



## 2008 Human Rights Reports: Canada

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2008 Country Reports on Human Rights Practices

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Canada, with a population of 33.1 million, is a constitutional monarchy with a federal parliamentary form of government. In a free and fair multiparty federal election held on October 14, the Conservative Party, led by Stephen Harper, won a plurality of seats and formed a second successive minority government. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. Human rights problems included harassment of religious minorities, violence against women, and trafficking in persons.

#### 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 that the government or its agents committed any politically motivated killings, but a few law enforcement-related deaths during the year remained under investigation.

On three reported occasions, police employed taser weapons with lethal effect. On June 23, Jeffrey Mark Marreel died at Turkey Point in Ontario after provincial police used a taser to subdue him. On July 22, Michael Langan died in Winnipeg, Manitoba, after police stunned him with a taser weapon. On September 17, Sean Reilly of Brampton, Ontario, died after he was tasered during a struggle with Peel regional police officers. In each case, authorities launched an investigation into the incident that was ongoing at year's end.

Also at year's end, authorities were investigating the shooting and killing by Peel Regional Police of Gregg Moynagh, a reportedly mentally ill man from Mississauga, Ontario, during an altercation in December.

On December 12, after concluding there was no substantial likelihood of conviction, the British Columbia government declined to lay criminal charges against four police officers in the October 2007 taser death of Robert Dziekanski at Vancouver International Airport. The first phase of a public inquiry, whose interim report was pending at year's end, studied taser weapon use; a second phase, inquiring into the death, was expected to begin in January 2009.

Police completed an internal review of the 2006 death of Jason Doan of Red Deer, Alberta, after he was stunned by police with a taser, but they did not release the results. In December provincial authorities held a public inquiry into the death; a report was expected in 2009.

On June 18, the Commission of Public Complaints against the Royal Canadian Mounted Police (RCMP) released its

final report on taser use. Its recommendations included reclassifying tasers as "impact weapons" for use only with suspects who are combative or pose a risk of causing death or grievous bodily harm, issuing tasers only to experienced officers, and improving accountability of their use. An RCMP review of the recommendations was ongoing at year's end.

In December Vancouver police announced the withdrawal of older-model tasers from service following reports that some pre-2005 devices exceeded manufacturer's voltage specifications. Police in Quebec, New Brunswick, Alberta, and British Columbia also announced plans to test and phase out older tasers.

#### 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 there were no reports that government officials employed them.

#### Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

#### Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the RCMP and provincial and municipal police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

#### Arrest and Detention

Authorities generally apprehended persons openly with warrants. 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 a prompt, independent, judicial determination of the legality of the detention; and authorities respected this right in practice. Authorities provided detainees with timely information as to the reason for the arrest; ensured prompt access to a lawyer of the detainees' choice and, if indigent, to one provided by the state; and granted prompt access to family members. Bail generally was available.

On February 12, Parliament passed amended immigration security certificate legislation giving noncitizens subject to detention and deportation on national security grounds greater access to evidence against them and extending to them the same detention review rights as permanent residents. As in the original law, the government issues certificates on the basis of confidential evidence presented to two cabinet ministers by intelligence or police agencies and reviewed by a Federal Court judge. The evidence is not shown to the detainee. If the judge approves the ministers' recommendation, the individual may be imprisoned pending deportation proceedings.

However, under the revised law that entered into force on February 23, individuals subject to a security certificate

also have access to court-appointed, security-cleared lawyers ("special advocates") who have access to sensitive national security evidence and can challenge the relevance, reliability, and weight of such information. The legislation also establishes stricter rules on disclosure and the use of secret evidence, prohibits the use of evidence if there are reasonable grounds to believe authorities obtained it as a result of torture, and provides new avenues for review and appeal. The law addressed a February 2007 Supreme Court ruling that defendants have the right to know the evidence against them and that indefinite detention without review is arbitrary.

The legislation required the government to resubmit applications for all security certificates to the Federal Court. The government re-submitted five applications and dropped one. At year's end all five applications remained pending, with one individual incarcerated and four conditionally released pending deportation.

