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U.S. Department of State

Canada Country Report on Human Rights Practices for 1996

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997.

CANADA

Canada is a constitutional monarchy with a federal parliamentary form of government and an independent judiciary. Citizens periodically choose their representatives in free and fair multiparty elections.

Elected civilian officials control the federal, provincial, and municipal police forces. The armed forces have no role in domestic law enforcement except in national emergencies. Laws requiring the security forces to respect human rights are strictly observed, and violators are punished by the courts.

Canada has a highly developed, market-based economic system. Laws extensively protect the well-being of workers and provide for workers' freedom of association.

The Government generally respected the human rights of its citizens. However, there were occasional complaints in some areas, primarily regarding discrimination against aboriginals, the disabled, and women. The Constitution and laws provide avenues for legal redress of such complaints. The Government and private organizations seek to ensure that human rights are respected in practice at all levels of society and take steps to convict and punish human rights abusers. The Government has taken serious and active steps to address violence against women.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:**a. Political and Other Extrajudicial Killing**

There were no reports of political or other extrajudicial killings.

An investigation was continuing at year's end into the 1995 police killing of an aboriginal activist at Ipperwash, Ontario (see Section 5).

A civilian inquiry is continuing into the activities of a now disbanded Canadian military regiment during its 1993 peacekeeping mission in Somalia. The inquiry is reviewing the entire mission, with its current focus on allegations of a coverup of regiment activities, including the 1993 killing of a Somali teenager in its custody.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the Government observes the prohibition in practice.

Prison conditions generally meet minimum international standards, and the Government permits visits by human rights monitors. As a result of an inquiry into a 1994 incident at the women's prison in Kingston, Ontario, the Federal Government announced steps it will take to protect the privacy of female prisoners and the appointment of a deputy commissioner for corrections of women. The correctional service also changed its policy to ensure that no men will participate in strip searches of female inmates.

Inmates of Toronto's Don jail complained of inhuman conditions resulting from overcrowding and inadequate health facilities. A report identified the following problems: inadequate fire prevention controls; health hazards (including the risk of contracting tuberculosis and HIV) resulting from overcrowding; insufficient exercise and recreation facilities; and a lack of contact visits. Conditions were described as so depressing that some inmates purportedly pled guilty in order to be sent to other facilities and thus avoid awaiting trial in the jail.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest, detention, or exile, and the Government observes this prohibition. Lawyers for a Tamil refugee detained for over a year in a Toronto jail claimed that international standards of fair trial and detention were contravened. The refugee is being held under the Immigration Act, which allows for the detention of an individual the Minister of Justice certifies is a possible member of a terrorist organization.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process and vigorously enforces the right to a fair trial.

The court system is divided into federal and provincial courts, which handle both civil and criminal

matters. The highest federal court is the Supreme Court, which exercises general appellate jurisdiction and advises on constitutional matters. The judicial system is based on English common law at the federal level as well as in most provinces; in the province of Quebec, it is based on the Napoleonic Code. Throughout Canada judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (free for indigents), and to appeal.

In October the Quebec provincial Government announced a wide-ranging public inquiry into the Quebec police force. The inquiry's mandate is to examine allegations of evidence tampering, witness intimidation, and bungled investigations. It was announced after the judge who headed an internal investigation of the Quebec force resigned, terming inadequate a closed-door inquiry into a drug case that had been thrown out of court after allegations that police officers fabricated and tampered with evidence.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

Journalists are occasionally banned from reporting some specific details of court cases until a trial is concluded, and these restrictions, adopted to ensure the defendant's right to a fair trial, enjoy wide popular support. Some restrictions on the media are imposed by provincial-level film censorship, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography. The Canadian Human Rights Act prohibits repeated communications by telephone that expose a person or group to hatred or contempt. Human rights groups are exploring the possibility of extending this prohibition to the Internet.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government respects them in practice.

The Government cooperates with the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees and extends first asylum. Canada is a resettlement

country, and in 1995 the Government granted refugee status and accepted for resettlement 9,611 persons (56 percent of all applicants for this status). From January to September 1996, the Government granted refugee status to 7,409 applicants (47 percent of applicants). There were no reports of forced expulsion of those having a valid claim to refugee status.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The Quebec superior court allowed a suit to proceed that would prevent the Quebec government from holding another referendum on the sovereignty issue. The suit maintained that such an act would violate the Canadian Constitution and the filer's rights as a Canadian citizen. The suit was opposed by the Quebec government on grounds that the sovereignty question was a purely political one that could be decided only by the people of Quebec and their National Assembly. In September the federal Minister of Justice referred to the Supreme Court the question of whether Quebec can unilaterally separate from Canada.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Charter of Rights and Freedoms provides for equal benefits and protection of the law regardless of race, national or ethnic origin, color, religion, sex, age, sexual orientation, or mental or physical disability. These rights are generally respected in practice, but there are occasional charges of discrimination within this multicultural society.

