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## 2009 Human Rights Reports: Canada

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

March 11, 2010

Canada, with a population of 33.8 million, is a constitutional monarchy with a federal parliamentary form of government. In a free and fair multiparty federal election held in October 2008, 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 remained under investigation.

In January the Commission for Public Complaints Against the Royal Canadian Mounted Police (CPC) initiated an investigation into all in-custody deaths that involved the use of a taser by the Royal Canadian Mounted Police (RCMP). On March 26, the CPC reported that RCMP officers drew tasers 1,106 times in 2008 (approximately 30 percent less often than in 2007) and fired them in 63 incidents (down from 148 in 2007).

After reviewing recommendations of a June 2008 CPC report on the use of RCMP tasers, the RCMP on February 12 acknowledged that tasers posed a risk of death and confirmed that it had issued revised training and policy directives for taser use, effective June 2008. The new regulations require use to be "reasonable" (where the alternative is to deploy a firearm) and restrict use to incidents in which there is a real threat to officers or the public. The regulations also direct officers to subdue the suspect as an alternative to multiple discharges when another officer is present. The rules tighten reporting requirements and require officers to recertify annually to use the weapons.

On July 31, police in Edmonton, Alberta, issued new regulations to restrict police use of tasers to incidents in which there is a "real likelihood of injury" to an officer, the individual being arrested, or a bystander.

In October the RCMP, the Ontario Provincial Police, and police forces in Toronto, Vancouver, Calgary, and Winnipeg ordered officers to avoid firing tasers at the upper chest.

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On February 8, an investigation into the June 2008 death of Jeffrey Mark Marreel in Ontario concluded that Marreel died of cocaine poisoning and that provincial police acted lawfully when they used a taser to subdue him.

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In May and September, the Ontario Special Investigations Unit cleared Peel police officers of criminal liability in two 2008 deaths: the shooting of Gregg Moynagh of Mississauga; and the taser death of Sean Reilly of Brampton. Inquests remained pending at year's end. There were no developments in the July 2008 death of Michael Langan in Manitoba after police stunned him with a taser.

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On April 22, the RCMP apologized publicly for releasing and subsequently failing to correct erroneous information about the conduct of RCMP officers in the 2007 death of Robert Dziekanski at Vancouver International Airport. On July 24, a British Columbia inquiry into the death issued the first of two reports. The report recommended that the British Columbia government set province-wide standards for taser use, that police deploy the weapons only when enforcing federal criminal law or in cases of actual or imminent bodily harm, and that police limit discharges to five seconds. The report also called for enhanced police training and annual reporting on the use of tasers in the province. The British Columbia government ordered all police officers in the province to implement the guidelines with immediate effect, including the federal RCMP, which provided contract policing for approximately 70 percent of the province. However, the RCMP announced it would review the recommendations. It had not stated publicly whether it would comply with the provincial directive by year's end. The second report, focusing on the circumstances of Dziekanski's death, remained pending at year's end.

On December 8, the CPC issued a final report on the conduct of RCMP officers in Dziekanski's death. The commission found that the four RCMP officers involved lawfully executed their duties but that their conduct fell short of the standard expected of members of the RCMP. It further found that the RCMP failed to provide clear and accurate information to the public in its internal investigation of the incident. On December 29, the British Columbia Court of Appeal upheld a lower court ruling that the province's report into Dziekanski's death could find the four RCMP officers in the case guilty of misconduct in the incident. The officers had argued that the inquiry lacked jurisdiction to comment on the federal RCMP.

On May 13, a provincial inquiry ruled that the cause of the 2006 death of Jason Doan of Red Deer, Alberta, after he was stunned by police with a taser, remained undetermined and could not be conclusively attributed to the weapon.

#### 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 monitoring 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 Procedures and Treatment While in 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; 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. Detainees were released immediately after being charged, unless a judge deemed continued detention necessary to ensure the detainee's attendance in court, for the protection or safety of the public, or due to the gravity of the offense.

Noncitizens may be detained and deported on national security grounds under immigration security certificates. 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 who determines its "reasonableness" and upholds or revokes the certificate. A judge may order an individual detained during the security certificate removal process if the government considers that the individual presents a danger to national security or is unlikely to appear at the proceeding for removal. If a judge determines that an individual faces a risk of torture or death in the individual's country of origin greater than the risk the person poses by remaining in the country, the judge may stay the removal order, and the individual may be detained pending deportation or released subject to monitoring.