On August 15, the Quebec Superior Court upheld an appeal arguing that a judge illegally issued warrants to Montreal police to raid media outlets in pursuit of pictures and video footage of an April 21 riot after a National Hockey League game. The Superior Court ruled that neither the police nor the authorizing judge had taken into account the tension between media freedom and the administration of justice, and ordered the Montreal police to return to the media all materials that remained sealed.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice. The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

#### Trial Procedures

The judicial system is based on English common law at the federal level as well as in most provinces. In Quebec, civil law is derived from the Napoleonic Code; however, criminal law is the same nationwide. The government appoints the judges. Trials are public, and defendants have a right to have their case heard before a judge alone or, for more serious cases, before a judge and jury. Defendants have the right to be present and to consult with an attorney in a timely manner. The government provides an attorney at public expense if needed when defendants face serious criminal charges, and defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys generally have access to government-held evidence relevant to their cases. Defendants also enjoy a presumption of innocence and have a right of appeal.

On April 3, the Supreme Court declined to hear an appeal of a December 2007 Federal Court of Appeal ruling that withholding sensitive national security information from defendants in national security cases did not necessarily infringe on the right to a fair trial. The judgment occurred in the context of charges against Momim Khawaja, the first person to be convicted under the Anti-Terrorism Act.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Remedies can be monetary, declaratory, or injunctive. There were few problems enforcing domestic court orders. Although alleged human rights violations may also be heard by provincial or federal human rights commissions, these bodies follow their own differing standards and procedures.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice.

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. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. Individuals could criticize the government publicly or privately without reprisal, and the government did not attempt to impede criticism. The independent media were active and expressed a wide variety of views.

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. It also has 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, the country's constitutional bill of rights. Provincial-level film censorship, broadcast licensing procedures, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography also impose some restrictions on the media.

Inciting hatred (in certain cases) or genocide is a criminal offense, but the Supreme Court has set a high threshold for such cases, specifying that these acts must be proven to be willful and public. Laws prohibit speech or programming containing any abusive comment that would expose individuals or groups to hatred or contempt and empower the federal Canadian Human Rights Commission (CHRC) and the federal Canadian Human Rights Tribunal to enforce the law in areas of federal jurisdiction. In addition, each province has its own human rights code.

Advocates of freedom of speech and press called for limits on federal and provincial human rights commission powers, notably by reforming or eliminating part of the federal Human Rights Act. Some observers criticized the requirement that commissions process all complaints received as well as the procedures that permit commissions to investigate and also adjudicate complaints. Some also were critical of the filing of identical complaints with several provincial commissions, each of which may adjudicate without attention to others. In 2007 for example, the Canadian Islamic Congress filed complaints against Maclean's magazine with the Ontario and British Columbia human rights commissions and the CHRC, claiming that some of the magazine's articles, especially an excerpt from America Alone by Mark Steyn, were anti-Islamic. During the year all three commissions dismissed the complaints.

On May 30, the Alberta Human Rights and Citizenship Commission ordered Rev. Stephen Boissoin and the Concerned Christian Coalition to cease making disparaging comments about homosexuals, pay a Cdn\$7000 (approximately \$6,570) fine, and publish an apology. At year's end Boissoin's appeal to the Alberta provincial court was pending.

In July and December respectively, the CHRC dismissed complaints against Catholic Insight magazine for allegedly promoting hatred of homosexuals and against Muslim cleric Abou Hammaad Sulaiman Dameus al-Hayiti for his book attacking homosexuals, Jews, and Christians.

On August 1, the Alberta Human Rights and Citizenship Commission dismissed a complaint by the Edmonton Council of Muslim Communities against journalist Ezra Levant for republishing Danish cartoons depicting the Prophet Muhammad.

On January 14, the Saskatchewan Court of Appeal upheld a 2006 provincial court ruling that ordered a re-trial of a former leader of the Assembly of First Nations, who was convicted in 2005 of willfully promoting hatred against Jews under the hate propaganda provisions of the law. The re-trial began November 24, and a verdict was expected in February 2009.

#### Internet Freedom

There were no government restrictions on access to the Internet and no reports of government monitoring e-mail. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was readily available and widely used. The International Telecommunication Union reported that there were 76 Internet users per 100 inhabitants in 2007.

The CHRC investigates complaints about hate messages on Web sites and may forward cases to the Canadian Human Rights Tribunal for action.