Affirmative action (employment equity) legislation is a topic of some national and provincial debate. Federal employment equity legislation was passed by Parliament in December 1995, but the Ministry of Labor is still consulting on the regulations required by the act, and it has not yet entered into force. The legislation is designed to strengthen employment equity provisions for employees under federal jurisdiction.

The Ontario Human Rights Commission was criticized for its enormous backlog of cases, three-quarters of which are employment based, and for the procedures used to reduce the backlog. The criticism included charges that cases were dismissed after commission-caused delays, that basic rules of evidence were not followed by commission staff, and that the investigative process was neither open nor accountable. The Commission was hampered by a 6 percent cut in its budget by the provincial government, despite the ruling Conservative Party's promise to increase the Commission's funding.

The Constitution protects the linguistic and cultural rights of minorities. Despite Canada's federal policy of bilingualism, English speakers in Quebec and French speakers in other parts of Canada must generally live and work in the language of the majority.

In Quebec language laws restrict access to English-language publicly-funded schools through grade 11 to children whose parents were educated in English in Canada and to short-term residents. The law stipulates that French is the working language of most businesses and must be predominant in bilingual commercial signage.

In the summer, English-speaking activists successfully pressed several chain stores in Montreal to display more English signs. Some of these activists called for an end to all restrictions on the language of commercial signs and on access to English-language public schools. French-speaking activists called on the provincial government to do more to promote the use of French, e.g., by reinstating a pre-1993 law limiting commercial signs to French only, or by extending language laws relating to schooling to grades 12 and 13. In the fall, the Quebec government considered legislation that would reconstitute a French-language inspection office abolished in 1993.

Provinces outside Quebec often lack adequate French-language schooling, which is of concern to local Francophones, although French-language schools are reported to be thriving in all three prairie provinces.

Women

The law prohibits violence against women, including spousal abuse. The health and economic costs of violence against women have been calculated at \$3.15 billion (Can \$ 4.2 billion) annually. Nevertheless, according to Statistics Canada, 3 in 10 women currently or previously married or living in a common-law relationship have experienced at least one incident of physical or sexual violence.

In November the federal agency Status of Women Canada reported on Canadian initiatives to address violence against women, and in 1995-96, Status of Women Canada provided approximately \$1.9 million (Can \$ 2.5 million) to women's groups to address the root causes of violence. A 5-year federal initiative on family violence begun in 1991 provided over \$102 million (Can \$ 136 million) for the funding of nearly 3,000 projects and the establishment of emergency shelters and longer-term housing for battered women.

In June the federal/provincial-territorial ministers responsible for the status of women released a resource guide of provincial and territorial initiatives aimed at empowering women, youth, and children.

The Criminal Code prohibits criminal harassment (stalking) and makes it punishable by imprisonment for up to 5 years. In 1995 police departments reported 4,260 charges of criminal harassment. In April the Minister of Justice proposed amendments to the Code that would strengthen the criminal harassment provisions. The proposals would require that a person convicted of stalking while under a restraining order should have that fact treated as an aggravating factor in sentencing. Also, a person who commits murder while stalking and intends to make the victim fear for her safety or that of others could be found guilty of first degree murder without proof that the murder itself was planned and deliberate.

Women are well represented in the labor force, including business and the professions. The law prohibits sexual harassment, and the Government enforces this provision.

Women enjoy marriage and property rights equal to those of men. Over 85 percent of single parent households are headed by women. Child support reforms that will take effect in 1996 and 1997 include: Amendments to the income tax act to eliminate child support from the custodial parent's taxable income and the tax deduction available to payers of child support; amendments to the divorce act to establish fairer and more consistent child support payments; new measures to strengthen enforcement; and an

enhanced income supplement for lower-income families.

Children

The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Federal and provincial regulations protect children from abuse, overwork, and discrimination and duly penalize perpetrators of such offenses. There is no societal pattern of abuse of children.

