

# CANADA 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Canada is a constitutional monarchy with a federal parliamentary government. In a May 2011 free and fair multiparty federal election, the Conservative Party, led by Stephen Harper, won a majority of seats in the federal parliament and formed a government. Security forces reported to civilian authorities, who maintained effective control over the forces.

There were no reports of widespread or systemic human rights abuses. The principal human rights problems included violence against women, alleged disparities in access to government services between indigenous and nonindigenous peoples, trafficking in persons, and harassment of persons belonging to religious and racial minorities.

The government took steps to prosecute and punish all government officials who committed abuses.

### **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 arbitrary or unlawful killings. Authorities investigated and publicly reported that all fatalities resulted from police action or in police custody.

On September 17, British Columbia opened the Independent Investigations Office, an independent police watchdog created in response to two high-profile deaths in 1998 and 2007 involving police officials.

#### **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. Authorities investigated isolated reports of degrading treatment by law enforcement officials.

## **Prison and Detention Center Conditions**

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

Physical Conditions: According to the government statistical agency's most recent figures, in 2010 there were approximately 39,000 inmates, pretrial detainees, and remand prisoners, including approximately 1,900 juvenile and 2,000 female prisoners. The official prison capacity was 38,604.

In its 2010-11 report, the Office of the Correctional Investigator noted that 532 offenders died in federal custody between 1998 and 2008. Of these fatalities, 107 were suicides, 36 were homicides, and the remainder were attributed to a range of known causes, including natural death and accident. Prisoners and detainees had access to potable water.

Administration: Recordkeeping on prisoners was adequate, and authorities used alternatives to sentencing for nonviolent offenders. There is a prison ombudsman. Prisoners and detainees had reasonable access to visitors, were permitted religious observance, and could submit complaints to judicial authorities without censorship. Authorities investigated credible allegations of inhumane behavior and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

Monitoring: The government permitted monitoring in accordance with their standard modalities by independent nongovernmental 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**

National, provincial, and municipal police forces maintain internal security. The armed forces are responsible for external security but in exceptional cases may exercise some domestic security responsibility at the formal request of civilian provincial authorities. Civilian authorities maintained effective control over the Royal Canadian Mounted Police and provincial and municipal police forces, and

the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports during the year of impunity involving the security forces.

### **Arrest Procedures and Treatment While in Detention**

Authorities generally apprehended persons openly with warrants. A judge can issue a warrant after being satisfied that a criminal offense might 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 or, if indigent, to one provided by the state; and granted prompt access to family members. Bail generally was available. Suspects were not detained incommunicado or held under house arrest. 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. Persons subject to continued detention had the right to judicial review of their status at regular intervals.

In May the Office of the Independent Police Review Director released a report by an independent review board critical of police force practices such as illegal detention and excessive force used in dealing with demonstrations during the 2010 G-20 Summit meeting in Toronto, in connection with which authorities charged two officers with assault.

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 "reasonableness" and upholds or revokes the certificate. A judge may order an individual detained during the security-certificate determination process if the government considers that the individual presents a danger to national security or is unlikely to appear at the proceeding for removal, and may impose conditions on release into the community, including 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 behalf of these individuals but may not share or discuss the material with them. The law establishes strict rules on the 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.

#### **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. 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, a right to be informed promptly and in detail of the charges against them, a right to a fair and public trial without undue delay, a right to access government-held evidence, a right not to be compelled to testify or confess guilt, and 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 a suit seeking damages for, or cessation of, a human rights violation. Remedies can be monetary, declaratory, or injunctive. Federal or provincial human rights commissions may also hear alleged human rights violations.

#### **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 constitution and law provide for freedom of speech and 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 press.

Freedom of Speech: 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.

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. The CHRC investigates complaints about hate messages on Web sites and may forward cases to the CHRT for action. Approximately 95 percent of households can access broadband services. According to the World Bank, 81 percent of the population used the Internet in 2010.