On June 17, the CHRC launched a policy review concerning hate messages on the Internet and commissioned an independent, nonbinding report. The November 24 report recommended repeal of the federal Human Rights Act section dealing with hate speech; proposed the prosecution of hate complaints exclusively by courts under the criminal code; and proposed restriction of the federal definition of hate speech to extreme expression that advocates, threatens, or justifies violence. The report also recommended that, if the CHRC retains jurisdiction over hate speech, its authority should be limited to the most extreme instances of discriminatory expression. At year's end the CHRC expected to provide its findings and public consultation results to Parliament by mid-2009.

Concerns arose from allegations that the CHRC monitored Internet chat rooms and improperly posted comments therein. While the CHRC held hearings that continued at year's end on a complaint that accused Marc Lemire, former president of a white supremacist organization, of disseminating hate speech on his Web site, Lemire filed complaints with the Ottawa police and the RCMP alleging illegal CHRC staff investigative techniques including hacking into a private citizen's Internet account. The RCMP and the Privacy Commissioner investigated these complaints; the RCMP ended its investigation on November 27 without filing criminal charges.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

#### b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

On May 20, the Supreme Court heard the case of a teenage member of the Jehovah's Witnesses whom Manitoba child-protection officials ordered in 2006 to submit to a medically necessary blood transfusion. The complainant argued that the transfusion violated her constitutional rights to security of the person and religious freedom; she asked the court to strike down the provincial child-protection law. The court's ruling was pending at year's end.

#### Societal Abuses and Discrimination

There were a number of reports of harassment of religious minorities, which the government investigated and punished under laws and regulations that seek to protect religious freedom and counter hate and bias activity. In June the government statistical agency reported that 27 percent of the 892 reports of hate-motivated crime the police received in 2006 had religious motivations.

Approximately 1.1 percent of the population was Jewish. The B'nai Brith Canada League for Human Rights received 1,042 reports of anti-Semitic incidents in 2007, an 11.4 percent increase from 2006. The greatest number of reports came from Ontario Province (582 incidents, 427 of which took place in the Greater Toronto area), followed by Quebec Province (291 incidents, 249 of which took place in Montreal)--the two provinces where approximately 80 percent of the country's Jewish population resided. The 1,042 reports included 699 cases of harassment, 315 cases of vandalism, and 28 cases of violence; 169 cases involved attacks on synagogues, Jewish homes, community centers, or cemeteries. Jewish students reported 78 cases of anti-Semitic incidents that occurred on university campuses in 2007, compared with 36 in 2006; another 82 involved primary and secondary school settings, compared with 54 in 2006. B'nai Brith also received 310 reports of Web-based hate activity.

In February police charged two men for painting anti-Semitic and racist graffiti on property throughout a neighborhood in Saskatoon, Saskatchewan. There were no further developments in the case at year's end.

In late March and early April in the Toronto area, vandals drew swastikas and/or spray painted anti-Semitic messages on apartment building stairway walls, a library, and the house exteriors in two home developments. In June in Kelowna, British Columbia, vandals similarly defaced a Jewish community center and elementary school.

On July 31, vandals scrawled an anti-Semitic message and eight swastikas on a Canadian Museum for Human Rights billboard. Winnipeg police investigated the incident as a hate crime, and there were no further developments at year's end.

In November Quebec police arrested four individuals in connection with the August 16 assault of a Hassidic Jew walking to a synagogue in St. Agathe, Quebec, and the vandalism of vehicles.

In November authorities sentenced an individual, who had pled guilty to four counts of damaging and threatening to damage property by firebombing a Jewish boys' school and other targets in Montreal in 2006, to four years in prison with three subsequent years of probation. The trial of a second individual in the same case had not begun by year's end.

On September 18, a Quebec court found a woman guilty of being an accessory after the fact in the 2004 firebombing of a Montreal Jewish school and later sentenced her to 12 months probation.

Approximately 1.9 percent of the population was Muslim. On March 17, a transportation company suspended a Toronto area bus driver for a week without pay after he refused to remove his kufi, a Muslim religious head cap, while on the job. The company alleged that the headgear violated the employee dress code but subsequently reversed its decision, allowing the man to return to work and offering him compensation for lost wages.