Individuals subject to a security certificate may see a summary of confidential evidence against them. Authorities provide full disclosure to court-appointed, security-cleared lawyers ("special advocates") who can review and challenge the evidence on the behalf of these individuals, but may not show to or discuss the material with them. The law establishes strict rules on disclosure and 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 mechanisms for review and appeal.

On October 14, the Federal Court revoked one security certificate after authorities withdrew sensitive evidence (rather than disclose it) in the case against the suspect. On December 17, the Court revoked a second certificate. Three applications for security certificates were active at year's end. The Federal Court relaxed restrictions on the three individuals whom it had previously ordered conditionally released in 2008. In December the government initiated a review of the national security certificate program.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

### Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. 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.

#### 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 and access to a court to bring suit seeking damages for, or cessation of, a human rights violation. Remedies can be monetary, declaratory, or injunctive. Alleged human rights violations may also be heard by provincial or federal human rights commissions, although these bodies follow differing standards and procedures. Complainants have access to alternative dispute mechanisms as well as judicial remedies.

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

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

On October 5, the government of Ontario completed a four-month investigation into allegations that Crown prosecutors in Barrie and Windsor directed Ontario provincial police and local police to conduct extensive background checks on potential jurors. The investigation revealed that 18 of the 55 Crown attorney offices in Ontario gathered personal information about potential jurors that failed to comply with applicable privacy legislation. The background checks had led to two mistrials and the dismissal of two jury panels at year's end.

#### 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. The independent media were active and expressed a wide variety of views without restriction.

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 (CHRT) to enforce the law in areas of federal jurisdiction. In addition, each province has its own human rights code. Some advocates argued that the hate speech laws limit freedom of speech and criticized the requirement that commissions process all complaints

received, the procedures that permit commissions to investigate and adjudicate complaints, and the ability of complainants to file identical complaints with several provincial commissions, each of which may adjudicate without attention to others.

On July 23, the Vancouver City Council passed bylaws banning leaflet distribution and posters in Olympic venues during the 2010 Olympic Winter Games and creating separate protest zones for political, religious, or racial demonstrations. The bans take effect in January 2010 and expire in March 2010. Nongovernmental groups criticized the restrictions on free speech.

On December 22, the Supreme Court added greater protections for journalists and Internet media, including bloggers, against claims of defamation in a ruling striking down two separate findings of libel against two newspapers. The Court created a new "responsible communication" defense to libel claims on matters of public interest in which a journalist's attempts to report fairly and accurately are of greater importance than a discovery of false allegations.

On December 3, an Alberta provincial court overturned a 2008 order by the Alberta Human Rights and Citizenship Commission that had sanctioned and fined Stephen Boissin for violating the province's human rights code in a letter critical of homosexual conduct that he wrote for a newspaper.

In a new trial in February, a Saskatchewan provincial court acquitted a former Assembly of First Nations leader of hate speech, ruling that he did not willfully intend to incite hatred against Jews in his 2002 remarks.

#### Internet Freedom

There were no government restrictions on access to the Internet and no reports that the government monitored e-mail or chat rooms. 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 75 Internet users per 100 inhabitants in 2008.

The CHRC investigates complaints about hate messages on Web sites and may forward cases to the CHRT for action.

On June 11, the CHRC released its special report to Parliament on hate speech on the Internet, which recommended that the federal Human Rights Act continue to prohibit hate speech but also proposed establishing a statutory definition of hatred and contempt and allowing the CHRC summarily to dismiss complaints. These recommendations differed from the nonbinding November 2008 policy review, which suggested that Parliament repeal the section of the federal Human Rights Act dealing with hate speech.

On September 9, the CHRT, in ruling on a complaint that accused former white supremacist leader Marc Lemire of disseminating hate speech on his Web site, found that section 13(1) of the Human Rights Act prohibiting the telephonic dissemination of hate speech was unconstitutional. The CHRT concluded that section 13(1) violates the freedom of expression provision of the Canadian Charter of Rights and Freedoms. The CHRT's ruling is not binding on courts or provincial tribunals. On October 1, the CHRC appealed the CHRT's ruling to the Federal Court. In January the privacy commissioner released a report finding that the CHRC had not improperly accessed a private citizen's Internet account, as charged by Lemire.