### **Academic Freedom and Cultural Events**

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

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

### **Freedom of Assembly**

The law provides for freedom of assembly, and the government generally respected this right in practice. On May 18, the Government of Quebec passed a temporary law restricting the right of persons to protest by blocking access to educational institutions and requiring that protesters provide advance notice to police of the date, time, duration, route, and means of transportation of protests. The government argued that the law was required to maintain peace, order, and public security following incidents of property damage and intimidation during student street protests against government policies. After a provincial election in September, the incoming government repealed the law.

### **Freedom of Association**

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

## **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

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

The constitution and law provide for freedom of internal movement, 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 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.

### **Protection of Refugees**

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government offered alternatives to refugee claimants whose cases the Immigration and Refugee Board (IRB) refused. The option for judicial review through the federal courts exists. Two other remedies of last resort are available through the Department of Citizenship and Immigration, including a "preremoval risk assessment" as well as an appeal to the minister of citizenship and immigration for a waiver based on humanitarian and compassionate grounds.

Legislation passed in June and implemented in December authorizes the citizenship and immigration minister to identify designated countries of origin (DCO) for the purpose of expedited asylum processing and to deter unfounded claims. Criteria for DCOs include countries that do not normally produce refugees but respect human rights and offer state protection, or whose nationals have a high rate of rejection by the IRB, and of abandoning and withdrawing asylum claims in Canada. Claimants from DCOs and persons whom the IRB ruled have manifestly unfounded claims or claims with no credible basis have restricted access to appeal and other remedies of last resort. Claimants who arrive in Canada in a manner designated by the minister as a mass or irregular arrival (in cases of suspected human smuggling) may be subject to detention (subject to review at legislated intervals) pending verification of their identity and admissibility, and they face restrictions on access to appeal and remedies of last resort if the IRB refuses their claims.

Durable Solutions: The government accepted refugees for resettlement from third countries and facilitated local integration (including naturalization), particularly of refugees in protracted situations. The government assisted the safe, voluntary return of refugees to their homes.

Temporary Protection: The government also provided temporary protection to individuals who may not qualify as refugees.

### **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**

Recent Elections: In May 2011 the Conservative Party won a majority of seats in the federal parliament and formed a national majority government.

Participation of Women and Minorities: There were 77 women and seven indigenous individuals in the 308-member federal House of Commons; 42 members were born outside the country. There were 37 women and five indigenous persons in the 105-seat Senate (whose members are appointed by the governor general on the advice of the prime minister); 13 members were born outside the country. Women held nine seats in the 38-member cabinet. Three of the nine members of the Supreme Court, including the chief justice, were women.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption, and the government generally implemented 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. A commissioner of lobbying administers a national registry of lobbying of designated public office holders.

A conflict of interest and ethics commissioner administers the conflict of interest code for members of the House of Commons, as well as the law relating to public office holders. Provincial governments provide independent audits of government business and ombudsman services. Elected office holders (but not other public officials) are subject to financial disclosure laws for personal assets. These declarations as well as an annual report are made available to the public through regular reports from the Office of the Conflict of Interest and Ethics Commissioner.

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 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 published expense information on individual ministerial Web sites and a centralized Web site.

On May 12, the Quebec government commissioned a public inquiry led by Justice France Charbonneau of the Quebec Superior Court to investigate allegations of corruption, collusion, and the involvement of organized crime in the awarding of construction contracts for public infrastructure projects and alleged connections to political donations to Quebec political parties and politicians. The investigation continued at year's end.

### **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.

Government Human Rights Bodies: 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.

### **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution and law prohibit discrimination based on race, gender, disability, language, sexual orientation, and social status, and the government enforced these laws effectively.

#### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, as sexual assault, and the government enforced the law effectively. Penalties for sexual assault carry sentences of up to 10 years in prison, up to 14 years for sexual assault with a restricted or prohibited firearm, and between four years and life for aggravated sexual assault with a firearm or committed for the benefit of, at the direction of, or in association with, a criminal organization. According to the government's statistical agency, in 2011 the police received more than 21,280 reports of sexual assault, sexual assault with a weapon causing bodily harm, and aggravated sexual assault (down from more than 22,000 incidents in 2010). Most

victims were women. Government studies indicated that victims of sexual assault reported approximately one in 10 incidents to police.