People with Disabilities

There is no discrimination against disabled persons in employment, education, or in the provision of other state services. The law mandates access to buildings for people with disabilities, and for the most part the Government enforces these provisions. However, human rights groups report that a significant percentage of their complaints come from those with disabilities. Disabled persons are underrepresented in the work force; for example, they make up 2.6 percent of the federally regulated private sector work force, but those capable of working total 6.5 percent of the population.

The national strategy for the integration of persons with disabilities concluded its 5-year mandate in March. In 1995 the parliamentary Committee on Human Rights and the Status of Disabled Persons concluded that the strategy's programs had not had as much impact as they should have, in part because federal spending on employment programs and services for the disabled declined by \$9 million (Can \$ 12 million) since 1991.

Indigenous People

Canada's treatment of its aboriginal people continued to be one of the most important human rights issues facing the country. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunting rights, and alleged harassment by police continued to be sources of tension on reserves. Aboriginal people remained underrepresented in the work force, overrepresented on welfare rolls, and more susceptible to suicide and poverty than other population groups.

After 5 years of work, the Royal Commission on Aboriginal Peoples released its final report in November. The 3,537 page report proposes a 20-year strategy for rebuilding First Nations through restoring aboriginal communities and restructuring their relationship with the Government. The report's recommendations include the passage of parliamentary acts to address broken treaty promises, the establishment of an aboriginal legislative body that would function alongside the House of Commons and Senate, and the creation of an independent tribunal to monitor land claims.

Although aboriginal leaders welcomed the report's recommendations, the Minister for Indian Affairs said that he believes current government policies are achieving change and that it is doubtful that Canada can afford the high cost that would be necessary to implement all the recommendations. The federal and provincial governments are examining the report and are expected to provide an official response in 1997.

Concern continued over the problem of teen suicides on the Big Cove Reserve in New Brunswick. Between 1992 and 1994, 10 youths on the reserve committed suicide, and observers predicted that deeply rooted social problems and inadequate housing would lead to more self-inflicted deaths. On the positive side, more youths sought counseling for their problems.

The Minister for Indian Affairs announced an increase of \$105 million (Can \$ 140 million) in funding for on-reserve housing over the next 5 years. In July the Government announced that it will spend \$74 million (Can \$ 98.5 million) in 1996-97 for water and sewage repairs on reserves. Department of Indian Affairs statistics show that 95 percent of houses on reserves have running water and 90 percent have sewage facilities.

Treaty rights for aboriginals are recognized in the Canadian Constitution, and the Federal Government is currently engaged in four sets of discussions with First Nations on various treaty issues. The Federal Government is also currently involved in self-government negotiations with 350 First Nations.

An investigation was ongoing at year's end into the 1995 police killing of an aboriginal activist at Ipperwash, Ontario. Family members of the slain man filed a \$5.25 million (\$ Can 7 million) wrongful death suit against the Ontario Premier, two cabinet ministers, the provincial government, and the Ontario Provincial Police, but said that they will drop the suit if a full public inquiry is held. The Premier maintains that a public inquiry cannot be held during an ongoing investigation. Indians still control Ipperwash provincial park, which they claim is on a sacred burial ground. A federal negotiator was appointed in January and has held monthly negotiating meetings with all concerned parties.

In March the Nisga'a tribal council signed an historic agreement in principle with the Federal and British Columbia Governments encompassing the disposition of forestry, fishing, environmental, and water claims. The agreement also includes procedures for taxation, governance, revenue sharing, and establishment of a justice system. Negotiation of the final treaty is under way but final agreement is pending public hearings by a provincial legislative select committee. First Nation representatives believe that public support in the province for a political settlement of aboriginal claims has subsided significantly from its high water mark in the early 1990's.

Quebec's Indians continue to regard the separatist provincial government with deep misgivings. The Pontiac tribe voted to demand that their territories remain part of Canada even if Quebec declares itself independent. A group of the Ottawa with lands in Quebec are petitioning their local municipality and the Federal Government for the same kind of guarantee.

Friction was generated when Quebec police arrested the Mohawk organizers of a "charity casino" set up to fund scholarships for Mohawk children, on the grounds that the organizers did not have a provincial permit to operate a gambling establishment. When Mohawk police refused to intervene, provincial police (without entering the reservation) arrested six suspects and took them into custody outside the reservation.

The last of several court cases involving a dispute over native fishing rights in New Brunswick concluded in August. Seventeen members of the Eel Ground band who fish the northwest Miramichi River were sentenced on a variety of fishing violations and assault charges. The 17 had staged a protest in June 1995 over the terms of a fishing agreement with the Federal Government, contending that the agreement's prohibition of nets on the river violated their right to fish using traditional methods.