#### 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 July 24, the Supreme Court ruled that the province of Alberta could require members of the Hutterite religious community to pose for photographs to obtain driver's licenses. The Supreme Court found that the benefits of a universal photo requirement outweighed the infringement on the Hutterites' religious beliefs.

On September 1, the Quebec Superior Court rejected an application by a group of parents in Drummondville to exempt their children from mandatory enrollment in an "Ethics and Religious Culture" course that provided an overview of world religions. In September 2008 Quebec's Education Ministry implemented the course in all elementary and secondary schools in the province, including private and religious schools. The parents had alleged that the course contravened their charter right to freedom of religion and conscience, as well as their choice of education.

On September 23, the British Columbia Supreme Court dismissed charges against the current and former bishops of the Bountiful Fundamentalist Church of Jesus Christ of Latter-day Saints for breaching section 293 of the criminal code, which bans polygamy, in a case brought before the court in January. The court ruled that the former attorney general did not have jurisdiction to appoint a new special prosecutor to the case after two previous special prosecutors had refused to prosecute the two bishops.

#### 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.

Approximately 1.1 percent of the population was Jewish. The B'nai Brith Canada League for Human Rights received 1,135 reports of anti-Semitic incidents in 2008, an 8.9 percent increase from 2007. The greatest number of reports came from Ontario Province (682 incidents, 538 of which took place in the Greater Toronto area), followed by Quebec Province (245 incidents, 201 of which took place in Montreal)--the two provinces where approximately 80 percent of the country's Jewish population resided. The 1,135 reports included 803 cases of harassment, 318 cases of vandalism, and 14 cases of violence; 177 cases involved attacks on synagogues, Jewish homes, community centers, or cemeteries. Jewish students reported 76 cases of anti-Semitic incidents that occurred on university campuses in 2008, compared with 78 in 2007; another 57 involved primary and secondary school settings, compared with 82 in 2007. B'nai Brith also received 405 reports of Web-based hate activity, a 31 percent increase from 2007.

On July 31, the RCMP arrested three men in Ucluelet, British Columbia, for allegedly shouting anti-Semitic comments and spray-painting their bodies with anti-Semitic messages. Authorities charged one man with disorderly conduct and dropped charges against the other two.

On August 1, police confirmed that unidentified arsonists destroyed a Punjabi private religious school in East Vancouver in a fire set on July 30. Police had no suspects at year's end.

In August unidentified vandals spray-painted swastikas on buildings, bus shelters, and road signs in the city of Cote Saint-Luc, a suburb of Montreal with a large Jewish population. According to police, there were 14 local incidents of anti-Semitic graffiti from January to August.

On November 15, an unidentified man spray-painted anti-Semitic slogans on the Calgary Jewish Centre, the Holocaust War Memorial, and private residential property in Calgary. Police were investigating at year's end.

On December 16, an Ontario court sentenced an individual to six months in prison for criminal harassment, assault with a weapon, and possession of a concealed weapon after he uttered anti-Semitic slurs and death threats against a Jewish man and his son in September.

A British Columbia Human Rights Tribunal decision regarding the March 2008 complaint of two Sikh men against their employer remained pending at year's end. The men alleged that their employer 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.

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 *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf/](http://www.state.gov/g/drl/rls/irf/).

#### 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 country is a party to the 1951 Convention and 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. 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. The government accepted refugees for resettlement from third countries and facilitated local integration (including access to naturalization), particularly of refugees in protracted situations.

The government also provided temporary resident permits to foreign nationals who may not qualify as refugees, may be inadmissible, or did not meet immigration and refugee law requirements.

#### 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 British Columbia provincial general election held on May 12, the British Columbia Liberal Party, led by Gordon Campbell, formed its third successive majority government. In the Nova Scotia provincial general election held on June 9, the New Democratic Party (NDP), led by Darrell Dexter, won a majority government and formed the first NDP government in the province's history after 10 years of rule by the Progressive Conservative Party. The provincial elections were free and fair. Political parties operated without restriction or outside interference.