There were no known developments in the investigations of the 2006 incidents of an imam physically threatened outside a Montreal mosque, property damage to an Ontario mosque, and an attack on an Islamic school in Ottawa.

In March two Sikh men filed a complaint with the British Columbia Human Rights Tribunal against their employer, alleging that the forestry company failed to consider their religious obligation to wear a turban when it required them to wear hard hats and suspended them for not doing so in 2007. At year's end the tribunal decision was pending.

The CHRC is responsible for information programs to foster public understanding of the Canadian Human Rights Act. Provincial human rights commissions and tribunals perform similar functions for activities not under federal regulation. Four provinces (Newfoundland, Nova Scotia, Prince Edward Island, and New Brunswick) officially recognize Holocaust Remembrance Day, and every province conducts a remembrance ceremony.

For a more detailed discussion, see the 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not use it.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The government has a system for providing protection to refugees and granted refugee status or asylum as appropriate.

In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened. The government offered alternatives to refugee claimants whose cases were refused by the Immigration and Refugee Board. The option for judicial review through the Federal Court exists. Two other remedies of last resort are available through the Department of Citizenship and Immigration, including a "pre-removal risk assessment" as well as an appeal to the minister of citizenship and immigration for a waiver based on humanitarian and compassionate grounds.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

#### Elections and Political Participation

In the free and fair multiparty federal general election on October 14, the Conservative Party won the largest number of seats in Parliament and formed its second successive minority government. On December 4, at the prime minister's request in order to avoid a vote of confidence that the government would likely have lost, the governor-general prorogued (suspended) parliament until January 26, 2009. Political parties operated without restriction or outside interference.

There were 68 women and five indigenous people in the 308-member House of Commons after the October election. There were 35 women and seven indigenous people in the 105-seat Senate (whose members are appointed by the government). Women held five seats in the 27-member cabinet before the October election, and 11 in the new 38-member cabinet. The governor-general and four of the nine members of the Supreme Court, including the chief justice, were women.

### Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally enforced these laws effectively. There were isolated reports of government corruption during the year. The Federal Accountability Act provides for transparency and accountability in government and created the Office of the Public Sector Integrity Commissioner to report annually on allegations of corruption. In May the commissioner reported no incidents of wrongdoing in her first annual report.

A conflict of interest and ethics commissioner administers the conflict of interest code for members of the House of Commons, as well as the Conflict of Interest Act in relation to public office holders. Public officials are not subject to financial disclosure laws for personal assets.

The law permits public access to government information, and the government in practice granted access for citizens and noncitizens, including foreign media. The government released quarterly information on the public expenditures of senior government officials and also published expense information on individual ministerial Web sites and on a centralized Web site.

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

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

In October the government released a report of the judicial review findings on the role, if any, that officials may have played in relation to the detention and alleged torture in Syria and/or Egypt of three Muslim dual-national Canadians suspected of links to terrorism. The report found that the detentions of two of the individuals resulted indirectly from specific information-sharing actions by government officials. The report also found that the three "suffered mistreatment amounting to torture" which likely resulted indirectly from the information-sharing actions of government officials. However, it declined to assign blame, stating that officials had "conscientiously" carried out their duties.

On May 23, in the case of Omar Khadr (a citizen detained at Guantanamo), the Supreme Court determined (a) that government officials acted improperly in sharing information, obtained from interviews of him in 2003 and 2004, with foreign officials and (b) that the sharing process violated the country's international obligations. The Court ordered as a remedy that Khadr's defense team be given access to all records of interviews conducted, after review by the Federal Court.

Proceedings continued against Desire Munyaneza, a Rwandan national who entered the country in 1997 claiming refugee status, for war crimes allegedly committed during the 1994 Rwandan genocide. The outcome of the trial, the first under the country's Crimes against Humanity and War Crimes Act, remained pending at year's end.

### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal benefits and protection of the law regardless of race, gender, national or ethnic origin, age, language, social status, or disability; the government effectively enforced these provisions.

### Women

Although prohibited by law, rape and violence against women, including spousal rape and abuse, remained a problem. The government's statistical office reported there were 65 sexual assaults per 100,000 persons in 2007, down from 68 in 2006.

