



Canada

Country Reports on Human Rights Practices - [2003](#)

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Canada is a constitutional monarchy with a federal parliamentary form of government. Citizens periodically choose their representatives in free and fair multiparty elections. Jean Chretien began his third consecutive term as Prime Minister in November 2000; his Liberal Party had 169 of 301 seats in Parliament. On December 12, Paul Martin replaced Chretien as Prime Minister. The judiciary is independent.

Federal, provincial, and municipal police forces have responsibility for law enforcement and maintenance of order. Elected civilian officials maintained effective control of these security forces. There were no reports that security forces committed human rights abuses.

The country has a highly developed, market-based economy and a population of approximately 31.6 million. 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, and the law and judiciary provide effective means for dealing with individual instances of abuse; however, there were problems in some areas. Problems included discrimination against women, persons with disabilities, and aboriginal people. There was an increase in the number of reported incidents of anti-Semitic and anti-Muslim harassment. The Government continued to take serious steps to address private acts of violence against women. Trafficking of persons into the country, including trafficking for purposes of prostitution, was a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings.

In June, six Montreal police officers arrested and allegedly beat a man fleeing a crime scene. He died approximately 1 hour after the incident. Although Mouvement Action Justice, a police watchdog group, called for a public inquiry into the man's arrest and death, no action was taken.

In December 2002, a Royal Canadian Mounted Police (RCMP) officer convicted in a 2001 off-duty killing was sentenced to life in prison.

In November, four Toronto policemen were found not guilty of manslaughter for the death of a suspect whom they allegedly beat while taking him into custody in 2000.

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 generally observed these prohibitions in practice; however, there were isolated incidents of police mistreating suspects.

In June, Saskatoon police admitted culpability in the death of an aboriginal woman who froze to death in 1976. In September, an inquiry began into the death of an aboriginal teenager who was found frozen on the outskirts of Saskatoon in 1990. The public hearings were scheduled to conclude at the end of March 2004.

The military continued to receive complaints from women serving in the armed forces who charged that they were subject to sexual abuse, harassment, and discrimination. An armed forces grievance board that is independent of the military chain of command and other mechanisms established by the Government, including the Advisory Board on Canadian Forces Gender Integration and Employment Equity and an Ombudsman in the Department of National Defense, addressed such complaints. During the year, the Ombudsman received eight sexual assault complaints, compared with seven in 2002.

A May Human Rights Watch report alleged that, in an anti-narcotics operation in Vancouver, police officers violated the due process rights of injection drug users through excessive use of force, illegal search and seizure, and harassment through petty offenses. In June, the mayor of Vancouver responded by issuing a 29-page rebuttal to the report.

In November, six Vancouver police officers plead guilty to common assault after an incident in January. At year's end, the officers were in sentencing hearings and also faced an internal disciplinary hearing.

Prison conditions generally met international standards; however, there were several riots at the Kent maximum security facility in British Columbia, one of which resulted in the death of an inmate in June. There were also reports of deprivation of food and water being used to control inmates at the Kent facility.

Prisons, both at the federal and local level, generally held men and women separately. In addition, juveniles were not incarcerated with adults, and pre-trial detainees were held separately from convicted prisoners.

The Government permitted visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest, detention, or exile, and the Government generally observed these prohibitions in practice.

The RCMP, an agency of the Ministry of the Solicitor General, is a national, federal, provincial, and municipal policing body. It provides complete federal policing service throughout the country and also provides policing services under contract to the 3 territories, 8 provinces (Quebec and Ontario have their own provincial police), and approximately 198 municipalities.

A Judge may issue a warrant after being satisfied that a criminal offense may have been committed. A person arrested for a criminal offense has the right to remain silent, to be informed as to the reason for the arrest, and to engage a lawyer. Bail was generally available.

