

## FREEDOM OF THE PRESS

# Canada

[Canada](#) | [Freedom of the Press 2012](#) | 

Canada's 1982 constitution guarantees freedom of expression and freedom of the press. The government may legally restrict free speech with the aim of ending discrimination, ensuring social harmony, or promoting gender equality, but hate speech is punishable by law and its definition remains vague. In November 2010, the Supreme Court began hearing the case *Saskatchewan Human Rights Commission v. William Whatcott*, in which Christian activist William Whatcott's flyers and messages against same-sex relations were found to be in violation of the Saskatchewan Human Rights Code by the local human rights tribunal. In October 2011, Whatcott's lawyer argued that defining "hate" is extremely difficult. The Supreme Court continued to review this issue, and the case was ongoing at year's end. In previous cases, the Supreme Court has ruled that inciting hatred is a criminal offense, but the threshold of guilt for such an act is high: it must be proven that the person engaged in hate speech willfully and publicly.

In 2009, the Supreme Court attempted to strike a balance between freedom of expression and protection of reputation, creating greater protection for journalists against libel lawsuits by allowing them to evade liability if they are able to show that they acted responsibly in reporting a matter of public interest, even if the statements were untrue. Despite this law, in April 2011 a criminal libel complaint was filed against three Canadian Broadcasting Corporation (CBC) journalists because of a so-called international conspiracy against fashion mogul Peter Nygard. If guilty, the journalists could face prison sentences; the case had yet to be resolved at year's end.

Legislation requiring journalists to reveal their sources in criminal cases continued to be used in 2011, weakening media rights in an otherwise vibrant environment. In January, Elaine O'Connor, reporter at Vancouver's the *Province*, was ordered to identify a source by a British Columbia judge. O'Connor had reported on campaign overspending in October 2007, and the allegations were made by an unnamed source. She was ordered to tell the court the name and method of communication with the source. This is among a string of recent source confidentiality cases. In May 2010, the Canadian Supreme Court ordered the Toronto-based *National Post* to forfeit documents in a case concerning the constitutional right to protect confidential sources that could have potentially broad implications for journalists' freedoms. The court ruled that in this case, the public interest in the truth was greater than the need for protecting the identity of informants. In a separate case in October, journalist Daniel Leblanc won the right to protect his sources. The Supreme Court in this case said journalists should be able to protect confidential sources if they can demonstrate that it is in the public interest. This disparity between cases will continue to lead to confusion regarding the issue until a clearer distinction is articulated.

Despite the Access to Information Act (ATI) that passed in 1983, it remains challenging to obtain information from the federal government. There are typically long waits, and acquiring the information is hampered by the federal democracy as well as by the governing party. According to local group

## 2012 SCORES

### PRESS STATUS

# Free

### PRESS FREEDOM SCORE

# 19

### LEGAL ENVIRONMENT

# 5

### POLITICAL ENVIRONMENT

# 8

### ECONOMIC ENVIRONMENT

# 6

Canadian Journalists for Free Expression, 44 percent of requests made under the ATI exceeded the required 30-day limit. Further hindering the public's right to know, in January 2011 the Canadian Supreme Court ruled that media outlets will not be allowed to film or record outside the courtroom. They also ruled that media outlets will not be allowed to broadcast audio recordings of court proceedings. Because of the 2004 ruling that limited the media from reporting by electronic means from court, this ruling further hinders the ability of the media to report the occurrences in court.

Journalists in Canada are generally free from violence or harassment, and there were no cases reported in 2011. However, in 2010 there were issues concerning the treatment of journalists surrounding the Winter Olympics in Vancouver as well as the G-20 summit in Toronto.

Both print and broadcast media, including the public broadcaster CBC, are free to express diverse views. The CBC broadcasts in French and English. Broadcasting rules stipulate that 30 to 35 percent of material must be Canadian. This is part of an effort to maintain Canada's national identity because of the proximity and influence of the United States. Concentration of media ownership remains an issue and is spreading to the broadcast sector. Bell Canada, the country's largest telecommunications company, spans its control across various sectors, including television broadcasting and content creation, radio broadcasting, wireless internet, and mobile phones.

Internet use is widespread and unrestricted in general, with 83 percent of the population accessing the internet in 2011. In a minor victory for press freedom, the Supreme Court ruled that simply providing a hyperlink to a defamatory story "does not make the author of the link a publisher of, or liable for, what is contained in the hyperlink." The court also recognized that the internet cannot convey information without links, and that hindering this would have a chilling result on access to information on the internet.

[About us](#)

[Careers](#)

[Contact Us](#)

[Privacy Policy](#)

[Credits](#)

[Subscribe](#)

Related websites:

[Democracy Web](#) | [Derecho a Voz](#) | [Family Law - Khaleej](#) |

[Peace in the Caucasus](#) | [Undermining Democracy](#) |

[Voice of Freedom](#)