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 receive up to five years in prison. Assaults involving weapons, threats, or injuries carry terms of up to 10 years. Aggravated assault or endangerment of life carry prison sentences of up to 14 years. The government enforced the law effectively. Studies indicated that victims of domestic violence and spousal abuse underreported incidents.

On December 5, the Ontario Court of Appeal upheld a sentence of criminal harassment against a man who stalked and threatened a woman but did not physically assault her. The court found that stalking and verbal harassment could have as severe consequences to a woman as a physical attack.

The federal statistical agency reported there were approximately 593 shelters for abused women. These shelters provided emergency care, transition housing, counseling, and referrals to legal and social service agencies. Some shelters were located on Aboriginal reserves and served an exclusively Aboriginal population. Shelters in rural and remote areas generally offered a narrower range of services than urban facilities and a greater proportion focused on short-stay crisis intervention. Anecdotal reports indicated a shortage of shelter spaces, trained staff, counseling, and access to affordable second-stage housing in rural communities, all of which impeded women from leaving abusive relationships.

Police received training in treating domestic violence, and agencies provided abuse hotlines. The government's family violence initiative involved 12 departments, agencies, and crown corporations, including Status of Women Canada, a cabinet ministry. These entities worked to eliminate systemic violence against women and advance women's human rights. Provincial and municipal governments also sought to address violence against women, often in partnership with civil society, including funding public education programs, hotlines, and shelters.

On November 14, the federal government announced grants of almost C\$4.0 million (\$4.0 million) to 21 organizations for projects to address violence against women on university and college campuses.

Harmful Traditional Practices: The criminal code does not refer to honor killings but prosecutes such cases as murder. Murder convictions in the first or second degree carry minimum penalties of life imprisonment with eligibility for parole. The government enforced the law effectively. The government's citizenship guide for new immigrants explicitly states that honor killings and gender-based violence carry severe legal penalties. The government trains law-enforcement officials on issues of honor-based violence and maintains an interdepartmental working group of officials that focuses on forced marriage and honor-based violence.

On January 6, police in British Columbia arrested a mother and uncle of a female family member on charges of ordering the alleged honor killing of the woman and her husband in India in 2000. Authorities held the accused in custody pending the outcome of an extradition hearing.

On January 30, an Ontario court convicted parents Mohammad Shafia and Tooba Mohammad Yahya, and their son Hamed Shafia, of four counts each of first-degree murder in the 2009 drowning deaths of the couple's three daughters and Mohammad Shafia's first wife. The court characterized the murders as honor killings. The convictions carried automatic life sentences with no eligibility for parole for 25 years.

On March 6, the government contributed C\$348,150 (\$348,500) to a project run by the nongovernmental organization (NGO) Shield of Athena Family Services of Montreal, Quebec, to address violence against women and girls committed in the name of honor.

Sexual Harassment: 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.

Reproductive Rights: Couples and individuals enjoyed the right to decide freely and responsibly the number, spacing, and timing of children without government interference. Couples are entitled to have the information and means to do so free from discrimination, coercion, and violence. The publicly funded medical system provided access to contraceptive services and information, prenatal care, skilled attendance during childbirth, and essential obstetric care and postpartum care. Women had equal access with men to diagnosis and treatment for sexually transmitted infections.

Discrimination: Women have marriage and property rights and enjoy the same legal status and rights in the judicial system as men. They were well represented in the labor force, including business and the professions. Women did not experience systemic economic discrimination in the terms of employment, credit, or pay equity for substantially similar work, or in owning or managing businesses, education, and housing. Some equality and labor groups reported that women were underrepresented in executive positions in the private sector. The federal statistical agency reported that hourly wages for women were, on average, lower than for men but that the wage gap had narrowed over the past two decades.

Status of Women Canada promoted the legal rights of women. Employment equity laws and regulations cover federal employees in all but the security and defense services. However, Aboriginal women living on reserves (where land is held communally) lack matrimonial property rights. Aboriginal women and men living on reserves are subject to the Indian Act, which defines Indian status for the purposes of determining entitlement to a range of legislated rights and eligibility for federal programs and services. Aboriginal women do not enjoy full equality rights with Aboriginal men to transmit officially recognized Indian status to their descendants.

