

# CANADA 2013 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. Civilian authorities maintained effective control over the security forces, which did not commit human rights abuses.

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, and trafficking in persons.

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 all fatalities that resulted from police action or in police custody.

On August 19, authorities charged a Toronto police officer with second-degree murder in the fatal police shooting of Sammy Yatim on a Toronto streetcar on July 27. Toronto Police appointed a former federal Supreme Court judge to lead an independent internal review of use of force, including police tactics for dealing with emotionally troubled individuals, following Yatim's death. In addition the Ontario ombudsman opened a separate, independent investigation into the fatality. Ontario law authorizes the ombudsman to investigate any act committed by a governmental organization on receipt of a complaint from the public, or at his/her discretion.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices, and there were no reports that government officials employed them.

#### **Prison and Detention Center Conditions**

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

Physical Conditions: According to the government statistical agency's most recent figures, in 2010-11 there were approximately 39,500 inmates, pretrial detainees, and remand prisoners, including approximately 1,500 juvenile and 2,000 female prisoners. As of 2009, official prison capacity was 38,604.

The correctional investigator's office noted that 27 offenders died in federal custody in 2011-12. Of these fatalities, four were suicides, two were homicides, 18 were due to natural causes, and three to unspecified unnatural causes. Prisoners and detainees had access to potable water.

In June the Ontario ombudsman reported incidents of use of "excessive force" against inmates by correctional staff in Ontario prisons and detention centers in 25 of 55 cases investigated by his office between 2010 and January 2013. As a result of his investigation, authorities disciplined 108 staff, fired 31, charged four with criminal charges, and convicted one individual for assault.

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, could observe their religious practices, 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.

On March 7, the federal corrections investigator reported an "insufficient response" by the government to the overrepresentation of Aboriginal people in federal prisons. Aboriginal people constituted approximately 23 percent of the total federal inmate population and 30 percent of federally sentenced women, although Aboriginal people only constitute approximately 4.3 percent of the

general population. The number of federally incarcerated Aboriginal offenders increased approximately 43 percent from 2005 to 2011. The investigator reported Aboriginal offenders were less likely to receive parole than other inmates and more likely to serve their sentences in restricted conditions, such as segregated units. The report recommended greater use of alternative and culturally appropriate treatment, programming, and sentencing models.

In October the federal corrections investigator reported the prison system was “ill-equipped” to manage mentally ill offenders, particularly women with acute illness who self-injure, in a safe and appropriate manner. The investigator reported approximately 900 incidents of inmate self-harm in 2012-2013, with Aboriginal and female offenders accounting for a disproportionate number of incidents.

#### **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 (RCMP) 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 of the reason for the arrest; ensured prompt access to a lawyer of the detainees' choice or, if indigent, to one provided by the state. Bail generally was available. Suspects were not detained incommunicado or held under house arrest.

Pretrial Detention: Authorities released detainees 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.

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.

#### **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 of their choice 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 (with free interpretation as necessary), 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. The law extends these rights to all citizens.

### **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 to federal law, each province has its own human rights code.

On February 27, the Supreme Court upheld hate speech provisions in provincial human rights codes, but tightened the definition to distinguish between willful hate speech and offensive language.

Press Freedoms: The independent media were active and expressed a wide variety of views without restriction.

### **Internet Freedom**

There were no government restrictions on access to the internet or credible reports the government monitored e-mail or internet chat rooms without appropriate legal authority. The CHRC investigates complaints about hate messages on websites and may forward cases to the CHRT for action. In June the government amended the Canadian Human Rights Act to remove internet communication of hate messages as a discriminatory practice under the act and end the legal authority of the CHRC and CHRT to process these complaints. The amendment takes legal effect in 2014. The criminal code prohibits public incitement and willful promotion of hatred against an identifiable group in any medium. Approximately 95 percent of households can access broadband services. According to the World Bank, 83 percent of the population used the internet in 2011.

### **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**

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.

