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[Home](#) > Canada

Canada

Country:

Canada

Year:

2016

Press Freedom Status:

Free

PFS Score:

18

Legal Environment:

5

Political Environment:

7

Economic Environment:

6

Overview

Conditions for media in Canada are free and stable, and outlets are generally able to operate and exercise editorial independence without undue interference. However, several harsh laws passed in recent years have led to concern about respect for freedom of expression. Police mistreatment of journalists at public events—though infrequent—also remains an issue.

Key Developments

- A controversial antiterrorism law came into force in June 2015; it includes provisions against “terrorist propaganda” and prohibits actions that “encourage” or “promote” terrorism.
- Following its annual National Freedom of Information Audit, Newspapers Canada reported in October that the federal government had made few advances in improving access to information in 2015.
- In an exceptional case, a *National Post* editor resigned in October after newspaper executives prevented him from publishing a column dissenting from the paper’s endorsement of the Conservative Party.

- In March 2015, police in Montreal harassed and detained media professionals who were covering student protests.

Legal Environment: 5 / 30

Canada's 1982 constitution guarantees freedoms of expression and the press. The government may legally restrict free speech with the aim of ending discrimination, ensuring social harmony, or promoting gender equality. Hate speech is an offense under the penal code but is rarely prosecuted as a criminal offense. In 2014, the government repealed a section of Canada's Human Rights Act prohibiting expression "that is likely to expose a person or persons to hatred or contempt." Hate speech is also an offense in some provincial legislation. In June 2015, Quebec authorities introduced a bill to prevent and combat speech that incites hatred or violence against a particular individual or group of people. Watchdogs voiced concerns that the bill's vague language and harsh penalties could have a chilling effect on freedom of expression; the draft proposes fines of up to C\$20,000 (US\$16,000) for violations against individuals and C\$250,000 (US\$200,000) for violations against groups.

In 2014, the Canadian Broadcasting Corporation (CBC), alongside the *Toronto Star* and the production company White Pine Pictures, brought a case against the federal government, challenging the denial of journalists' access to Canadian citizen Omar Khadr—a former detainee at the U.S. military detention facility in Guantanamo Bay, Cuba, who had been transferred to a Canadian facility in 2012. The plaintiffs alleged that by blocking media access to Khadr, who had given consent to be interviewed, the government was violating constitutional guarantees for freedom of the press and the public's right to information. In February 2015, a federal court ruled that the government had not violated the constitution by denying media access to Khadr. In May, Khadr was released on bail and was able to give interviews without undue interference.

In the wake of a deadly terrorist attack on Canada's Parliament Hill in 2014, the Conservative Party government of Stephen Harper—in power from 2006 until November 2015—introduced Bill C-44, the Protection of Canada from Terrorists Act. It had been drafted before the attack but was subsequently portrayed by the government as an urgent priority. Bill C-44 proposed to broaden the powers of the Canadian Security Intelligence Service (CSIS), and journalists expressed concern about provisions that would increase the agency's surveillance authority. It became law in April 2015.

In June 2015, a separate piece of antiterrorism legislation, originally introduced as Bill C-51, came into force. The law includes provisions against "terrorist propaganda" and prohibits actions that "encourage" or "promote" terrorism. It also widens the powers of the CSIS and other security agencies to deal with such threats and, among other things, authorizes the seizure and censoring of online and offline "terrorist propaganda." Domestic opposition to the law was significant, and a petition for repeal was ongoing at year's end. Freedom of expression advocates argue that the law's broad scope and vague wording leave room for abuse and, among other things, could be used to curb free speech. In June, the Canadian Journalists for Free Expression (CJFE) and the Canadian Civil Liberties Association (CCLA) challenged the constitutionality of several portions of the law in court. In July, the Office of the UN High Commissioner for Human Rights (OHCHR)

stated that the law could impose undue restrictions on human rights and suggested that it be amended to ensure compliance with Canada's obligations under the International Covenant on Civil and Political Rights.

