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U.S. Department of State

Canada Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

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 continues to take serious steps to address private acts of 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.

The controversy over the 1995 shooting death of an aboriginal activist at Ipperwash, Ontario closed with the criminal conviction of a provincial police officer. In April the officer was found guilty of criminal negligence causing death in the shooting and was sentenced to 2 years' community service under the supervision of a parole officer (see Section 5). Activists no longer occupy the provincial park, and in June the Federal Government agreed to return the neighboring military base to tribal control. As part of the agreement, the Federal Government is to return lands appropriated in 1942 under the War Measures Act and provide funds for community development and environmental cleanup.

A controversy arose in March after a Royal Canadian Mounted Police (RCMP) officer shot and killed a woman and her child on the Tsuu T'ina reservation. The officer was called to assist a tribal police officer and a social worker, who had responded to a domestic dispute, and fired in response to high-powered rifle fire from the woman. The province of Alberta, where the incident took place, commissioned an independent investigation of the incident by the British Columbia Attorney General's office that was reviewed further by a respected former Alberta judge. The reviews determined that criminal charges against the officer were not warranted. A separate judicial inquiry is underway with the participation of the reservation representatives to determine the causes of the incident and how future incidents could be prevented.

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 meet minimum international standards, and the Government permits visits by human rights monitors. Reported inadequacies at Toronto's Don jail are being addressed; however, inmates continue to complain of overcrowding, inadequate facilities, and inhuman conditions.

In May the Chief of the Armed Forces announced an investigation into credible allegations made by a number of women serving in the armed forces that, in previous years, they had been subjected to rape, sexual harassment, and sexual abuse by their military colleagues. Armed forces officials established a special hot line to receive additional information and reports addressing such conduct and information concerning those involved in any possible concealment of such offenses.

Toronto police initiated a review of procedures following public complaints about the use of strip searches and body cavity searches in several routine arrests. The review determined that there were isolated incidents of unnecessary searches. Toronto police determined that the policy was still appropriate, but that officers required additional training in determining when such searches are appropriate.

Public controversy also arose concerning the use by police of pepper spray to break up demonstrations that blocked the access road to the November 1997 Asia Pacific Economic Cooperation (APEC) conference in Vancouver, (see Sections 1.d. and 2.a.).

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions.

At the November 1997 leaders meeting of APEC in Vancouver, police arrested small numbers of demonstrators, including free speech advocates, but subsequently released them without charge (see Sections 1.c. and 2.a.).

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 derived from 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. The prosecution also can appeal in certain limited circumstances.

There were no reports of political prisoners.

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

The law generally prohibits such practices, government authorities scrupulously 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 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.

The RCMP Public Complaints Commission opened an investigation on police behavior while providing security to the APEC leaders meeting in Vancouver in November 1997. RCMP officers used pepper spray to break up small crowds of protesters who had blocked the only access road to a meeting site and had torn down a security barricade. The protesters allege that their right to free speech was infringed by the RCMP's actions. The protesters also allege that the arrest of one of their leaders prior to the meeting

on charges (which were subsequently dropped) of temporarily deafening an RCMP officer with a loudspeaker were a further violation of the arrested individual's rights under the Charter of Rights and Freedoms. The investigation was suspended in December after allegations that the process had become tainted by political interference from the Solicitor General. The protesters allege that the RCMP acted under orders from the Prime Minister's office (see Sections 1.c. and 1.d.).

In November police in Vancouver clubbed and arrested several demonstrators protesting a visit by the Prime Minister. Those arrested were released without charge.

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. There were no reports of forced expulsion of those having a valid claim to refugee status. Canada is a resettlement country, and as of September the Government projected granting 24,100 to 32,300 claims for refugee status in 1998.

In 1997 almost 1,000 Czech Roma claimed refugee status. The Government continues to process these claims for refugee status and has not forcibly deported any of the asylum claimants.

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.

A significant body of opinion in the province of Quebec, represented by the party that governed the province throughout 1998, continues to maintain that Quebec has the right to withdraw from the confederation if that decision proves to be the democratically expressed will of the people of Quebec, and that it is only Quebeckers who have the right to make this decision. In response to a reference on the question from the Federal Government, the Supreme Court ruled in August that a unilateral declaration of independence by Quebec would be illegal under Canadian and international law. However, the Court added that the Federal Government and other provinces would be obliged to negotiate Quebec's separation in good faith if a clear majority of Quebeckers voted to separate on the basis of a clearly phrased question.

