



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [International Religious Freedom](#) » [July-December, 2010 International Religious Freedom Report](#) » [Western Hemisphere](#) » [Canada](#)

## Canada

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### **July-December, 2010 International Religious Freedom Report**

Report

**September 13, 2011**

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The government generally respected religious freedom in law and in practice. There was no change in the status of respect for religious freedom by the government during the reporting period.

There were some reports of societal abuses or discrimination based on religious affiliation, belief, or practice; however, prominent societal leaders took positive steps to promote religious freedom.

The U.S. government discusses religious freedom with government officials at the federal, provincial, and municipal levels as part of its overall policy to promote human rights.

#### Section I. Religious Demography

The country has an area of 3,855,101 square miles and a population of 34.1 million. According to the most recent census with questions about religious affiliation (2001), approximately 77.1 percent of the population is Christian. Roman Catholics (44 percent of the population) constitute the largest group, followed by Protestant denominations (29 percent). The United Church, Anglican, Presbyterian, Lutheran, Baptist, and Pentecostal churches are the largest Protestant groups. The Muslim population stands at 2 percent, and approximately 1.1 percent of the population is Jewish.

Other religious groups include Buddhists, Hindus, and Sikhs, each with an estimated 1 percent of the population. Several other religions, such as Scientology, the Bahai Faith, Shintoism, and Taoism, each account for less than 1 percent. According to the 2001 census, 0.1 percent of the population identifies itself as followers of "aboriginal spirituality." Approximately 16 percent of the population claims no religious affiliation.

Approximately two-thirds of the population growth is due to immigration. Most recent immigrants were born in Asia and generally practice religious beliefs different from the majority of native-born citizens. According to the 2006 census, "visible minorities" constitute 16.2 percent of the overall population. Ninety-six percent of these minorities live in urban areas, with the metropolitan areas of Toronto, Montreal, and Vancouver accounting for more than two-thirds of the national total of "visible minority" residents.

## Section II. Status of Government Respect for Religious Freedom

### Legal/Policy Framework

Please refer to Appendix C in the *Country Reports on Human Rights Practices* for the status of the government's acceptance of international legal standards <http://www.state.gov/g/drl/rls/hrrpt/2010/appendices/index.htm>.

The constitution, specifically the Charter of Rights and Freedoms (1982), and other laws and policies protect religious freedom, and, in practice, the government generally enforced these protections. Citizens have the right to sue the government for constitutional violations of religious freedom.

Religious groups are not required to register with the government. The government grants tax-exempt status to religious institutions through the Charities Directorate of the tax authority, the Canada Revenue Agency. This status provides religious institutions with federal and provincial sales tax reductions, rebates, and exemptions; it requires them to be nonpolitical, send overseas donations only to approved recipients, and undergo periodic audits. Through this same government-approved charitable status, clergy receive various federal benefits, including a clergy housing deduction under the tax code and expedited processing through the immigration system. Individual citizens who donate to religious, tax-exempt institutions receive a federal tax receipt entitling them to federal income tax deductions.

In March 2010 the Quebec provincial assembly introduced legislation that established guidelines for granting requests for accommodation, including on religious grounds, when providing or accessing provincial government services. The proposed legislation requires those providing and receiving services to show their faces to facilitate security, communication, and identification, and would effectively deny services to women wearing the niqab (face-covering) and burqa (full-length body and head veil) if they refused to remove such face coverings. The government asserted that the bill, which explicitly reaffirms provisions in Quebec's human rights charter of gender equality and the religious neutrality of the state, fully complies with the Quebec Charter of Rights and Freedoms and the constitutional protection for religious freedom in the federal Charter of Rights and Freedoms. The bill remained in progress in the provincial assembly at the end of the reporting period.

There was no official government council for interfaith dialogue; however, the government provided funding for individual projects. In March 2009, citing a "zero tolerance approach toward anti-Semitism," the federal government launched a review of its public service grants to remove government support for groups that advocated hatred or expressed support for terrorism. The review was ongoing at the end of the reporting period.

The constitution protects the rights and privileges possessed by religious minorities in their public, but denominational, schools at the time of national union in 1867. In practice this protection means that some provinces (such as Ontario) fund Catholic school education under the category of public, not private, education. The law permits parents to home school their children and to enroll them in private schools for religious reasons. Education falls under the purview of the provinces, not the federal government. Six of the 10 provinces provided at least partial funding to some religious schools.

Ontario is the only province that funded Catholic religious education while providing no funding for other religious schools. The issue of extending public funding to non-Catholic religious schools in the province has been the subject of domestic litigation since 1978.

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The government observes the following religious holidays as national holidays: Good Friday, Easter Monday, and Christmas Day.

#### Restrictions on Religious Freedom

The government generally respected religious freedom in law and in practice. There was no change in the status of respect for religious freedom by the government during the reporting period.

Civil liberty organizations, the media, and some members of parliament criticized federal and provincial human rights commissions and tribunals for their application of hate speech restrictions included in federal and provincial human rights acts, claiming that the commissions and tribunals at times limited free speech, free expression, and religious rights. The commissions are required by law to process all complaints they receive.