According to the government statistical agency, Aboriginal women were three times more likely than non-Aboriginal women to experience violent abuse and were overrepresented among victims of homicide. As of 2010, at least 582 cases of murdered and missing Aboriginal women remained unresolved nationwide. The Royal Canadian Mounted Police created the National Centre for Missing Persons and Unidentified Remains to support law enforcement investigations and established projects with some municipal police forces to review outstanding files of missing women, including Aboriginal women.

On July 3, the government agreed to pay nurses working for the Canada Pension Plan an estimated C\$169 million (\$169.1 million) to settle a pay-equity suit dating to the 1970s after the Canadian Human Rights Tribunal ruled in their favor in 2011.

On December 17, the report of a British Columbia public inquiry into missing women in the province acknowledged that Vancouver police exhibited “systemic bias” in their investigations of cases of poor, and mostly Aboriginal, missing and murdered women and girls in Vancouver between 1997 and 2002. The province

called the inquiry to examine why it took police years to identify serial killer Robert Pickton who preyed on sex workers in Vancouver.

## **Children**

Birth Registration: Citizenship is derived both by birth within the country's territory and from one's parents. Births are registered immediately, and there were no reports of the government's denying public services, such as education or health care, to those who failed to register.

Child Abuse: In 2009 the federal statistical agency recorded that almost 55,000 children and youth were victims of police-reported violent crime, including approximately 41,000 assaults and 14,000 sexual assaults. Studies indicated that family members or individuals known to the victim represented a vast majority of the offenders. Most victims were girls, especially in sexual assault cases.

Child Marriage: The legal minimum age of marriage varies by province or territory. The legal minimum age of marriage in Quebec is 16 years, but individuals under age 18 require the written consent of their parents or a guardian to marry. Other provinces set the legal minimum age of marriage at either 18 or 19 years. Minors age 16, but below the legal minimum age of marriage in their province or territory of residence, may marry with the written consent of a parent or guardian, or judicial consent. Some provinces permit minor females under age 16 to marry with judicial consent if they provide written evidence from a licensed physician that they are the mother of a living child or are pregnant. Minor males under age 16 may not legally marry. The rate of marriage for individuals under age 18 was unavailable, but early marriages were not a problem.

Sexual Exploitation of Children: The minimum age of consensual sex is 16 years. Persons convicted of living off the proceeds of prostitution of 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 engaging 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 law prohibits accessing, producing, distributing, and possessing child pornography. Maximum penalties range from 18 months' imprisonment for summary offenses to 10 years' imprisonment for indictable offenses.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html) as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

## **Anti-Semitism**

Approximately 1 percent of the population is Jewish.

The B'nai Brith Canada League for Human Rights received 1,297 reports of anti-Semitic incidents in 2011, down 1 percent from 2010. More than half of such reports came from the province of Ontario. The reports included 916 cases of harassment, 362 cases of vandalism, and 19 cases of violence. There were 47 cases involving attacks on synagogues, 146 involving private homes, and 46 involving community centers. Jewish students reported 113 cases of anti-Semitic incidents on university campuses, compared with 86 in 2010; another 89 involved primary and secondary school settings, compared with 84 in 2010. B'nai Brith also received 528 reports of Web-based hate activity, compared with 564 in 2010.

Examples of anti-Semitism included desecration of graves in a Jewish cemetery in Victoria, British Columbia; vandalism of Jewish-owned cottages in Quebec; and anti-Semitic posters targeting Winnipeg's Jewish mayor.

In November York Regional Police declined to press criminal charges of promoting hatred against a Toronto madrassah whose online teaching materials disparaged Jews and referred to "Jewish plots and treacheries." A police investigation concluded that the curriculum "suggested intolerance" but found no conclusive proof that the texts qualified as hate propaganda under the law. The madrassah apologized to the Jewish community and removed the material from its Web site.