The law prohibits domestic violence. Although the criminal code does not define specific domestic violence offenses, an abuser can be charged with an applicable offense, such as assault, intimidation, mischief, or sexual assault. Persons convicted of assault may be penalized with up to five years in prison. Assaults involving weapons, threats, injuries, or endangerment of life carry prison sentences up to 14 years. Sexual abuse may be penalized with up to 10 years in prison. Sexual assaults involving weapons, threats, injuries, or endangerment of life carry sentences up to life imprisonment.

Indigenous (aboriginal) people were more than three times more likely to be victims of spousal violence than nonindigenous people.

The federal statistical agency reported there were 553 shelters for abused women; the shelters provided both emergency care and long-term assistance. The government's family violence initiative involved 12 departments and a cabinet ministry--Status of Women Canada. These entities worked to eliminate systemic violence against women and advance women's human rights.

The Amnesty International 2008 Report noted continuing high levels of discrimination and violence against indigenous women and criticized officials for failing to advance a national strategy. Amnesty's October 1 submission to the UN Committee on the Elimination of Discrimination against Women drew attention to human rights violations allegedly experienced by indigenous and refugee/migrant women as well as women in federal prisons.

Adult prostitution is not illegal, but the law prohibits pimping (benefiting from the earnings of prostitution of another); operating, being found in, or working in a brothel; and communicating in a public place for the purpose of engaging in prostitution.

The law does not contain a specific offense of "sexual harassment" but criminalizes harassment (stalking), punishable by up to 10 years' imprisonment, and sexual assault, with penalties ranging from 10 years for nonaggravated sexual assault to life imprisonment for aggravated sexual assault. The government generally enforced these prohibitions. Most harassment cases were settled out of court.

Women were well-represented in the labor force, including business and the professions, and did not experience economic discrimination. According to Statistics Canada, 59 percent of women age 15 and older were employed in the workforce in 2007. Employment equity laws and regulations cover federal employees in all but the security and defense services. Women have marriage and property rights, as well as rights in the judicial system, equal to those of men.

#### Children

The government demonstrated its commitment to children's rights and welfare through well-funded systems of public education and medical care. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

In February Quebec police arrested two citizens on charges of abusing children in an orphanage in Haiti in 2006-2007. Both pled guilty to sexual assault and were convicted in November.

Police data in 2006 showed that children and youth were most likely to be physically or sexually assaulted by

someone they know. A family violence study by the federal statistical agency reported that, for every 100,000 young persons included in the study in 2006, 334 were victims of physical or sexual violence by a friend or acquaintance, 187 suffered violence by a family member, and 101 were victimized by a stranger. The rate of physical assault by a parent was more than three times higher than the rate of sexual assault (83 compared with 24 victims per 100,000 children and youth). Sixty percent of homicides against children were committed by family members. Approximately 40 percent of child and youth victims of family violence sustained a physical injury, although the majority of injuries required no professional medical treatment.

#### Trafficking in Persons

Although the law prohibits all forms of trafficking in persons, there were reports that persons were trafficked to, through, and, occasionally, within the country.

The country is a source, transit point, and destination for men, women, and children trafficked for the purposes of labor and sexual exploitation. Nongovernmental organizations (NGOs) estimated that 2,000 persons were trafficked into the country annually, while the RCMP estimated only 600 to 800 persons, with an additional 1,500 to 2,200 persons trafficked through the country into the United States. Many victims were Asians and Eastern Europeans, but a significant number also came from Africa, Latin America, and the Caribbean. Women and children were trafficked for sexual exploitation; on a lesser scale, men, women, and children were trafficked for forced labor. Some girls and women, most of whom were aboriginal, were trafficked internally for commercial sexual exploitation.

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

The law criminalizes trafficking in persons and prohibits global and internal trafficking in persons, benefiting economically from trafficking in persons, and withholding or destroying documents to facilitate trafficking in persons. The Immigration and Refugee Protection Act establishes criminal penalties of up to life in prison and fines of up to one million Canadian dollars (approximately \$938,000) for convicted cross-border traffickers. The government prosecutes all forms of human trafficking, including forced labor, in addition to trafficking related acts such as kidnapping, forcible confinement, uttering threats, sexual assault, prostitution-related crimes, and extortion. The law also permits domestic prosecution of citizens and residents who engage in illegal sexual activity with children overseas.