The law prohibits forced exile.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary provides citizens with a fair and efficient judicial process and enforced 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 the country, judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (which is

free for indigents), and to appeal. The prosecution also may 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, and the Government generally respected these prohibitions in practice.

A 2001 antiterrorism act that expanded police investigative and wiretapping powers has received several court challenges, including a case before the Supreme Court that involved a witness forced to testify at a secret investigative hearing, who challenged the provision that forces a person to give evidence in an anti-terrorism case.

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 generally respected these rights in practice; however, the Supreme Court has ruled that the Government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. The Court ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

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 Charter of Rights and Freedoms provides for free speech and free press, but both the Criminal Code and human rights legislation have established limits. Inciting hatred (in certain cases) or genocide is a criminal offense. The Supreme Court has set a high threshold for such cases by specifying that these acts must be proven to be willful and public. The Broadcasting Act, which prohibits programming containing any abusive comment that would expose individuals or groups to hatred or contempt, has not yet been challenged in the courts.

The Human Rights Act also prohibits repeated telephone communications that expose a person or group to hatred or contempt. The Canadian Human Rights Tribunal found that the Internet falls under this act and, in June, ordered the shutdown of an anti-Semitic website and awarded \$30,000 (\$Cdn 41,800) to a man who was the target of the website.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Charter of Rights and Freedoms provides for these rights, and the Government generally respected them in practice.

c. Freedom of Religion

The Charter of Rights and Freedoms provides for freedom of religion, and the Government generally respected this right in practice.

Religious groups are not required to register with the Government.

Public funding for Roman Catholic schools is constitutionally protected in the country's original four provinces; however, a 2001 Ontario Province law, to be phased-in over 5 years, expands the credit to parents of children attending private schools.

There were a number of reports of harassment of religious minorities.

The League for Human Rights of B'nai Brith estimated that 450 incidents of anti-Semitism were reported during the

year.

Some fundamentalist Christian groups' child disciplinary practices came under close scrutiny by the Government.

In September, a private school in Quebec expelled a 16-year-old Muslim student after she refused to remove her hijab. The Charter of Rights and Freedoms prohibits banning the hijab in public schools but is unclear regarding private schools. The Quebec Human Rights Commission launched an investigation into the matter.

The number of reported incidents of harassment of Muslims increased. The Government strongly and publicly urged the population to refrain from prejudice against Muslims or other persons on the basis of their religious beliefs, ethnic heritage, or cultural differences. Police forces investigated and discouraged anti-Muslim actions.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

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

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

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, and granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and extending asylum. The country offers resettlement and, as of June 1, had approved 17,548 refugees for resettlement. There is no appeal process for applicants who are refused resettlement, and several non-governmental organizations (NGOs) urged the Government to establish an appeal division to address such cases.

In 2002, the Supreme Court ruled that refugees facing torture in their home countries generally cannot be deported there, unless evidence shows that their continued presence poses a serious threat to national security. The case of a Sri Lankan suspected of being a fundraiser for the Tamil Tigers, who claimed that he would be tortured upon return to Sri Lanka, remained pending after being remanded by the Supreme Court back to the Minister of Immigration. A safe country of transit agreement to return aliens previously resident in the United States to that country for adjudication of asylum was signed in 2002; the agreement was due to enter into force during the year but had not been implemented pending the issuance of regulations by the United States. Human rights and immigrant groups criticized the agreement.

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 exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

In November 2000, the last general election, the Liberal Party won a majority with 172 of 301 seats in the national parliamentary elections. The Canadian Alliance (conservative) won 66 seats, thereby earning status and rights as the official Opposition in Parliament. Former Liberal Party leader Jean Chretien stepped down as Prime Minister on December 12, and Paul Martin took over as the country's new Prime Minister.

In April, the victory of federalist Quebec Liberals ended 9 years of rule by the Parti Quebecois, which advocated Quebec's withdrawal from the Confederation.