Also in November Montreal radio station 98.5 FM suspended one of its late-night radio talk-show hosts for one month without pay and ordered the employee to issue a written apology for appearing to tolerate on-air comments from a caller who praised the Holocaust and uttered anti-Semitic remarks, and for failing to terminate the call. The employee apologized to the Jewish community.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services, and the government effectively enforced these prohibitions. Although the government effectively implemented existing laws and programs mandating access to buildings, information, and communications for persons with disabilities, the absence of uniform standards across the country created disparities in standards of access between provinces. Children with disabilities attend primary, secondary, and higher education, and the majority attend classes with nondisabled peers or a combination of nondisabled and special education classes with parental consent. However, disparities in educational access for students with disabilities existed between provinces.

Facilities existed to provide support for those with mental health disabilities, but mental health advocates asserted that the prison system was not sufficiently equipped or staffed to provide the care necessary for those in the criminal justice system, resulting in cases of segregation and self-harm.

## **National/Racial/Ethnic Minorities**

According to the federal statistical agency, 1,401 incidents of hate crimes were reported to police in 2010 (a decrease of 18 percent from 2009), of which 34 percent were motivated by race or ethnic bias. Blacks constituted the most commonly targeted racial group, accounting for 271 incidents or 40 percent of the total (of which 34 percent involved violence), followed by West Asians with 75 incidents (11 percent), and South Asians with 67 incidents (10 percent). Almost half of the hate crime incidents reported against Arabs, West Asians, and South Asians involved violence. Police reported 17 racially motivated crimes against Aboriginals, of which 63 percent involved violence.

## **Indigenous People**

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 police harassment were sources of tension. Indigenous people remained underrepresented in the workforce; overrepresented on welfare rolls and in prison populations; and more susceptible to suicide, poverty, chronic health conditions, and sexual violence 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 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, depended on negotiation and/or legal challenges. Since 1973 the federal government has concluded and implemented 24 comprehensive land claims and two stand-alone self-government agreements with indigenous people. As of September, the government reported that negotiations for 93 self-government and comprehensive land claims were active. As of March 31, approximately 384 new or unresolved specific claims or grievances filed by indigenous people regarding the implementation of existing treaties remained under assessment or in negotiation (not including claims in litigation or before the Specific Claims Tribunal), according to government reports. Indigenous groups that cannot settle specific claims through negotiation within a three-year period may refer the claim to the Specific Claims Tribunal (a judicial panel) for a decision or to the courts.

On September 4, the government announced that it would consult Aboriginal organizations and groups, as well as provincial and territorial governments, on ways to expedite treaty and self-government negotiations.

The law imposes statutory, contractual, and common-law obligations to consult with Aboriginal peoples in the development and exploitation of natural resources on land covered by treaty or subject to land claims. The Supreme Court has ruled that the federal government has the constitutional duty to consult and, where appropriate, accommodate indigenous peoples when the government contemplates actions that may adversely affect potential or established Aboriginal and treaty rights.

On June 18, the CHRC reported that Aboriginal people had filed more than 300 complaints against the government and First Nations governments under the Canadian Human Rights Act since the government extended the act to Aboriginal people living on reserves in 2008. Complaints against the government alleged that inequities in funding between social services provided on and off reserves constituted discrimination against Aboriginal populations on reserves. The government argues that funding of services on reserves falls outside the jurisdiction of the act.

On September 25, the Canadian Human Rights Tribunal opened hearings into a complaint by Aboriginal and child welfare groups that the federal government discriminates against Aboriginal children by underfunding child welfare services on reserves. The complainants alleged that children living on reserves received 22 percent less funding for these services than children who live off reserves.

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

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. Manitoba and the Northwest Territories prohibit discrimination on the basis of gender identity, and Ontario and Nova Scotia prohibit discrimination on the basis of gender identity and gender expression. Lesbian, gay, bisexual, and transgender organizations operated independently and without restriction. There was no official discrimination based on sexual orientation in employment and occupation, housing, statelessness, or access to education or health care.

There were occasions of violence and abuse against individuals based on sexual orientation, but the government generally implemented the law criminalizing such behavior effectively.