During the year the country marked its first convictions under criminal code amendments enacted in 2005 to provide explicit trafficking in persons offenses. In June the Ontario Court of Justice sentenced a man to five years in prison for trafficking and for living on the avails of prostitution of a minor. In December the Ontario court sentenced a second man to three years for trafficking offenses. In addition, according to the Department of Justice, a Quebec court convicted an individual of trafficking offenses.

The government has an interdepartmental working group consisting of 17 departments and agencies and co-chaired by senior officials from the Departments of Justice and Public Safety to combat trafficking in persons.

Through agencies such as Interpol, the government assisted other countries with criminal investigations of trafficking cases and cooperated with law enforcement authorities in neighboring and source countries.

Officials may grant a temporary residence permit of 180 days (or longer, in special meritorious cases) to provide a reflection period for the victim and an investigative window for law enforcement to determine whether there is

enough evidence to pursue a trafficking case. During this 180-day period, immigration officials determine whether a longer residency period of up to three years may be warranted. Nonetheless, NGOs reported anecdotal evidence that some victims of trafficking were arrested and deported. The RCMP conducted a law enforcement training program to sensitize officers to trafficking realities, help identify potential trafficking victims, and provide information about implementing the new guidelines.

In addition to legal status under a temporary residence permit, trafficking victims have access to federally funded emergency medical services and programs such as legal assistance; they may also apply for assistance from victim assistance funds maintained by provincial governments.

In January the government dedicated six million Canadian dollars (approximately \$5.6 million) to preventing the sexual exploitation and trafficking of children. The initiative included a national awareness campaign and a 24-hour hot line. The government also provided two million Canadian dollars (approximately \$1.9 million) to a national charitable organization to pursue public leads about suspected child predators on the Internet.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, and the government effectively enforced these prohibitions. The government effectively implemented laws mandating access to buildings for persons with disabilities.

The federal, provincial, and territorial governments share responsibility for protecting the rights of persons with disabilities. The Office for Disability Issues, the federal government's focal point, funded a range of programs, including programs to enable participation of persons with disabilities in the workforce.

#### National/Racial/Ethnic Minorities

The Charter of Rights and Freedoms protects the linguistic and cultural rights of minorities and establishes English and French as the country's two official languages. Despite the federal policy of bilingualism, native English speakers in Quebec (5.7 percent of the province's population in 2006) and French speakers in other parts of the country generally lived and worked in the language of the majority. Provinces may grant French or English the status of an official language, but 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; requires the use of French in commerce, the workplace, education, and government; and protects minority language rights. The Charter also restricts access to publicly funded English-language education to children who have received or are receiving elementary or secondary instruction in English and whose parents are Canadian citizens, and to students who are temporary residents in the province or have serious learning disabilities and who have obtained a waiver.

In January the police of York Region confirmed they had brought charges in five of six alleged racially motivated assaults on Asian recreational fishermen that took place in the Lake Simcoe area in 2007. The trials had not concluded by year's end. In May a separate Ontario Human Rights Commission investigation concluded that these assaults were racially motivated but not hate crimes.

In January the Quebec Human Rights and Youth Commission ruled that three teenagers were victims of racial profiling when police ticketed them for sitting in front of a low-cost housing complex. Also in January the

commission ruled that a Tunisian girl was a victim of racial profiling when police ticketed and handcuffed her for refusing to stop sitting behind the housing project where she lived. Police ticketed the girl's mother as well. In each case the commission made a nonbinding recommendation that the city of Montreal pay damages; the mayor indicated that the city did not intend to do so.

In July the Quebec Human Rights and Youth Commission ruled that two police officers pulled their weapons on, and made racially motivated comments toward, three black persons, mistakenly assuming they were stealing boxes from a garage when in fact one of them owned the house. The Commission made nonbinding recommendations that the city of Montreal and the police officers pay damages, which the city declined to do.

