than what was provided for by the impugned welfare regulation).

The majority of the Supreme Court of Canada in *Gosselin* used the concept of human dignity in a moralistic, rather than a legal, fashion. This gives weight to Sheilah Martin's observation about the Canadian *Charter* and the balancing process between equality and social goals.<sup>69</sup> Talking specifically about the use of the concept of human dignity to assess equality rights violations, Martin underlines the fact that equality may require more social justice for disadvantaged groups than the notion of dignity can deliver, if dignity is used, since the *Law v. Canada (Minister of Employment and Immigration)* decision,<sup>70</sup> as an expression of the classic liberal vision of individual freedom.<sup>71</sup>

This approach is very obvious in the preamble of the *Poverty Act*. As in the case of the Québec *Charter*, the act’s first paragraph states that respect for dignity and recognition of rights and freedoms constitute the foundation of justice. The second paragraph of the preamble states that poverty and social exclusion may constitute obstacles to the respect for human dignity. However, what about poverty as an obstacle to respect for the human rights guaranteed by the Québec *Charter* and, more specifically, for the economic and social rights guaranteed in sections 39 and following? In a dispassionate, but very important, *Mémoire à la Commission des Affaires sociales de l’Assemblée nationale*, which the Commission des droits de la personne et des droits de la jeunesse presented at the parliamentary commission about Bill 112 (the *Poverty Act*) in September 2002,<sup>72</sup> the commission insisted on the need for the preamble of the *Poverty Act* to recall, as a systemic and collective issue, the relationship between the economic and social rights guaranteed by the Québec *Charter* and poverty. In other words, the commission expressed concern that the *Poverty Act*’s preamble would not promote an adequate understanding of, on the one hand, the reasons why poverty is a cause and a consequence of human rights violations and, on the other hand, the reasons why the fight against poverty cannot rely above all on the capacity and the responsibility of the poor.<sup>73</sup> An inevitable tension is created between poverty and human rights. It is the same tension that the Supreme Court of Canada was unable to resolve in the *Gosselin* case.

Both the *Gosselin* decision and the *Poverty Act* are anchored in a liberal approach that limits the proactive role of the state in the promotion of economic and social rights to what is necessary for the development of human capabilities and the satisfaction of essential needs. The act does not acknowledge the full meaning of progressively fulfilling economic and social rights as a state obligation – an obligation to which Québec subscribed by accepting the *ICESCR* standards and by enacting the Québec *Charter*.<sup>74</sup>

On the contrary, it limits the content of these rights, as well as the state’s obligations, to the satisfaction of one’s essential needs. This content has been described by the *CESCR* as the “core content of a right,” which deserves in all cases immediate satisfaction.<sup>75</sup> The committee has never said that a developed state can limit the implementation process of social and economic rights to such an essential or core content. On the contrary, the *CESCR* imposes on the state an obligation to move as expeditiously and effectively as possible towards the goal of fully realizing all rights that it guarantees: “Any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.”<sup>76</sup>

By adopting the *Poverty Act*, the Québec government seized a political opportunity to redesign, statutorily, its international as well as its fundamental obligations towards the poor. What will be the full consequences, in such a context, of the eventual release of poverty indicators for Québec? Will the poverty indicators, once established by and for Québec, in accordance with the satisfaction of a person's or a family's basic or essential needs, determine the "measure" of human dignity for the poor in Québec? What will be the impact of section 15(2) of the *Poverty Act*, which commits the government to the determination of an irreducible minimum level of welfare benefits as a component of the anti-poverty national strategy? What will be the consequences for the growing number of working poor of such commitments? Will they be deemed to have reached the appropriate level of self-sufficiency with respect to the poverty indicators to be adopted at the Québec level? Surprisingly, such questions have never been raised in Québec except by the Commission des droits de la personne et des droits de la jeunesse. Over the last decade, and before the *Gosselin* decision, demands for improvement of Chapter IV of the Québec *Charter* and the effective protection of economic and social rights had not been heard.