In October the Ontario Court of Appeal ruled unanimously that judges must weigh the religious freedom of participants to wear religious face coverings while testifying in court with the right of accused persons to a fair trial. The court set out a list of considerations that judges should take into account in arriving at a full and "sensitive" case-by-case reconciliation of the competing interests, including whether the witness's desire to wear the face covering was motivated by religious belief and whether that belief was sincerely held. However, it found that if a judge concluded that the wearing of a religious face covering impaired cross-examination of a witness, the right of the accused to a fair trial had priority and the court should order the veil removed. A Muslim female complainant had appealed to the court to set aside the order of a judge at a 2008 preliminary hearing in a sexual assault case to remove her religious face covering while testifying so that defense counsel could assess her demeanor and facial expressions. The appeal court referred the case back to a lower court with instructions to assess the complainant's religious concerns and to strive for "constructive compromise" where possible.

An appeal by a Saskatchewan marriage commissioner of a 2009 court ruling upholding a fine imposed by the provincial human rights commission in 2008 for refusing to conduct a same-sex ceremony contrary to his religious beliefs remained pending at the end of the reporting period.

In a related but separate court case, there were no developments in a Saskatchewan Court of Appeal case on proposed provincial legislation that would allow marriage commissioners to refuse to conduct same-sex ceremonies that are contrary to their religious beliefs. The Saskatchewan provincial government asked the court to rule on the constitutionality of two versions of its proposed law: one would exempt all marriage commissioners in the province from conducting same-sex ceremonies against their conscience, and the other would exempt only those who were commissioners when the country enacted same-sex marriage legislation in 2004.

In July the Federal Court dismissed an application by a homosexual rights activist for judicial review of a 2008 decision of the Canadian Human Rights Commission to reject his complaint against *Catholic Insight* magazine for allegedly promoting hatred of homosexuals. The Court closed the case after the applicant failed to comply with its order to file submissions showing cause for a review.

An appeal of a December 2009 Alberta provincial court decision that had overturned a 2008 order by the Alberta Human Rights and Citizenship Commission that sanctioned and fined Reverend Stephen Boissoin for violating the province's human rights code in a letter critical of homosexual conduct remained pending at the end of the reporting period.

There were no developments during the reporting period in the Quebec provincial government's appeal of a June Quebec Superior Court decision granting a private Catholic school in Montreal an exemption from a mandatory ethics and religions course in the provincial education curriculum that provided an overview of world religions from a secular perspective. The court permitted the school to teach the course from a religious perspective and criticized the province's insistence on a neutral approach to the material as "totalitarian."

In a separate case, in October the Supreme Court agreed to hear an appeal by a group of Quebec parents of a September 2009 Quebec Superior Court ruling that denied an exemption for their children from the same course. The parents, whose children were enrolled in the public school system, alleged that the course contravened their charter right to freedom of religion and conscience, as well as their choice of education for their children. The appeal remained pending at the end of the reporting period.

In November the British Columbia Supreme Court began hearing submissions on the constitutionality of section 293 of the federal criminal code prohibiting polygamy, after the British Columbia provincial government's request in October 2009 to the court for a legal opinion on the subject. The province had also asked the court to opine whether polygamous relationships must involve a minor or abuse before authorities can lay charges of polygamy. The provincial government took this reference option rather than appeal a September 2009 decision by the same court that had rejected polygamy charges on procedural grounds against leaders of the Bountiful, British Columbia Fundamentalist Church of Jesus Christ of Latter-day Saints. The province had previously declined to prosecute on the basis that the law might not withstand a challenge under the charter's protection of religious freedom. The hearings continued at the end of the reporting period.

There were no reports of abuses, including religious prisoners or detainees, in the country.

### Section III. Status of Societal Actions Affecting Enjoyment of Religious Freedom

There were some reports of societal abuses or discrimination based on religious affiliation, belief, or practice; however, prominent societal leaders took positive steps to promote religious freedom.

In November the Inter-parliamentary Coalition for Combating Anti-Semitism, and Citizenship and Immigration Canada hosted the Ottawa Conference on Combating Anti-Semitism, a gathering of parliamentarians with an interest in fighting anti-Semitism, racism, and all forms of intolerance.

In November York University sent a letter to a Toronto rabbi threatening legal action if the rabbi did not cease making allegedly defamatory remarks about the York University president's alleged "tolerance" of anti-Semitism on campus. The incident arose out of a speech on campus by George Galloway, a former member of the United Kingdom's Parliament.

In July the Ontario Provincial Police charged a former York University student with two counts of promoting genocide and three counts of promoting hate after the student posted anti-Semitic remarks and called for genocide against Jews on Web sites. In March York University suspended and then dismissed the student from the university. Media reports stated that the former student left the country.

In August the police in Gatineau, Quebec closed their investigation without taking further action regarding an incident in April when a group of individuals allegedly struck a man on the head, yelled anti-Semitic slurs, and chased after the man and his Jewish companion with a machete.

### Section IV. U.S. Government Policy

The U.S. government discusses religious freedom with government officials at the federal, provincial, and municipal levels as part of its overall policy to promote human rights. U.S. government representatives coordinated outreach activities to engage representatives of various religious communities.

[Back to Top](#)