There were 68 women and five indigenous people in the 308-member federal House of Commons. There were 34 women and six indigenous people in the 105-seat Senate (whose members are appointed by the government). Women held 11 seats in the 38-member cabinet. The governor-general and four of the nine members of the Supreme Court, including the chief justice, were women.

On March 11, the Chief Electoral Officer testified that some indigenous people were unable to establish their residency for voting purposes in the October 2008 general election due to a lack of, or difficulty in obtaining, authorized identification with a home address.

#### Section 4 Official Corruption and Government 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. The Office of the Public Sector Integrity Commissioner reports annually on allegations of corruption. On June 30, the government appointed the first Commissioner of Lobbying to administer the 2008 Lobbying Act, including a new national registry of lobbying activity.

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. Provincial governments provide independent audits of government business and ombudsman services. Public officials are not subject to financial disclosure laws for personal assets.

The law permits public access to government information, and in practice the government granted access for citizens and noncitizens, including foreign media. The law provides for denial of legal requests for information on limited and specific grounds, for which reasons are given and cited in law, and there is a mechanism to appeal denials. 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 5 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.

The government cooperated with international governmental organizations and permitted visits by UN representatives. From October 13 to 23, the UN Independent Expert on Minority Issues met with government officials and nongovernmental organizations (NGOs) in Ottawa, Toronto, Montreal, and Vancouver (see section 6, National/Racial/Ethnic Minorities). Also in October, officials from the country's Office of the UNHCR visited 76 ethnic Sri Lankan Tamils detained by the Canadian Border Services Agency after they arrived off the coast of British Columbia in a suspected human-smuggling incident.

Federal and provincial human rights commissions enjoyed government cooperation, operated without government or party interference, and had adequate resources. Observers considered them effective. Parliamentary human rights committees operated in the House of Commons and the Senate. The committees acted independently of government, conducted public hearings, and issued reports and recommendations to which the government provided written, public, and timely responses.

In July the government complied with an order of the Federal Court of Canada and facilitated the return to Canada of Abovsfian Abdelrazik, a Canadian-Sudanese dual national, after the Court determined that Canadian officials had been complicit in his detention in Sudan in 2003 on suspicion of links to terrorism. The Security Intelligence Review Committee, a federal watchdog for the domestic security and intelligence community, announced that it would investigate Abdelrazik's formal complaint concerning the alleged involvement of Canadian security agencies in his detention. In September Abdelrazik filed suit against the federal government, alleging that it was responsible for his detention and abuse in Sudan and had obstructed his repatriation. The suit sought monetary compensation and a formal apology from the government. The case remained pending at year's end.

In February three Muslim dual citizens filed amended lawsuits against the federal government based on the October 2008 report of a judicial inquiry into the role Canadian officials may have played in their detention and alleged abuse in Syria and/or Egypt on suspicion of links to terrorism. The complainants' suits alleged that the government facilitated their detention and abuse. The suits sought monetary compensation for the complainants as well as a formal apology from the government. The case remained pending at year's end.

On November 13, the Supreme Court heard an appeal by the federal government of a June Federal Court of Appeal decision upholding a lower court order that the government must seek the repatriation of Canadian citizen Omar Khadr from Guantanamo Bay. The lower court had ruled that the government's refusal to request Khadr's repatriation offended a principle of fundamental justice and violated his rights. The federal government had argued that foreign affairs decisions are the exclusive domain of the prime minister and his cabinet. The Supreme Court's decision was pending at year's end.

On October 29, a Quebec court sentenced Desire Munyaneza, a Rwandan national who entered the country in 1997 claiming refugee status, to life in prison with no eligibility for parole for 25 years. In May Munyaneza was convicted on seven counts of genocide, crimes against humanity, and war crimes committed during the 1994 Rwandan genocide. The trial was the first under the country's Crimes against Humanity and War Crimes Act. In November Munyaneza filed notice to appeal.

On November 7, authorities arrested Jacques Mungwarere, a Rwandan immigrant, on war crimes charges related to the 1994 Rwandan genocide. Mungwarere was the second individual to be charged under the country's Crimes against Humanity and War Crimes Act.

#### Section 6 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, occurred. The government's statistical office reported there were 63 sexual assaults per 100,000 persons in 2008, down from 65 in 2007, as well as 491 reported cases of aggravated sexual assault and assault with a weapon causing bodily harm.