### **The Journey of Economic and Social Rights in Québec: From One Underclass to the Other**

In November 2003, the Commission des droits de la personne et des droits de la jeunesse du Québec released a major review of the application of the Québec *Charter* twenty-five years after its adoption.<sup>77</sup> This report followed both the Supreme Court of Canada's decision in *Gosselin* and the adoption of the *Poverty Act*. The major recommendation of the Québec *Charter* review process was to recognize the true legal nature of economic and social rights and to do so by, among other things, adding to Chapter IV a provision stating that all legislation must be consistent with the essential content of economic and social rights.<sup>78</sup>

The Québec government has expressed no intention to implement the report's recommendations. Yet the *Poverty Act* responds indirectly to this specific recommendation. Section 15 of the act sets an irreducible minimum level of welfare. The minimal content of a social right becomes what is necessary for a poor person who is "capable of work" to exercise freely her personal capabilities as long as, and to the extent that, the priorities of the state (section 16 of the act) and collective wealth (and political will) permit it. Thus, regressive measures that violate social rights become a matter of moral and political choices. Does the *Poverty Act* constitute the "final word" of the government in response to the long-standing request for a definition "in law" of the notion of a decent standard of living? Or is it a self-explanatory answer to the question of what the limits are to the right to an acceptable standard of living? Were the *Poverty Act*, and the institutions it

creates, designed to send a signal to the courts who will now have to take it into account when assessing violations of the human dignity of the poor and of their social rights?

### Conclusion

In Québec, some claim that “civil society knows best” about human rights. The link between the *collectif’s* proposal and the *Poverty Act* is taken as a vibrant example of this fact. However, if the Québec state had been willing to comply with its obligations under international human rights instruments, it would surely have amended first, and above any other legislative initiative, the Québec *Charter*. It did not do so. Thus, there is tension between the democratic process and the substance of human rights. The democratic right of the poor to participate in the design of policies that affect them should not be permitted to result in a diminution of the substance of their human rights. This is easy to say but not so easy to do in reality. The politics of the anti-poverty agenda can go either way: the liberal path or the social justice one. A social justice anti-poverty agenda is possible only to the extent that the human rights framework is seen as being central and fundamental by all components of a democratic state – the state itself, civil society’s institutions, and the courts. In Québec, it is not clear that everyone is pulling in the same direction.

### Notes

- 1 *Act to Combat Poverty and Social Exclusion*, R.S.Q. 2002, c. L-7 [*Poverty Act*].
- 2 Alain Noël, “A Law against Poverty: Quebec’s New Approach to Combating Poverty and Social Exclusion,” background paper, Canadian Policy Research Networks (2002), <http://www.cprn.ca/en/doc.cfm?doc=183> (6 July 2004).
- 3 See La Confédération des Syndicats nationaux, “Des actions de visibilité pour protester contre les lois 25, 30 et 31,” communiqué (19 March 2004), <http://www.csn.qc.ca/Communiqués/CommMars04/Comm19-03-04d.html> (6 July 2004).
- 4 *Charter of Human Rights and Freedoms*, R.S.Q. 1975, c. C-12 [Québec *Charter*].
- 5 *Act Respecting Income Support, Employment Assistance and Social Solidarity*, *infra* note 13.
- 6 *Gosselin v. Québec (Attorney General)*, [2002] 4 S.C.R. 429 [Gosselin].
- 7 See Amartya Sen, *On Ethics and Economics* (London: Blackwell, 1987); Amartya Sen, *Inequality Reexamined* (New York: Russell Sage Foundation, 1992); and Amartya Sen, *Development as Freedom* (New York: Anchor Books, 2000).
- 8 This choice had been made bearing in mind the beginning in 1997 of the UN Decade for the Elimination of Poverty.
- 9 Government of Québec, *The Will to Act, The Strength to Succeed (National Strategy to Combat Poverty and Social Exclusion, Policy Statement)* (Québec, QC: Government of Québec, 2002), <http://www.mess.gouv.qc.ca/anglais/strategie/publications.asp> (6 July 2004).
- 10 Section 45 of the Québec *Charter*, *supra* note 4, reads as follows: “Every person in need has a right, for himself and his family, to measures of financial assistance and to social measures provided for by law, susceptible of ensuring such person an acceptable standard of living.” It has to be remembered that section 52 of the Québec *Charter* stipulates that no provision of any act adopted by the Québec legislature may derogate from sections 1 to 38 of the Québec *Charter*. This principle of primacy excludes Chapter IV (sections 39-48), which protects some economic and social rights.