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 "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 law 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 78 women and six indigenous individuals in the 308-member federal House of Commons; 41 members were born outside the country. There were 38 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); 11 members were born outside the country. Women held 12 seats in the 39-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 corruption by officials, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year. At the federal level, the Federal Accountability Act provides for transparency and accountability in government. A commissioner for public sector integrity reviews and investigates disclosures of wrongdoing and reprisal complaints; the commissioner also makes

recommendations to chief executives for corrective measures and reports annually on corruption allegations. A commissioner of lobbying administers a national registry of lobbying of designated public office holders. The Quebec provincial government has a specialized anticorruption unit to coordinate and investigate allegations of corruption in the province's public sector. Agencies operated effectively and independently, actively collaborated with civil society, and received sufficient resources.

Corruption: A Quebec law passed in March by the Parti Quebecois government stipulates elected officials arrested for a crime and facing more than two years in prison must step down until the case is completed. The law also stipulates elected officials must cover their own legal fees.

On June 17, police charged the interim mayor of Montreal with 14 counts of fraud, breach of trust, and conspiracy in relation to real estate practices during his former tenure as mayor of a Montreal borough. His predecessor as mayor of Montreal resigned in December 2012 after allegations of corruption implicated city officials (the then mayor was not charged with an offense). Also in June, the provincial cabinet placed the city of Laval, Quebec, under trusteeship after police laid charges of corruption and collusion related to municipal business against the former mayor of Laval and 36 city officials.

The Senate ordered four senators to repay expenses related to housing and/or travel it alleged they had claimed improperly following independent audits, and referred three of the four cases to the RCMP for possible criminal investigation. The RCMP also opened a criminal investigation of possible breach of trust into a payment by the prime minister's former chief of staff to one of the three senators under review to pay his alleged improper expense claims. The RCMP separately opened an investigation of the fourth case. Authorities have not laid charges in any of the cases, and the individuals denied wrongdoing. In August the auditor general opened a comprehensive audit into the expenses and office budgets of each member of the upper chamber.

The Charbonneau Commission, a public inquiry ordered by the Quebec government in 2012, has a mandate to investigate allegations of corruption, collusion, and the involvement of organized crime in the awarding of contracts for public infrastructure projects. The commission has investigated alleged organized crime links to municipal and provincial political parties, held hearings, and expanded its investigations outside Montreal.

Whistleblower Protection: The law provides protection to the majority of federal public sector employees for making internal disclosures or lawful public disclosures of evidence of illegality. Nongovernmental organizations (NGOs) reported, however, that the law is not implemented effectively to protect whistleblowers from retaliation because it places too many conditions on them; is narrow in scope and overly complex; and lacks adequate provisions for open investigations, sanctions, and corrective measures. Several provinces have legislation to provide limited protection for whistleblowers in the provincial public service under specific conditions. The law does not provide protection to private employees, but individuals may seek redress through collective agreements, internal mechanisms, and civil remedies in the courts if they are victims of reprisal.

Financial Disclosure: Conflict of interest and ethics commissioners administer conflict of interest codes for members of the federal elected House of Commons and the appointed Senate, as well as the law relating to public office holders. Members of the legislative branch are not required to disclose financial holdings, but must recuse themselves from voting or conducting hearings on matters in which they have a pecuniary interest. By law public office holders, including elected members of the executive branch and their staff, and designated senior non-elected officials, must disclose information about their personal financial assets. These declarations, as well as an annual report, are made available to the public through regular reports from a commissioner for conflict of interest and ethics. The commissioner may impose an administrative monetary penalty for noncompliance, but the law does not provide for criminal sanctions. The declaration regime does not include assets and income of spouses and dependent children of public office holders. Provincial governments provide independent audits of government business and ombudsman services.

Public Access to Information: The law permits public access to government information, and 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, a reasonably short timeline to disclose or respond, reasonable processing fees, and a mechanism to appeal denials, including to the Federal Court. The law does not impose criminal or administrative sanctions for noncompliance. The government released quarterly information on the public expenditures of senior government officials and published expense information on individual ministerial websites and a centralized website.