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, aggravated 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. Aggravated sexual assaults involving weapons, and committed for the benefit of, at the direction of, or in association with, a criminal organization carry sentences between four years and life imprisonment. Studies indicated that victims of domestic violence and spousal abuse underreported incidents.

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

The federal statistical agency reported that there were approximately 569 shelters for abused women; the shelters provided emergency care, transition housing, and long-term assistance. Shelters admitted more than 101,000 women and children in 2008, of whom approximately three-quarters had fled abusive situations. 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.

On August 26, the Manitoba government, RCMP, and Winnipeg Police Service established the Manitoba Integrated Task Force for Missing and Murdered Women to review unsolved homicide cases and missing-persons files of female victims in the province. At least 75 women, almost all Aboriginal, have disappeared in the province over the last two decades, according to Aboriginal groups.

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. Prostitution exists throughout the country, particularly in major urban centers.

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.

Couples and individuals freely exercised their reproductive rights. The publicly funded medical system provided access to contraceptive services and information, prenatal care, skilled attendance during childbirth, and essential obstetric and postpartum care. Women had equal access with men to diagnosis and treatment for sexually transmitted infections, including HIV.

Women were well represented in the labor force, including business and the professions, and did not experience economic discrimination. Status of Women Canada, headed by a cabinet-level minister, promoted the legal rights of women. According to the federal statistical agency, 62.8 percent of women age 15 and older were employed in the workforce in 2008. 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. However, Aboriginal women living on reserves (where land is held communally) lack matrimonial property rights.

#### Children

The country provided universal birth registration, and citizenship was derived both by birth within the country's territory and from one's parents.

The country was a destination for child sex tourism. Under penalties for child prostitution, persons convicted of pimping a child under age 18 face between two and 14 years' imprisonment; Persons who aid, counsel, compel, use, or threaten to use, violence, intimidation or coercion in relation to a child under age 18 to engage in prostitution face between five and 14 years' imprisonment. Persons who solicit or obtain the sexual services of a child under age 18 face between six months' and five years' imprisonment.

The minimum age of consensual sex is 16 years. The country does not have a statutory rape law but prosecutes a range of sexual offenses against children, including sexual interference, sexual touching and invitation to sexual touching, and sexual exploitation. Penalties for each offense range from 14 days to 10 years' imprisonment.

The law prohibits child pornography, including the production, distribution, accessing, and possession of child pornography. Police services reported 464 incidents of child-luring over the Internet between 2006 and 2007, an increase of 31 percent over the previous year, although the national statistical agency estimated the number of reported cases to represent only 10 percent of actual cases. Maximum penalties range from 18 months' imprisonment for summary offenses to 10 years' imprisonment for indictable offenses. On December 4, the Supreme Court broadened the legal interpretation of child-luring over the Internet, ruling that defendants do not have to meet, or intend to meet, the victim to commit the offense.

#### Trafficking in Persons

The law prohibits trafficking in persons for all purposes; however, the country was a source, transit point, and destination for men, women, and children trafficked for the purposes of forced labor and sexual exploitation.

NGOs estimated that 2,000 persons were trafficked into the country annually, while the RCMP estimated 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.

Traffickers tended to be members of larger criminal organizations, members of small criminal groups, or individual criminals. Organized crime groups were involved in transnational trafficking to varying degrees.

Vancouver, Montreal, 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 (\$953,000) 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.

Twenty-four antitrafficking prosecutions were pending before provincial courts, involving 15 accused offenders at year's end. There were no trafficking convictions during the year.

The government has an interdepartmental working group consisting of 17 departments and agencies and cochaired by senior officials from the Departments of Justice and Public Safety to combat trafficking in persons. The RCMP has six regional human trafficking awareness coordinators who conduct law enforcement training programs to sensitize officers to trafficking realities, train officers to identify potential victims, and provide information on the trafficking sections of the criminal code. The Canadian Border Services Agency has 56 specially trained migration integrity officers who collect and report intelligence information on organized human trafficking.

During the year the government's interdepartmental working group on trafficking coordinated with British Columbia's Office to Combat Trafficking in Persons, the Vancouver Police, and the Vancouver Olympic Committee to incorporate antitrafficking measures into the Olympics' broader security plan.