### **Other Societal Violence or Discrimination**

There were no known reports of societal violence or discrimination against persons with HIV/AIDS. 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. Freedom of Association and the Right to Collective Bargaining**

Federal and provincial laws, including related regulations and statutory instruments, protect the right of workers (except armed forces and police) in both the public and the private sectors to form and join independent unions, conduct legal strikes, and bargain collectively. Workers in the public sector who provide essential services, including police and armed forces, do not have the right to strike but have mechanisms to ensure due process and protect workers' rights. Workers in essential services had recourse to binding arbitration if labor negotiations failed. The law prohibits antiunion discrimination and provides for reinstatement for workers fired for union activity.

Federal labor law applies in federally regulated sectors, which include industries of extra-provincial or international character, transportation and transportation infrastructure that crosses provincial and international borders, marine shipping, port and ferry services, air transportation and airports, pipelines, telecommunications, banks, grain elevators, uranium mining and processing, works designated by parliament that affect two or more provinces, protection of fisheries as a natural resource, many First Nation activities, and most crown corporations. These industries employed approximately 10 percent of workers. Provincial and territorial governments regulate and are responsible for enforcing their own labor laws in all occupations and workplaces not federally regulated. The International Labor Organization noted its concern that wide categories of workers are excluded from statutory protection of freedom of association in several provinces, as well as concern with some provinces' restrictions on the right to strike. For instance, agricultural workers in Alberta, Ontario, and New Brunswick do not have the right to organize or bargain collectively under provincial law.

The government effectively enforced applicable laws in a timely fashion, including with effective remedies and penalties, and respected freedom of association and the right of collective bargaining in practice. Worker organizations were independent of the government and political parties. Workers exercised the right to strike in practice.

Labor unions raised concerns that federal or provincial governments' actions in several cases constituted interference with collective bargaining rights.

On March 8, the government referred separate Air Canada labor disputes with its pilots and ground workers to the Canada Industrial Relations Board, blocking an imminent strike by ground workers and suspending a company notice to lock out pilots. On March 15, the government preemptively passed Bill C-33, An Act to Provide for the Continuation and Resumption of Air Service Operations, prohibiting a strike by pilots and mandating continuation of air services pending a new collective agreement or settlement by arbitration. The legislation became law after Air Canada, the Air Canada Pilots' Association, and the International Association of Machinists and Aerospace Workers failed to reach a negotiated settlement on a new collective bargaining agreement.

On May 31, the government passed Bill C-39, Restoring Rail Service Act, which included back-to-work legislation to end an eight-day strike by the Teamsters Canada Rail Conference against the Canadian Pacific Railway.

On September 11, the government of Ontario passed legislation that froze wages and cut benefits for Ontario elementary and secondary school teachers whose collective agreements had expired but whose unions had not yet reached new agreements with school boards. The law also suspended for two years the right of teachers to strike and school boards to lock out educators, and preempted automatic annual wage increments payable to junior teachers with less than 10 years of service per previously negotiated salary grids. The law requires school boards to negotiate new collective agreements within this fiscal framework. The government argued that the law was necessary to reduce the provincial deficit while preserving class sizes and full-time kindergarten. The law gave the province the right to impose collective agreements if unions and school boards failed to negotiate new contracts by December 31. Some teachers' unions filed legal challenges on the grounds that the law violated collective bargaining rights. The cases remained before the courts at year's end.

There were isolated reports of antiunion discrimination by employers, including an allegation that agricultural operators in British Columbia blacklisted migrant agricultural workers that sought to unionize.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, and the government effectively enforced the law. The government investigated and prosecuted cases of forced labor and domestic servitude, securing convictions of 12 members of a forced-labor trafficking ring on human trafficking and related charges in Hamilton,

Ontario, in the country's largest forced-labor prosecution. Federal and provincial governments informed workers of their legal rights.

The federal government held employers of foreign workers accountable by verifying employers' ability to pay wages and provide accommodation and through mandatory compliance reviews to ensure that employers provided substantially the same wages, living conditions, and occupation specified in the employers' original job offer. The government could deny noncompliant employers permits to recruit foreign workers for two years. Some provincial governments imposed licensing and registration requirements on recruiters or employers of foreign workers, and prohibited the charging of recruitment fees to workers.