In August riots broke out in Montreal after a policeman shot and killed a teenage immigrant from Honduras. The rioters alleged that police targeted minorities and employed racial profiling. An official investigation determined on December 1 that no criminal charges would be brought against the policeman, and Quebec authorities ordered a public inquiry into the shooting to begin in February 2009.

### Indigenous People

The law recognizes three different groups of indigenous (also known as aboriginal) people: Indians (generally called First Nations), Inuit (formerly called Eskimos), and Metis (persons of mixed Indian-European ancestry). According to the 2006 census, indigenous people constituted approximately 4 percent of the national population and higher percentages in the country's three territories: Yukon, 25 percent; Northwest Territories, 50 percent; and Nunavut, 85 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. Indigenous people remained underrepresented in the workforce, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other groups.

The law recognizes and specifically protects indigenous rights, including those established by historical land claims settlements. Treaties with indigenous groups form the basis for the government's policies in the eastern part of the country, but there were legal challenges to the government's interpretation of treaty rights. Indigenous groups in the west that never signed 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 indigenous rights, particularly land claims, frequently depended on legal challenges, including 45 Supreme Court decisions.

In February the government passed legislation implementing the Nunavik Inuit Land Claims Agreement Act. The law, which resolved the last major Inuit land claim in the country, provides for the establishment of an Inuit-controlled regional government, accountable to Quebec's National Assembly, to administer the region of Quebec above the 55th parallel. The Quebec Inuit and federal and Quebec governments signed an agreement in principle (AIP) to create the Nunavik Regional Government or Nunavimmiut Aquvvinga in December 2007. The AIP must be ratified by the Nunavik population and the federal and Quebec governments and remained pending at year's end.

In June the federal government passed legislation establishing a new independent Specific Claims Tribunal to bring greater fairness to the handling of aboriginal land claims and to accelerate their resolution. The tribunal is to make binding decisions on cases that are rejected for negotiations, or where negotiations fail, on claims up to Cdn\$150 million (approximately \$140 million). Composed of six provincial superior court judges whom the federal government selected in consultation with the aboriginal Assembly of First Nations, the tribunal began work in October.

In June the federal government passed legislation implementing the Tsawwassen First Nation Final Agreement. The Agreement granted jurisdiction over approximately 1,790 acres of coastal British Columbia to the Tsawwassen First

Nation, including control over tax policy, land management, fisheries, wildlife, migratory birds, parks, culture and heritage, and governance.

Also in June the government passed legislation extending legal protection from discrimination under the Canadian Human Rights Act to aboriginal people. They were previously prohibited from filing human rights complaints against authorities subject to the Indian Act. Full protection under the Human Rights Act is to be phased in over a three-year transitional period.

On June 11, the Prime Minister formally apologized to former students of Indian residential schools for abuse suffered and for the negative consequences of the residential system on native communities. The apology followed a two billion Canadian dollar (approximately \$1.8 billion) settlement in 2006 between the federal government and former students. As pledged, the government also created the Indian Residential Schools Truth and Reconciliation Commission, which had not begun work at year's end.

In March the Mi'kmaq of Newfoundland and Labrador ratified a 2007 AIP with the federal government that extended to them formal aboriginal status and access to federal programs and services for status Indians. On August 13, the federal government and Mi'kmaq signed a final agreement to conclude the settlement.

On September 8, the Haudenosaunee/Six Nations rejected a Cdn\$26 million (approximately \$24 million) federal offer to settle one of four claims included in a 2007 Cdn\$125 million (approximately \$117 million) land settlement package. The dispute site has been occupied since 2006, and the status of the 2007 offer remained uncertain at year's end.

The 2006-07 report of the federal corrections ombudsman charged that a disproportionate number of aboriginal prisoners were in maximum-security penitentiaries and segregation and spent longer in jail than nonnative prisoners. Aboriginal people accounted for 18.5 percent of the total federal prison population. Aboriginal women accounted for 32 percent of the female federal penitentiary population. The ombudsman attributed a higher rate of recidivism in part to the Correctional Service's failure to manage aboriginal inmates in a culturally responsive and nondiscriminatory manner and to lack of access to reintegration programs following release. The report recommended that the Correctional Service appoint a deputy commissioner for aboriginal offenders and re-establish a national aboriginal advisory committee, neither of which was accomplished by year's end.