Women play a significant role in government and politics, although they are underrepresented in proportion to their percentage of the population. In the Parliament, 61 of 301 members in the House of Commons are women. Eight women were appointed to the 30person Cabinet.

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 in this multicultural society.

Affirmative action (employment equity) legislation continues to be a topic of national and provincial debate. In June the Human Rights Tribunal ruled that the Federal Government must pay back wages to predominantly women workers in underpaid positions. The Government appealed this decision, focusing on the methodology used to calculate wages owed, but not arguing against the principle of pay equity. Since 1995 the Federal Government has had employment equity laws in place, and regulations have been promulgated covering federal employees in all but the security and defense services.

Women

The law prohibits violence against women, including spousal abuse. The health and economic costs of violence against women have been estimated to be \$2.7 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 1 incident of physical or sexual violence.

The Criminal Code prohibits criminal harassment (stalking) and makes it punishable by imprisonment for up to 5 years. Changes to the law in 1997 strengthened tools to combat child prostitution and prohibited female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health.

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 have marriage and property rights equal to those of men. Women head over 85 percent of single parent households. Child support reforms 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. Nevertheless, the Government continues to receive numerous complaints regarding discrimination against disabled persons and has instituted programs to discourage such discrimination. Disabled persons are underrepresented in the work force; they make up 2.7 percent of the federally regulated private sector work force, but those capable of working total 6.5 percent of the population. The law mandates access to buildings for persons with disabilities, and for the most part the Government enforces these provisions.

Changes to the Human Rights Act and Criminal Code came into force on June 30. The Human Rights Act now requires employers and service providers to accommodate special needs of people with disabilities, provided that it does not constitute an undue hardship. The Criminal Code now makes the sexual exploitation of persons with disabilities in situations of dependency a criminal offense.

In June the province of Alberta announced that it would compensate the nearly surviving 500 persons who were sterilized without their consent under a policy aimed at residents of mental institutions. More than 2,000 Albertans were sterilized between 1928 and 1972 under the Alberta Sterilization Act, which was repealed in June 1972.

Indigenous People

The treatment of Canada's 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 remain underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

In January the Federal Government issued its response to the 1996 report of the Royal Commission on Aboriginal Peoples intended to restore aboriginal communities and restructure their relationship with the Federal Government. The Minister of Indian Affairs read an official "Statement of Reconciliation" that apologized for past wrongs committed by the Federal Government. The Aboriginal Action Plan also includes a commitment of approximately \$400 million (Can \$600 million) for aboriginal programs. The program was developed in consultation with aboriginal political leadership but was criticized by some groups for not going far enough to ameliorate past rights violations.

Treaty rights for aboriginals are recognized in the Constitution, and the Government is currently engaged in discussions with aboriginal groups on various treaty issues.

The Federal Government is involved in self-government negotiations with over 350 First Nations. Aboriginal rights in British Columbia (B.C.) are poorly defined. Since becoming a province of Canada in 1871, B.C. has not concluded treaties with any of the aboriginal groups that occupied the area prior to the arrival of settlers. While many of the province's more than 100 aboriginal groups have outstanding claims for land, self-government, and other rights, none of these have been settled in the form of treaties. In December 1997, the Supreme Court strengthened the legal position of aboriginal groups in B.C. In what is known as the Delgamuukw decision, the Court found that the provincial and federal governments must consult with aboriginal groups on all land use and resource decisions affecting areas claimed as tribal homelands. This ruling gave aboriginal groups a significant say in the use of vast tracts of the province even though title to the land never has been established formally in treaties.

In August the Federal and British Columbia provincial Governments concluded a treaty with the Nisga'a

people who live in northwestern B.C. Although the treaty is not considered to be a precedent for the more than 50 other sets of negotiations under way in B.C., the treaty represents a significant development. If ratified and implemented, the treaty would result in the Nisga'a receiving control over 2,020 square kilometers (765 square miles) of tribal lands, a cash settlement, fishing and timber cutting rights, and certain rights to limited self-government. At the same time, the treaty eventually would end a range of special tax breaks and other benefits available under the status quo. To take effect, the treaty must be ratified by three parties: the Nisga'a people; the Federal Government; and the provincial legislature. While the Nisga'a people have ratified the agreement and ratification by the federal Parliament appears certain, there is political debate within British Columbia over the treaty. The degree of self-government to be afforded the Nisga'a and the rights of nonaboriginal people residing on tribal lands are among the major points of contention, and various parties have raised legal challenges. While some opposition political parties oppose the treaty, provincial parliamentary ratification is expected early in 1999.