There are no laws limiting the participation of women or minorities in political life. In the Parliament, 63 of 301 members in the House of Commons were women, and 4 members were of aboriginal (Inuit, North American Indian, or Metis) origin; 36 of 105 senators were women, and 4 were of aboriginal origin. Women held 10 seats in the 36-person Cabinet. The Governor General and three of the nine members of the Supreme Court, including the Chief Justice, were women.

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

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

Section 5 Discrimination Based on Race, Sex, 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, sex, age, or mental or physical disability. These rights generally were respected in practice.

Women

The law prohibits violence against women, including spousal abuse; however, it remained a problem. The economic costs of violence against women were estimated at \$3.0 billion (Cdn \$4.2 billion). Services available to abused women have increased significantly over the past 2 decades, and there were 524 shelters for abused women across the country in 2002.

A total of 27,100 cases of sexual assault were reported to police in 2002, a per capita rate virtually unchanged over the past 5 years. The courts consider such cases seriously, and those convicted of sexual assault face up to 10 years in prison. Cases involving weapons, threats, wounding, or endangerment of life carry longer sentences, up to life imprisonment.

Prostitution is legal, but pimping (benefiting from the earnings of prostitution of another) and operating, being found in, or working in a brothel are not. Communicating in public for the purpose of prostitution (solicitation or "streetwalking") is also illegal but is considered a lesser offense than the other offenses related to prostitution.

Women were trafficked for purposes of sexual exploitation (see Section 6.f.).

The Criminal Code prohibits criminal harassment (stalking) and makes it punishable by imprisonment for up to 5 years. The law prohibits sexual harassment, and the Government generally enforced this provision. Women continued to complain of harassment in the armed forces, and the Government established mechanisms to resolve complaints (see Section 1.c.).

Women were well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. Women have marriage and property rights equal to those of men.

Children

The Government demonstrated its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Education is free through grade 13 and is compulsory nationwide through age 15 or 16, depending on the province. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

There was no societal pattern of abuse of children. Past institutional abuses of children (mostly orphans and aboriginal children) in residential homes continued to come to light, and the Government and churches that operated the homes sought to close, through class action settlements, thousands of abuse cases filed by former residents. Approximately 1,000 cases have been settled; however, an estimated 12,000 remained outstanding.

Children were trafficked for purposes of sexual exploitation (see Section 6.f.).

Persons with Disabilities

There is no legal discrimination against persons with disabilities in employment, education, or in the provision of other state services; however, disability-related complaints filed with the Canadian Human Rights Commission rose by 85 percent in 2002. Persons with disabilities were underrepresented in the work force; they constituted 2.7 percent of the federally regulated private sector work force, while those capable of working totalled 6.5 percent of the population. The Government instituted programs to help persons with disabilities join the work force.

The law provides a variety of protections and rights for persons with disabilities and specifically prohibits discrimination against persons with disabilities in employment, education, or in the provision of public services. Sexual exploitation of persons with disabilities in situations of dependency is a criminal offense. The law requires employers and service providers to accommodate special needs of persons with disabilities, unless it constitutes an undue hardship, and mandates access to buildings for persons with disabilities.

Indigenous People

The Constitution recognizes three different groups of aboriginals: Indians (generally called First Nations), Inuit (formerly called Eskimos), and Metis (persons of mixed Indian-European ancestry). A September Supreme Court decision gave the Metis the same hunting rights as other aboriginal groups and marked the first time that Metis rights had been constitutionally defined. Aboriginals make up approximately 2.8 percent of the national population and higher percentages in the country's three territories: Yukon, 20 percent; Northwest Territories, 62 percent; and Nunavut, 84 percent. 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 some reserves. Aboriginal persons remained underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

The Charter of Rights and Freedoms specifically protects aboriginal rights, including those established by historical land claims settlements; aboriginal rights also are recognized in the Constitution and by the courts. Historical treaties with aboriginal groups in the eastern part of the country form the basis for the Government's policies there, but some language with uncertain intent resulted in extensive legal challenges to the Government's interpretation of treaty rights. Aboriginal groups in the west that never signed historical treaties continued to claim land and resources, and many continued to seek legal resolution of outstanding issues. As a result, the evolution of the Government's policy toward aboriginal rights, particularly land claims, has been linked closely to legal challenges, including 45 Supreme Court decisions.