The government continued the process of claim settlements and self-government negotiations with more than 350 First Nations communities.

#### Other Societal Abuses and Discrimination

There were rare reports of societal violence or discrimination based on sexual orientation. The law prohibits discrimination based on sexual orientation, and the criminal code provides penalties for crimes motivated by bias, prejudice, or hate based on personal characteristics, including sexual orientation. The law extends equal access to civil marriage to same-sex couples.

On November 25, a Saskatchewan marriage commissioner filed suit against the provincial government over a requirement to perform same-sex marriages. In May the Saskatchewan Human Rights Tribunal had ruled that the marriage commissioner had discriminated against a gay couple when he declined to perform their same-sex ceremony on the ground that it conflicted with his religious beliefs. The tribunal had fined the commissioner. In his suit, the commissioner argued the law violated his Charter right to freedom of religion.

In August police in Peel, Ontario, created a telephone hot line for hate crimes against gay, lesbian, bisexual, and

transgendered people.

There were no known reports of societal violence or discrimination against persons with HIV/AIDS. The criminal code provides penalties for violence against individuals. Courts generally interpreted prohibitions against discrimination on the basis of disability in federal and provincial human rights statutes to include discrimination against persons with HIV/AIDS.

## Section 6 Worker Rights

### a. The Right of Association

The law allows workers in both the public (except armed forces and police) and the private sectors to form and join unions of their choice without previous authorization, and workers did so in practice.

All workers, except for those in the public sector who provide essential services, have the right to strike, and workers exercised this right in practice. Workers in essential services had recourse to binding arbitration if labor negotiations failed. The law prohibits employer retribution against strikers and union leaders, and the government generally enforced this provision in practice.

Following a two-day strike in April by Toronto Transit Commission (TTC) workers, the Ontario legislature passed a law that obliged strikers to return to work and accept binding arbitration. In October the Toronto City Council narrowly defeated a motion to have the province declare the TTC an essential service, which would have permanently curtailed the workers' right to strike.

Trade unions are independent of the government. Approximately 30 percent of the civilian labor force held union membership.

### b. The Right to Organize and Bargain Collectively

The law protects collective bargaining, and collective agreements covered approximately 30 percent of the civilian labor force.

In November the Ontario Court of Appeal struck down a provincial law provision that prohibited an estimated 32,000 agricultural workers (including foreign migrants) from bargaining collectively, ruling that the provision violated the Charter right to freedom of association. The province has 12 months to revise the provision.

In August the Supreme Court agreed to hear an appeal by the United Food and Commercial Workers Union alleging that a store in Jonquiere, Quebec, had dismissed employees because of their union activities. The company had closed the store in 2005, six months after receiving union certification and days before a provincially-appointed labor arbitrator was to present the parties with a mandatory contract settlement.

There are no export processing zones.

### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that labor trafficking occurred. Labor trafficking victims reportedly often entered the country legally but were unlawfully exploited in agriculture or domestic servitude.

d. Prohibition of Child Labor and Minimum Age for Employment

Child labor legislation varies by province. The federal government employs youths under age 17 only while school is not in session and in work unlikely to endanger health or safety. Most provinces prohibit children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment.

Inspections by federal and provincial labor ministries effectively enforced child labor laws and policies.

e. Acceptable Conditions of Work

Each province and territory sets minimum wage rates, which ranged from Cdn\$7.75 to Cdn\$10.00 (approximately \$7.30 to \$9.40) per hour. Ontario and British Columbia 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. The federal statistical agency calculates annual averages, or Low Income Cut-Offs (LICO), by family and community size, below which a family is likely to spend significantly more on food, shelter, and clothing than the average. During the year the national LICO for a family of four with a before-tax income of less than Cdn\$39,399 (approximately \$36,960) qualified as low income.

Standard work hours vary by province, but in each the limit is 40 or 48 hours per week, with at least 24 hours of rest. The law requires payment of a premium for work above the standard workweek. Authorities effectively enforced these standards. There is no specific prohibition on excessive compulsory overtime, which is regulated by means of the required rest periods in the labor code that differ by industry.

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 monitored and enforced these standards. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work and remove themselves from hazardous work conditions, and authorities effectively enforced this right.