The government, in conjunction with nongovernmental organizations, supports a 24-hour tipline for the public anonymously to report suspected cases of human trafficking.

On December 1, the Salvation Army opened a 10-bed facility in Vancouver for female victims of sex trafficking.

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 (TRP) 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. Victims of trafficking who receive a TRP are eligible for health-care benefits and trauma counseling and may also apply for a work permit. Victims of trafficking are not required to testify against their trafficker to gain temporary or permanent resident status. In addition to legal status under a TRP, trafficking victims may also apply for assistance from victim assistance funds maintained by provincial governments.

In April the government granted Cdn\$100,000 (\$95,000) to the Assembly of Manitoba Chiefs to raise awareness of human trafficking for sexual exploitation of Manitoba First Nations women and children and to undertake resource and strategic development aimed at prevention and protection.

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 or in other areas, 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, to improve physical accessibility infrastructure, to build the capacity of the voluntary sector, and to raise public education and awareness of disability issues.

#### 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 citizens, and to students who are temporary residents in the province or have serious learning disabilities and who have obtained a waiver.

On October 22, the Supreme Court declared unconstitutional a 2002 Quebec language-protection law that limited access to English-language schools for students. The law closed a legal loophole that allowed parents to send their children to English-language public schools under limited circumstances. The court suspended the effects of its ruling for one year to allow the Quebec government to redraft the legislation.

In a preliminary report following a visit to the country in October, the UN Independent Expert on Minority Issues stated that the country's Muslim communities feared "unsubstantiated use" of security certificates, racial profiling, and harassment by police. The Independent Expert also found "uneven and unclear" human rights protections for all minorities due to the independent authority of human rights commissions in each province and lack of federal oversight.

Complainants reported at least three incidents of alleged racially motivated assault and harassment of Asian-Canadian recreational anglers in the Simcoe, Ontario, region during the 2008-09 fishing season. Police increased presence in the area, and launched a public awareness campaign. Authorities included an antiracism message in 2009 fishing regulations. In September one individual pled guilty to assault in a 2007 incident and received a conditional discharge and probation. Police dropped charges in connection with two other alleged racially motivated assaults on Asian fisherman in 2007 and 2008. On December 15, an Ontario court convicted one individual of two counts of criminal negligence causing bodily harm and four individuals of aggravated assault following a 2007 racially motivated attack on recreational fishermen in the Lake Simcoe area.

On May 25, Quebec authorities opened a coroner's inquest into the August 2008 shooting death by Montreal police of a teenage immigrant from Honduras. The inquest continued at year's end.

#### 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, poverty, and sexual violence than other groups. A 2008 review by the federal auditor general reported that authorities placed Aboriginal children in protective public care facilities at a rate eight times higher than children in the general population.

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 and implementation 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. According to an August Amnesty International report, approximately 60 Aboriginal claims over territory previously excluded from treaty making remained unresolved. An additional 765 specific claims related to interpretation of historic treaties remained unresolved.

During the year the CHRC received 20 complaints against the federal government in the areas of eligibility for status as a First Nations person and access to health and educational services for those who live off-reserve.

In June the government appointed a new chairman for the Indian Residential Schools Truth and Reconciliation Commission following the resignation of all the original members in 2008. On October 15, the governor general relaunched the commission to examine abuse that indigenous children sustained in residential schools in the 20th century.

The Specific Claims Tribunal, created in 2008, has the authority to issue binding decisions on Aboriginal grievances relating to treaties that are rejected for negotiation or where negotiations fail. The tribunal had not registered any judgments at year's end.

In August former students of Aboriginal day schools in Manitoba filed suit against the federal government for Cdn \$15 billion (\$14.3 billion) for alleged abuse suffered in the schools. The claimants sought to have the case adopted as a class-action suit to cover an estimated 70,000 former Aboriginal day students across the country.

In June the government launched a "Federal Framework for Aboriginal Economic Development" to promote government collaboration, private-sector partnerships, skills development, and easier access to capital for the Aboriginal community. Through the framework, the government committed C\$200 million (\$191 million) over four years to enable economic use of land, improve access to commercial capital, promote Aboriginal procurement of goods and services at market rates, and strengthen Aboriginal participation in key economic areas.