According to Indian and Northern Affairs Canada, in 2002-03, the Government budgeted \$5.66 billion (Cdn \$7.9 billion) for programs to provide aboriginal persons access to basic services (education, housing, water, sewage, health, and social) comparable to those provided to other citizens through provincial, municipal, and territorial governments.

The Government settled two massive land claims with aboriginal groups: In August, following 25 years of negotiations, the Labrador Inuit Land Claims Agreement was signed, which provided for a \$71.7 million (Cdn \$100 million) payment to the Inuit as well as the transfer to Inuit control of approximately 6,100 square miles in Labrador. A second agreement, the Tlicho agreement, was also signed in August. This agreement will transfer approximately 24,000 square miles of land in the Northwest Territories to the Tlicho government. This land has significant diamond deposits, and the Tlicho government will have full control over all resources.

During fiscal year 2002-03, the Government spent \$460 million (Cdn \$642 million) on claim settlements. First Nation leaders, however, stated that at the current rate of claim settlement, it will take the Government 150 years to settle all outstanding aboriginal claims. The Government also continued self-government negotiations with over 350 First Nations. In addition, professional development and fiscal accountability projects further supported indigenous self-governance. In November, the House of Commons passed an aboriginals' land claims bill that was meant to expedite the settlement of more than 700 backlogged claims; however, many aboriginal groups opposed the bill saying it granted too much power to the central Government.

The Government continued working to resolve a variety of other issues, including fishing rights in the Atlantic region. Disputes over aboriginal fishing rights in the Atlantic region continued after a 1999 Supreme Court ruling interpreted centuries-old treaties to allow First Nations to earn a moderate livelihood from natural resources, in compliance with government regulations that promote conservation and protect others who depend on the same resource. The Government negotiated interim fishing agreements with all 34 aboriginal communities in the Atlantic region, and negotiations on longer-term agreements were pending. In August, New Brunswick's highest court ruled that aboriginal groups have the right to harvest and sell trees from Crown land. The right of aboriginal groups in Nova Scotia to harvest Crown land timber remained under litigation in the courts.

A case brought by the Gitanyow, an indigenous group located near the Nisga'a people in northwestern British Columbia, who contended that a 2000 treaty awarded more than 85 percent of their traditional tribal lands to the Nisga'a, remained pending in the courts at year's end. The Gitanyow, however, were negotiating their own treaty settlement and signed an agreement not to pursue litigation while negotiations were taking place.

National/Racial/Ethnic Minorities

The 1982 Charter of Rights and Freedoms protects the linguistic and cultural rights of minorities and established English and French as the country's two official languages. Despite the federal policy of bilingualism, English speakers in Quebec and French speakers in other parts of the country generally lived and worked in the language of the majority. The provinces may grant French or English the status of an official language. Only New Brunswick

has granted the two languages equal status. The Charter of the French Language in Quebec makes French the official language of the province and requires the use of French in commerce, the workplace, education, and government. Minority language rights are secured by law in Quebec's Charter of the French Language.

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, continued to protest restrictions placed on English-language use. English speakers also expressed concern over health services and public schooling in their language.

The Charter of the French Language restricts access to publicly funded English education only to those students who did most of their elementary or secondary studies in English in the country. The law also limits English language education to those students with a brother or a sister who did most of their elementary or secondary studies in English in the country or in cases in which the father or the mother did most of his or her studies in English in the country. During the year, the Quebec National Assembly amended the Charter of the French Language to limit access to English language schooling by no longer recognizing 1 year of private English language schooling in Quebec as fulfilling the eligibility criteria to attend a publicly funded English school in Quebec.