In October 2014, the controversial Protecting Canadians from Online Crime Act, Bill C-13, passed into law. While the measure was presented as an attempt to combat cyberbullying, press freedom advocates argue that its language is vague, and that it allows internet service providers (ISPs) and telecommunications companies to voluntarily give customer information to the government without the latter having to produce a warrant. The law's approval was rendered more contentious by a Supreme Court decision in June 2014 to require law enforcement agencies to obtain a warrant in order to access such information from service providers. Despite this contradiction, the law came into effect in March 2015.

Defamation remains a criminal offense, punishable by up to five years in prison. A 2009 Supreme Court ruling allows journalists to avoid liability for alleged defamation if they are able to show that they acted responsibly in covering a matter of public interest, even if their statements are found to be untrue. A criminal defamation case filed by fashion mogul Peter Nygård against the CBC remained unresolved at the end of 2015; Nygård alleged that a 2010 CBC documentary about him had been defamatory. In July 2015, a Manitoba provincial judge ruled that Nygård's allegations were sufficiently supported in order to proceed to a criminal trial.

There are no specific laws that protect confidential sources, and the courts often decide whether to respect confidentiality on a case-by-case basis.

Efforts to obtain information from the federal government typically involve long waits, and requests are hampered by federal agencies' ability to grant themselves extensions on requests. Newspapers Canada, a newspaper industry partnership, released the findings of its annual National Freedom of Information Audit in October 2015. It reported that of the approximately 450 information requests submitted to public bodies as part of the audit, only 70 percent received answers within 30 days. The report also noted variation among government levels and provinces in providing complete information, finding the federal government to be among the least open bodies in this regard. In 2014, legislators introduced a bill to strengthen the Access to Information Act (ATIA), but it was defeated in April 2015. In March, the information commissioner submitted a report to Parliament detailing 85 recommendations for updating the ATIA.

The National NewsMedia Council, a voluntary, self-regulatory body for Canada's news media industry, was formed in 2015. The body is an amalgam of regional press councils—the Ontario Press Council, the Atlantic Press Council, and the British Columbia Press Council—and seeks to function as a forum for resolving complaints against members and promoting ethics across the sector.

Political Environment: 7 / 40

Canadian news media, including the public broadcaster CBC, are free to express diverse views. Although public officials and entities generally grant interviews and access to events to journalists, the Supreme Court in 2011 upheld Quebec court rules that prohibit

media outlets from broadcasting the audio recordings of court proceedings or using cameras and recording equipment beyond designated areas of courthouses.

In an exceptional case, the editorial and comment editor of the *National Post* resigned in October 2015 after executives prevented him from publishing a column dissenting from the paper's endorsement of the Conservative Party and Harper. The *National Post* is owned by Postmedia, the largest newspaper company in Canada.

Police have sometimes mistreated media professionals during major protests and high-profile events. Journalists reported facing police harassment while covering student protests in Montreal in March 2015. Police also arbitrarily detained a number of media workers during the protests, and were reported to use excessive force. Following these incidents, representatives of the media and Montreal police convened a meeting to discuss improving interactions between security forces and media professionals at public events.

Economic Environment: 6 / 30

The Canadian media sector includes a variety of privately owned print and online outlets, and commercial broadcasters compete with the public CBC, which airs programming in French and English on multiple television and radio stations. Broadcasting rules stipulate certain percentages of Canadian content on different types of stations, and encourage the creation of original local programming. Internet use is widespread and unrestricted, with more than 88 percent of the population accessing the medium in 2015.

Concentration of private media ownership remains an issue. Four corporations—Bell Canada, Shaw, Rogers, and Quebecor Media—account for about two-thirds of television revenue. Bell Canada, the country's largest telecommunications company, also has important stakes in radio broadcasting, wireless internet, and mobile services. In 2013, the Canadian Radio-Television and Telecommunications Commission approved Bell's C\$3.27 billion (US\$3.17 billion) takeover of Astral Media, giving Bell control over 36 percent of the English-language television market and 23 percent of the French. The regulator approved Bell's bid with the requirement that the company divest many of its existing television and radio assets, but the deal still entailed a high level of vertical integration and media concentration.

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