The Stoney reserve west of Calgary gave up control of its finances to federal Indian Affairs officials in 1997, following widespread allegations of political corruption, financial mismanagement, sexual assaults, and abuses connected with social service agencies. Seven deaths in the second half of 1997 allegedly linked to poor conditions on the reservation helped spur what aboriginal groups considered to be delayed federal intervention, despite early calls for help from the community. Independent auditing of the reserve's finances, accompanied by cost-cutting measures, has restored the reserve to fiscal health. Full financial control is scheduled to be returned to the Stoney tribal council in April 1999, contingent on additional reforms and the introduction of a code of ethics and accountability. The Stoney are 1 of 12 aboriginal reserves where federal officials have assumed control as interim managers.

Quebec's Indian peoples remain overwhelmingly opposed to separation from Canada and deeply distrust the separatist government of the province. Despite the Quebec Prime Minister's recent overtures to the leaders of the Cree and Inuit nations, surveys indicate that most of Quebec's 60,000 Indians would favor partition of the province in the event of Quebec's separation from Canada. Indian leaders maintain that a sovereign Quebec would treat Indians as another ethnic minority instead of as sovereign nations within the territory of the province. To address these sentiments and respond to a summer highway blockade and a pending lawsuit, in October the Quebec government agreed with the Cree and Mohawk tribes to initiate negotiations regarding longstanding grievances over timber resources, public rights of way on tribal lands, and management of development in the James Bay region.

The province of New Brunswick signed interim forestry agreements with several First Nations throughout the province giving native groups the right to harvest wood from Crown land pending a longer-term arrangement. The agreement became necessary following a court decision in 1997 granting exclusive harvesting rights to aboriginals, which was subsequently overturned on appeal. The federal Supreme Court refused to hear the case and it is now awaiting reconsideration in New Brunswick courts.

Religious Minorities

The League for Human Rights of B'nai Brith in Canada (headquartered in Toronto) reported that there were 212 incidents of anti-Semitic harassment in 1997--a decrease of 13 percent from 1996. The League attributed the decline to law enforcement actions taken against hate movements and antihate movement education program. The League noted concern about the continued growth of anti-Semitic activity on the Internet.

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. The separatist Parti Quebecois provincial government of Quebec has stated that it would hold another sovereignty referendum only under "winning conditions." The Supreme Court ruled in August that a unilateral declaration of independence would be illegal, but that the Federal Government and other provinces would be obligated to negotiate Quebec's separation if a clear majority of Quebecers voted to change their relationship with Canada on the basis of a clearly phrased referendum question (see Section 3).

Some English-speaking and native groups in Quebec assert the right to keep parts of Quebec in Canada in the event that Quebec declares independence. Despite personal meetings and other overtures by Quebec's Prime Minister to Indians and the English-speaking community, both groups remain distrustful of the separatist government of Quebec. Many members of these communities fear that their rights would be infringed by a sovereign Quebec.

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 generally must 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. Local law stipulates that French is the working language of most businesses and must be predominant in bilingual commercial signage.

The English-speaking minority of Quebec, representing 9 percent of the population of the province and 16 percent of the population of the city of Montreal, continues to protest restrictions placed on English-language use. In 1997 the Quebec provincial government reestablished a French language inspection office that had been abolished in 1993. English speakers also expressed concerns over the closing of several English-language health services and limitations on public schooling in their language, as well as over indications that the Prime Minister of Quebec was continuing to discourage a return to the use of bilingual signs in major chain.

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

In October 1997, the Province of Nova Scotia and the Halifax school board announced that they would cooperate in implementing the 75 recommendations mentioned in an August 1997 report on the causes of racial violence at 2 high schools in the Cole Harbor area of Halifax. Racial tensions subsequently have eased following the school board's implementation of a "zero tolerance" policy toward disruptive behavior.

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. Of the civilian labor force, 29.5 percent is unionized.

All workers have the right to strike, except for those in the public sector who provide essential services. The law prohibits employer retribution against strikers and union leaders, and the Government enforces this provision.

Unions are free to affiliate with international organizations.

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, there are limitations, which vary from province to province, for some public sector workers providing essential services.

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, including that performed by children, is illegal, and there were no known violations.

Status of Child Labor Practices and Minimum Age for Employment

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 children 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. Education is compulsory through age 15 nationwide.

The Government prohibits forced and bonded child labor and enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work

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.

Minimum wage rates are set in each province and territory, and range from \$3.25 to \$4.65 (Can \$5.00 to Can \$7.15) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. A family whose only employed member earns the minimum wage would be considered below the poverty line.

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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