- 11 *Gosselin*, *supra* note 6. The judgment was handed down 19 December 2002, and the *Poverty Act*, *supra* note 1, received assent 18 December 2002.
- 12 Section 64 of the *Poverty Act*, *supra* note 1, states that it “shall not be construed in such manner as to extend, limit or *qualify* the scope of any provision of another Act” [emphasis added]. Yet one may wonder how an act to combat poverty could not *qualify* Chapter IV of the Québec *Charter*, which guarantees measures of social assistance and social measures provided for by law.
- 13 *Act Respecting Income Support, Employment Assistance and Social Solidarity*, R.S.Q. 1998, c. S-32.001 [*Welfare Act*]. It has since been replaced by the *Individual and Family Assistance Act*, 2005, L.Q., c. 15, which came into force June 2005.
- 14 *Regulation Respecting Income Support*, R.R.Q. 1981, c. S-32.001, r. 1, ss. 81-3 and 122-6. This regulation had been in force under the *Act Respecting Income Support, Employment Assistance and Social Solidarity*, R.S.Q., c. S-32.001, r. 1.
- 15 *Regulation Respecting Income Support*, *supra* note 14 at ss. 6, 8, 12, and 150. This level is often described as the \$523 of minimal welfare monthly benefits granted to a “capable of working” family.
- 16 *Ibid.* at ss. 102-14.
- 17 *Ibid.* at ss. 127-30.
- 18 It is clear that the Québec government has an interest in promoting the development of “made-in-Québec” indicators on poverty and income. The use of the Statistics Canada low-income cut-offs (LICOs) has caused conflict between Statistics Canada and the Québec government for a long time. To put it simply, the Québec government claims that the LICOs make Québec look poorer than it really is. The Québec government favours other poverty indicators, which, as opposed to a low-income threshold, will make Québec look richer!
- 19 In Québec, the activities of the social economy sector are never seen as solely a consequence of government “off-loading” to the private sector, although, in many circumstances, they may be.
- 20 See Comité sectoriel de main-d’œuvre Économie sociale et Action communautaire, *L’économie sociale et l’action communautaire en indicateurs: Pilote sur le développement d’indicateurs sociaux et économiques* (2003), <http://www.csmoesac.qc.ca/> (6 July 2004).
- 21 Section 55 of the *Poverty Act*, *supra* note 1, seems to be a clear example of political strategy aimed at dividing and conquering. It states that the minister of finance, “in the event of a deficiency in the consolidated revenue fund [shall] pay out of the fund dedicated to the fight against poverty and social exclusion the sums required for the execution of a judgment against the State.” The act was drafted and adopted before the Supreme Court of Canada delivered its decision in *Gosselin*, *supra* note 6. In other words, what is given to the poor by the courts will be taken away from the fund.
- 22 See generally Fonds québécois d’initiatives sociales, Ministère de l’Emploi, de la Solidarité sociale et de la Famille, <http://www.mess.gouv.qc.ca/francais/flcp/presentation/> (6 July 2004).
- 23 Ministère de l’Emploi, de la Solidarité sociale et de la Famille, “Des gestes pour intensifier la solidarité et pour lutter contre la pauvreté et l’exclusion sociale,” communiqué (12 March 2003), <http://communiqués.gouv.qc.ca/gouvqc/communiqués/GPQF/Mars2003/12/c9714.html> (6 July 2004).
- 24 The expression “social infrastructures” had been used in Québec to describe the need for the state to allocate public money not only to classical “infrastructure expenditures” such as roads, sewage systems, or recreational areas but also to social services, which primarily benefit women.
- 25 See generally Collectif pour un Québec sans pauvreté, <http://www.pauvrete.qc.ca/> (6 July 2004).
- 26 Collectif pour une loi sur l’élimination de la pauvreté, “Proposal for an Act on the Elimination of Poverty” (2000), <http://www.pauvrete.qc.ca/law0420.pdf> (6 July 2004).
- 27 *Welfare Act*, *supra* note 13.
- 28 *Act Respecting Income Security*, R.S.Q. 1988, c. S-3.1.1, s. 11.
- 29 See “Proposal for an Act on the Elimination of Poverty,” *supra* note 26.
- 30 See Collectif pour un Québec sans pauvreté, *supra* note 25.