In August the government announced the creation of the Northern Economic Development Agency, located in Nunavut territory, to foster economic and social development and better environmental stewardship in the North. The government dedicated funds to six geosciences programs for mining industry explorations in Nunavut and funds to a program aimed at strengthening and diversifying Nunavut's fishing industries.

In November the Nisga'a First Nation in northwestern British Columbia became the first self-governing Aboriginal nation in the country to pass legislation allowing private property rights on Aboriginal land.

On January 28, the government reiterated its previously rejected Cdn \$26 million (\$24.8 million) offer in 2007 to settle one of the four land claims of the Haudenosaunee/Six Nations in Ontario. The disputed site had been occupied since 2006. Consultations on the government's offer continued at year's end.

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

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

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. Lesbian, gay, bisexual and transgender organizations operated independently and without restriction. Federal, provincial, and municipal governments authorized, and sometimes provided financial support for, gay pride marches in communities across the country and provided police protection to marchers. There was no official discrimination based on sexual orientation in employment, housing, or access to education or health care.

In July the Nova Scotia Human Rights Commission opened an investigation into a complaint by an individual formerly employed by a provincial youth facility that he experienced severe and prolonged sexual harassment in the workplace based on his sexual orientation. The case remained pending at year's end.

In July a gay man filed a complaint with the Ontario Human Rights Tribunal after his parish priest removed him from his volunteer position as a church altar server because of his sexual orientation.

In July a lesbian couple filed a complaint with the Manitoba Human Rights Commission alleging that a family doctor declined to accept them as patients because their sexual orientation offended her religious beliefs and because she had no experience treating gay patients. The case was pending at year's end.

On July 22, a Saskatchewan court upheld a 2008 Saskatchewan Human Rights Tribunal ruling that a provincial marriage commissioner had discriminated against a gay couple when he refused to perform their same-sex ceremony on the grounds that the law violated his charter right to freedom of religion.

#### Other Violence or Societal Discrimination

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 7 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. The law allows unions to operate without government interference. An estimated 30 percent of the civilian labor force belonged to a trade union.

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.

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

The law protects collective bargaining, and the government effectively enforced this right in practice. An estimated 25 percent of workers were covered by collective agreements. The law prohibits antiunion discrimination and employer interference in union functions, and the government protected this right in practice.

On December 17, the Supreme Court heard an appeal by the Ontario government of a November 2008 Ontario Court of Appeal ruling that struck down a provincial law prohibiting an estimated 32,000 agricultural workers (including foreign migrants) from bargaining collectively. The court's decision remained pending at year's end.

On November 27, the Supreme Court upheld the right of a company to terminate its operations. The United Food and Commercial Workers Union had alleged that a store in Jonquiere, Quebec, violated provincial labor laws and workers' constitutional rights by closing 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 adults and children were trafficked into the country for the purpose of forced labor in the agricultural sector, domestic servitude, and prostitution.

On December 9, Ontario passed a law to protect foreign caregivers in the province from abuse by recruiters and employers. The law prohibits employers from confiscating a worker's personal documents such as a passport or work permit and prohibits recruiters from charging fees to live-in caregivers.

### 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 restrict the number of hours of work, and 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

The federal government sets minimum wage rates for federally regulated employees covered by the Canada Labour Code, and provincial and territorial governments through their respective employment standards laws, and enforced them effectively. Some provinces have minimum wage boards that represent the interests of employers and employees, and may recommend nonbinding changes to rates. Four provinces have legislation requiring an annual or biennial review of the minimum wage, but no governments have a legislated obligation to increase or otherwise modify rates. Minimum wage rates ranged from Cdn\$8.00 to Cdn\$10.00 (\$7.60 to \$9.50). Some provinces exempt agricultural and other specific categories of workers from minimum wage rates, and 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 (LICOs), below which individuals and families spend significantly more on food, shelter, and necessities than the average. During the year the national LICO for a family of four with a before-tax income of less than Cdn\$40,259 (\$38,300) 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, and conducted inspections proactively through scheduled visits, reactively in response to complaints, and at random. Enforcement measures included a graduated response, with a preference for resolution via voluntary compliance, negotiation, and education, and prosecution as a last resort. Some trade unions argued that resources limited capacity effectively to conduct proactive inspection and enforcement. 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.