Provinces other than Quebec often lacked adequate French-language schooling and health services, which was of concern to local francophones, although French-language schools and French immersion programs were reported to be thriving in all three prairie provinces.

In December, Nova Scotia's Human Rights Commission ruled that the Halifax Regional Police Service discriminated against a man because of his race when they towed his vehicle after a 1998 traffic stop. The man was awarded \$10,755 (Cdn \$15,000).

Section 6 Worker Rights

a. The Right of Association

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

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.

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

Trade unions are independent of the Government. Of the civilian labor force, approximately 29.5 percent was unionized.

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

Unions are free to affiliate with international organizations.

b. The Right to Organize and Bargain Collectively

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 generally enforced this provision in practice.

Labor action, including strikes, occurred throughout the country during the year. The Quebec cable distributor Vidiotron came to agreement with 2,200 of its workers in May after an almost year-long strike, and 3,300 steelworkers for Inco Ltd. returned to work in August after a 3-month strike.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including by children, and it generally did not occur; however, persons smuggled into the country were sometimes indentured to their smugglers in order to pay down their debts, and women and children were trafficked for the purpose of sexual exploitation (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

Child labor legislation varies from province to province. The 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 were enforced effectively through inspections conducted by the federal and provincial labor ministries.

e. Acceptable Conditions of Work

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

Minimum wage rates are set in each province and territory, and ranged from \$4.23 to \$5.74 (Cdn \$5.90 to Cdn \$8.00) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage did not provide a decent standard of living for a worker and family, and 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 and to remove themselves from hazardous work conditions.

f. Trafficking in Persons

The law outlaws trafficking in persons; however, trafficking remained a problem. The law establishes criminal penalties of up to life in prison and fines of up to \$717,000 (Cdn \$1 million) for convicted traffickers; however, no prosecutions have yet resulted from the legislation.

The country was a destination and a transit point to the United States for women, children, and men trafficked for purposes of sexual exploitation, labor, and the drug trade. There were no reliable data on the extent of the problem.

Vancouver and Toronto served as hubs for organized crime groups that traffic in persons, including trafficking for prostitution. East Asian crime groups targeted the country, and Vancouver in particular, because of lax immigration laws, benefits available to immigrants, and the proximity to the U.S. border.

Thousands of persons, including at least 15,000 Chinese, entered the country illegally over the last decade. These persons came primarily from East Asia (particularly China and Korea, but also Malaysia), Central and South Asia, Eastern Europe, Russia, Latin America and the Caribbean (including Mexico, Honduras, and Haiti), and South Africa. Many of these illegal immigrants paid large sums to be smuggled to the country, were indentured to their traffickers upon arrival, worked at lower than minimum wage, and used most of their salaries to pay down their debt at usurious interest rates. The traffickers used violence to ensure that their clients paid and that they did not inform the police. Asian women and girls who were smuggled into the country often were forced into prostitution. Traffickers used intimidation and violence, as well as the illegal immigrants' inability to speak English, to keep victims from running away or informing the police.

Preliminary hearings were scheduled for February 2004 for 11 defendants charged in December 2002 of being part of a prostitution ring that involved girls as young as 14.

Victims may apply for permanent residence under the "humanitarian and compassionate" provisions of the Immigration Act; however, some victims of trafficking were arrested and deported. In prostitution cases, often the prostitute instead of the customer was arrested. A prostitute in the country illegally may face deportation, particularly after committing a crime. Local authorities often lacked awareness about the victims of trafficking, which was compounded by many victims' fear of telling authorities about the crime committed against them.

The Government reconvened an Interdepartmental Working Group on Trafficking in Women, which held information and training sessions for government officials to increase awareness about trafficking. In addition, the Government supported efforts by NGOs and community organizations to raise awareness of trafficking and funded academic studies of the problem.