A Micmac native in Nova Scotia was convicted in June of illegally netting eels and selling them. Micmac and Maliseet natives contended that 18th century treaties with the British guaranteed them the right to fish and hunt commercially without licenses; the Government argued that aboriginals may fish and hunt only for sustenance and ceremonial purposes.

Religious Minorities

In March the B'nai Brith League for Human Rights reported that anti-Semitic harassment was up by 12.1 percent over 1995. Anti-Semitic vandalism dropped slightly for the second consecutive year, but harassment increased. Total incidents in 1995 numbered 331, up from 290 last year. B'nai Brith attributed the rise in part to the spread of hate propaganda on the Internet.

In April Jewish groups in Montreal expressed concern that Quebec government measures to promote compliance with Quebec language laws requiring French labelling on goods threatened Jews' access to imported "kosher for Passover" foods. In August the Quebec government formally exempted "kosher for Passover" products from Quebec's French labelling regulations under an agreement reached between the Canadian Jewish Congress and the Quebec French language office.

National/Racial/Ethnic Minorities

The narrow defeat of the 1995 Quebec sovereignty referendum left unresolved the concerns of French-speaking Quebecers about their minority status in Canada, while sharpening the concerns of English-speaking Quebecers about their minority status in Quebec.

There have been visible efforts in Quebec by Parti Quebecois (PQ) leadership to lower tensions since the referendum and refocus attention on the economy. The PQ leader has repeatedly stated that there is a role for the English-speaking community in a sovereign Quebec and has made several overtures to the Anglophone business community. An English-language publication in Quebec City, however, recently described the Anglophone community there as "depressed" and "in decline."

There was increased tension in Nova Scotia's black community following the conviction of six young black men in February for their involvement in the beating of three white students in 1995. The black youths received sentences of 7 to 10 years. The black community believed that the sentences were racially biased and excessive. One of the youths has been granted a new trial after successfully arguing that his defense attorney did not have prior access to statements made by a key witness.

A report of the Commission on Systematic Racism in the Ontario criminal justice system showed that blacks and other racial minorities are more likely to be charged and imprisoned than whites in Ontario. Commission members stated that the systematic racism they found is based largely on discretionary decisions made by law enforcement personnel and attorneys. The Commission recommended training and education to alleviate the situation; minority community leaders said that they hope for an improved dialogue between police and community members.

Section 6 Worker Rights

a. The Right of Association

Except for members of the armed forces, workers in both the public and private sectors have the right to associate freely. The Labor Code protects these rights for all employees under federal jurisdiction, while provincial legislation protects all other organized workers.

Trade unions are independent of the Government. They are free to affiliate with international organizations. Of the civilian labor force, 29.2 percent is unionized.

All workers have the right to strike, except those in the public sector providing essential services.

During the first 6 months of 1996, there were 91 work stoppages, 7 of which were illegal, and 33

unresolved labor disputes. The remainder were settled through direct bargaining or mediation.

The law prohibits employer retribution against strikers and union leaders, and the Government enforces this provision.

b. The Right to Organize and Bargain Collectively

Workers in both the public (except for some police) and the private sectors have the right to organize and bargain collectively. While the law protects collective bargaining, for some public sector workers providing essential services there are limitations, which vary from province to province.

The law prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities. There are effective mechanisms for resolving complaints and obtaining redress.

All labor unions have full access to mediation, arbitration, and the judicial system.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Forced labor is illegal, and there were no known violations.

d. Minimum Age for Employment of Children

Child labor legislation varies from province to province. The Federal Government does not employ youths under 17 years of age while school is in session. Most provinces prohibit those under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. These prohibitions are effectively enforced through inspections conducted by the federal and provincial Labor Ministries. The statutory minimum school-leaving age in all provinces is 16.

e. Acceptable Conditions of Work

Although it was common practice among most federal jurisdiction employers (who employed less than 10 percent of the work force) to use the higher provincial/territorial minimum wage rates, in 1996 the Federal Government passed legislation to align the federal rate heretofore with the provincial/territorial rates. Ontario, Alberta, and the Northwest Territories have a minimum wage for youths and students lower than their respective standard minimums. A family whose only employed member earns the minimum wage would be considered below the poverty line.

Standard work hours vary from province to province, but in all the limit is 40 or 48 a week, with at least 24 hours of rest.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitor and enforce these standards. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work.

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