- 31 La Ligue des droits et libertés du Québec is a member of the Fédération internationale des droits de l'Homme and was created in 1963. Its mission is based explicitly on the Universal Declaration of Human Rights. For more information, see La Ligue des droits et libertés du Québec, <http://www.liguedesdroits.ca> (6 July 2004).
- 32 One can consult with interest the *mémoires* presented to the parliamentary commission when the bill was introduced and debated. Assemblée nationale du Québec, Les travaux parlementaires, 36<sup>e</sup> législature, 2<sup>e</sup> session, Index du Journal des débats, Projets de loi 112 – Loi visant à lutter contre la pauvreté et l'exclusion sociale, <http://www.assnat.qc.ca/fra/Publications/Debats/index/jd36l2se.html#projlois> (6 July 2004).
- 33 *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 U.N.T.S. 3 (entered into force 3 January 1976) [ICESCR].
- 34 Commission des droits de la personne et des droits de la jeunesse du Québec, "Review of the Application of the Charter and Recommendations," Recommendation no. 1 (2003), <http://www.cdpdj.qc.ca/en/home.asp?noeud1=0&noeud2=0&cle=0> (6 July 2004).
- 35 *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada*, UN CESCR, UN Doc. E/C.12/1/Add.31 (1998), <http://www.unhchr.ch/tbs/doc.nsf/0/c25e96da11e56431802566d5004ec8ef?Opendocument> (6 July 2004).
- 36 For a benchmark reference about the difficult dialogue at the time between the human rights movement and the development movement, see Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton, NJ: Princeton University Press, 1980). In summary, the campaign for the elimination of poverty initiated after the Copenhagen Social Summit was primarily designed to alleviate the poverty of the extremely poor countries and not the relative poverty experienced by people in countries such as Canada.
- 37 Collectif pour une loi sur l'élimination de la pauvreté, *supra* note 26.
- 38 *Report of the World Summit for Social Development*, including *Copenhagen Declaration on Social Development*, UN GAOR, UN Doc. A/CONF.166/9 (1995), <http://www.un.org/documents/ga/conf166/aconf166-9.htm> (6 July 2004) [*Copenhagen Declaration on Social Development*].
- 39 Leandro Despouy, *Report on Human Rights and Extreme Poverty*, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, 48th Sess., UN Doc. E/CN.4/Sub.2/1996/13 (1996).
- 40 Sen, *Inequality Reexamined*, *supra* note 7.
- 41 United Nations Development Program, *Human Development Report 2000*, <http://www.undp.org/hdr2000/english/HDR2000.html> (6 July 2004).
- 42 "Voices of the Poor" Initiative, World Bank Poverty Net, <http://www.worldbank.org/poverty/voices/index.htm> (6 July 2004).
- 43 UN millenium development goals, contained in the *United Nations Millennium Declaration*, General Assembly Res. 55/2, UNGAOR, UN Doc. A/Res/55/2 (18 September 2000), <http://www.un.org/millenniumgoals/> (6 July 2004).
- 44 José Bengoa, Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Poverty, Income Distribution and Globalization: A Challenge for Human Rights*, UN ESCOR, 50th Sess., UN Doc. E/CN.4/Sub.2/1998/8 (1998).
- 45 *Ibid.* at para. 27.
- 46 Anne-Marie Lizin, Commission on Human Rights, *Human Rights and Extreme Poverty*, UN ESCOR, 55th Sess., UN Doc. E/CN.4/1999/48 (1999); Anne-Marie Lizin, Commission on Human Rights, *Human Rights and Extreme Poverty*, UN ESCOR, 56th Sess., UN Doc. E/CN.4/2000/52 (2000); Anne-Marie Lizin, Commission on Human Rights, *Human Rights and Extreme Poverty*, UN ESCOR, 57th Sess., UN Doc. E/CN.4/2001/54 (2001); Anne-Marie Lizin, Commission on Human Rights, *Human Rights and Extreme Poverty*, UN ESCOR, 58th Sess., UN Doc. E/CN.4/2002/55 (2002); Anne-Marie Lizin, Commission on Human Rights, *Human Rights and Extreme Poverty*, UN ESCOR, 59th Sess., UN Doc. E/CN.4/2003/52 (2003); and Anne-Marie Lizin, Commission on Human Rights, *Human Rights and Extreme Poverty*, UN ESCOR, 60th Sess., UN Doc. E/CN.4/2004/43 (2004).
- 47 Lizin 1999, *supra* note 46 at para. 131; and Lizin 2000, *supra* note 46 at para. 98.
- 48 *Copenhagen Declaration on Social Development*, *supra* note 38.
- 49 See generally United Nations Millennium Summit, <http://www.un.org/millennium/summit.htm> (6 July 2004); and the UN millenium development goals, *supra* note 43.