There were reports that employers subjected noncitizen or foreign-born men and women to forced labor in the agricultural sector, food processing, cleaning services, hospitality, and construction industries; domestic servitude; and prostitution. NGOs reported that bonded labor and domestic servitude constituted the majority of cases of exploitation.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

There is no federal minimum age for employment. In federally regulated sectors, children under 17 may work only when not required to attend school under provincial legislation, the work does not fall under excluded categories (such as work underground in a mine, on a vessel, or in the vicinity of explosives), and the work does not endanger health and safety. Children may not work in any federally regulated sector between the hours of 11:00 p.m. and 6:00 a.m. The provinces and territories have primary responsibility for regulation of child labor, and minimum age restrictions vary by province. Regulation occurs across a range of laws and restrictions, including employment standards, occupational health and safety, education laws, and in regulations for vocational training, child welfare, and licensing of establishments for the sale of alcohol. Most provinces restricted the number of hours of work to two or three hours on a school day and eight hours on a nonschool day and prohibited children age 12 to 16 from working without parental consent, after 10:00 p.m. or 11:00 p.m., or in any hazardous employment.

Authorities effectively enforced child labor laws and policies, and federal and provincial labor ministries carried out child labor inspections either proactively or

in response to formal complaints. There were reports that limited resources hampered inspection and enforcement efforts. Penalties were pecuniary and varied according to the gravity of the offense. Under the federal labor code, maximum penalties for criminal offences, including criminal negligence causing death or bodily harm, or willful breach of labor standards in which the person in breach knew that serious injury or death was likely to occur, could include imprisonment.

There were reports that child labor occurred in practice, particularly in the agriculture sector.

#### **d. Acceptable Conditions of Work**

Provincial and territorial minimum wage rates exist and range from C\$9.40 to C\$11.00 (\$9.40 to \$11.00) per hour. Some provinces exempt agricultural, hospitality, and other specific categories of workers from minimum-wage rates. For example, Ontario has a minimum wage for youths under age 18 who work less than 28 hours per week when school is in session that is lower than the respective minimum for adult workers. The law requires equal pay for equal work.

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. Entitlement to paid annual leave varies by province, but the law requires a minimum of 10 days' paid annual leave per year (or payment of 4 percent of wages in lieu) after one year of continuous employment. Some provinces mandate an additional week of paid leave to employees who have completed a specified length of service. 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. Some categories of workers have specific employment rights that differ from the standard, including commercial fishermen, oil field workers, loggers, home caregivers, professionals, managers, and some sales staff.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees, including foreign and migrant workers. 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. The government also promoted safe working practices and provided training, education, and resources through the

Canadian Centre for Occupational Health and Safety, a federal agency composed of representatives of government, employers, and labor.

Authorities effectively enforced labor standards in all sectors. 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. Penalties were pecuniary and varied according to the gravity of the offense. Under the federal labor code, maximum penalties for criminal offences, including criminal negligence causing death or bodily harm, or willful breach of labor standards in which the person in breach knew that serious injury or death was likely to occur, could include imprisonment. Enforcement measures included a graduated response, with a preference for resolution via voluntary compliance, negotiation, and education; prosecution and fines served as a last resort. Some trade unions continued to note that limited resources hampered the government's inspection and enforcement efforts.

NGOs reported that migrants, new immigrants, young workers, and the unskilled were vulnerable to violations of the law on minimum wage, overtime pay, unpaid wages, and excessive hours of work, and they alleged that restrictions on the type of labor complaints accepted for investigation and delays in processing cases discouraged the filing of complaints in practice.

According to the Association of Workers Compensation Boards of Canada, during 2010, the most recent year for which data are available, there were 1,014 workplace fatalities. During the year there were some reports of workplace accidents. For instance, on November 8, two workers died and 19 were injured in an explosion and fire at a bio-health product factory in Sherbrooke, Quebec. Authorities opened an investigation into the cause of the blast.