- 50 *Further Initiatives for Social Development*, UN General Assembly Res. S-24/2, UN GAOR, 24th Special Sess., UN Doc. A/RES/S-24/2 (2000).
- 51 *Ibid.* at 18, Commitment 2.
- 52 *Ibid.* at 29, Commitment 6.
- 53 World Bank, *World Development Report 2000/2001: Attacking Poverty* (New York: Oxford University Press/World Bank, 2000), <http://www.worldbank.org/poverty/wdrpoverty/report/index.htm> (6 July 2004).
- 54 Hartmut Schneider, "Participatory Governance: The Missing Link for Poverty Reduction," Organisation for Economic Co-operation and Development (OECD) Development Centre Policy Brief no. 17 (Paris: OECD, 1999) at 6.
- 55 José Bengoa, Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Poverty and Human Rights: Programme of Work of the Ad Hoc Working Group Established to Prepare a Study to Contribute to the Drafting of an International Declaration on Extreme Poverty and Human Rights*, UN ESCOR, 54th Sess., UN Doc. E/CN.4/Sub.2/2002/15 (2002) at para. 5.
- 56 *Poverty and the International Covenant on Economic, Social and Cultural Rights: Statement*, UN CESCR, 25th Sess., UN Doc. E/C.12/2001/10 (2002).
- 57 *Ibid.* at para. 8.
- 58 *Ibid.* at para. 14.
- 59 Vivian Labrie, "Jeter les bases de société sans pauvreté? Est-ce possible? Quelques pas dans cette direction au Québec" (paper presented to the Richesse, Pauvreté, Monnaies workshop, Forum Social Mondial, Porto Alegre, Brazil, January 2003), <http://www.pauvrete.qc.ca/FSM/fsm-presentation.htm> (6 July 2004).
- 60 *Poverty and the International Covenant on Economic, Social and Cultural Rights: Statement*, *supra* note 56.
- 61 The fact that the Québec Charter, *supra* note 4, was adopted in order for Québec to incorporate the guarantees of rights offered by both the *International Covenant of Civil and Political Rights*, 16 December 1966, 999 U.N.T.S. 171 (entered into force 23 March 1976) and the *ICESCR* is very well documented. See, *inter alia*, André Morel, "La Charte québécoise: Un document unique dans l'histoire législative canadienne" (1987) 21 *Revue Juridique Thémis* 1, reprinted in *De la Charte québécoise des droits et libertés: Origine, Nature et défis* (Montréal: Éditions Thémis, 1989) at 1.
- 62 See, for example, Front d'action populaire en réaménagement urbain, *Stratégie et loi contre la pauvreté et l'exclusion sociale: Vers un Québec sans pauvreté?* (September 2002), <http://www.frapru.qc.ca/Docs/Mem112.html> (6 July 2004).
- 63 In *supra* note 9.
- 64 *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 [Charter].
- 65 See, for example, *Québec (Curateur public) c. Syndicat national des employés de l'Hôpital St-Ferdinand*, [1996] 3 R.C.S. 211; *Commission des droits de la personne et des droits de la jeunesse (Lippé) c. Québec (Procureur général)*, [1998] R.J.Q. 3397; and *Gosselin*, *supra* note 6.
- 66 *Charter*, *supra* note 64 at s. 15.
- 67 *Gosselin*, *supra* note 6 at paras. 66 and 70.
- 68 *Ibid.* at para. 121.
- 69 Sheilah Martin, "Balancing Individual Rights to Equality and Social Goals" (2001) 80 *Canadian Bar Review* 299.
- 70 *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 S.C.R. 497.
- 71 Martin, *supra* note 69 at 328. For a surprising discussion about the concept of human dignity and its use by the Supreme Court of Canada, see Lorne Sossin, "The 'Supremacy of God,' Human Dignity and the Charter of Rights and Freedoms" (2003) 52 *University of New Brunswick Law Journal* 227. For a more positive recasting of dignity, see Denise Réaume, "Dignity, Equality, and Second Generation Rights," in this volume.
- 72 Commission des droits de la personne et des droits de la jeunesse du Québec, *Mémoire à la Commission des Affaires sociales de l'Assemblée nationale, Projet de loi 112*, Septembre 2002.

73 *Ibid.* at 6-8.

74 *General Comment 3: The Nature of States Parties Obligations*, UN CESCR, 5th Sess., UN Doc. E/1991/23/Ann. III (1991) at 86.

75 *Ibid.* at para. 10.

76 *Ibid.* at para. 9.

77 “Review of the Application of the Charter and Recommendations,” *supra* note 34.

78 *Ibid.*