## **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, social status, sexual orientation; provincial or territorial statutes in three provinces and one territory prohibit discrimination on the basis of gender identity. 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 2012 the police received approximately 21,900 reports of sexual assault, sexual assault with a weapon causing bodily harm, and aggravated sexual assault (up from 2011 figures). Most victims were women. Government studies indicated that victims of sexual assault reported approximately one in 10 incidents to police. Statistics on the number of abusers prosecuted, convicted, and punished are not published by the federal government.

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.

The federal statistical agency reported there were approximately 593 shelters providing services to 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. Reports indicated a shortage of shelter spaces, trained staff, counseling, and access to affordable second-stage housing, 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 (FVI) involved 15 federal departments, agencies, and crown corporations, including Status of Women Canada, Health Canada, and Justice Canada. 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.

The federal government awarded grants of almost Canadian dollars C\$4.0 million (\$4.0 million) to 21 organizations for projects to address violence against women on university and college campuses from November 2012 to November 2014.

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 focusing on forced marriage and honor-based violence.

On June 28, the government announced a C\$200,000 (\$200,000) grant over two years to a multicultural and immigrant services British Columbia NGO to work with men and boys to develop strategies to recognize, intervene, and prevent honor-based violence. In September, the government awarded C\$306,040 (\$306,040) to the Canadian Council of Muslim Women for a project to curtail domestic violence and honor crime.

In May the British Columbia Supreme Court held an extradition hearing on charges a mother and uncle of a female family member ordered the alleged honor killing of the woman and her husband in India in 2000. Authorities held the accused in custody pending the outcome of the hearing.

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. Federal and provincial labor standards law provide some protection against harassment, and federal, provincial, and territorial human rights commissions have responsibility for investigating and resolving harassment complaints. Employers, companies, unions, educational facilities, professional bodies, and other institutions have adopted internal policies against sexual harassment, and federal and provincial governments provide public education and advice.

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.

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 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, and provincial law requires equal pay for equal work in the public sector and, in some provinces, also in the private sector. Legislation passed in June extended matrimonial property rights to Aboriginal women living on reserves (where land is held communally). This law comes into effect in 2014. First Nations may choose to follow federal law or enact their own rules related to matrimonial real property rights and interests that respect their customs.

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. The federal government funded a project from 2005 to 2010 that documented at least 582 cases of murdered and missing Aboriginal women that remain unresolved nationwide. The RCMP 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.

In February the House of Commons created a special committee on violence against indigenous women to hold hearings into cases of murdered and missing Aboriginal women and girls and to propose solutions to address violence against indigenous women. In October the House instructed the committee to deliver a report and recommendations by February 14, 2014. Also in February, NGOs reported allegations of excessive use of force, and physical and sexual abuse of indigenous women and girls, by RCMP officers in northern British Columbia.

## **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 2011 the federal statistical agency recorded that 69,575 children and youth were victims of police-reported violent crime, including 36,629 assaults and 14,190 sexual assaults. Studies indicated that family members or individuals known to the victim represented a vast majority of the offenders. Most victims were aged 12 to 17 years, and girls were disproportionately victims of family violence, especially in sexual assault cases. The law criminalizes violence and abuse against children, including assault, sexual exploitation, child pornography, abandonment, emotional maltreatment and neglect. Provincial and territorial child welfare services investigate cases of suspected child abuse, and may provide counseling and other support services to families, or place children in child welfare care, where warranted. The federal FVI promotes awareness of family violence, works with research and community organizations to strengthen the capacity of criminal justice, housing and health systems to respond to family violence, and supports data collection and research. Provincial and territorial governments also provide public education and prevention services, often in partnership with civil society.

Forced and Early 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 girls 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. Boys under age 16 may not legally marry. The rate of marriage for individuals under age 18 was unavailable, but early marriages were not a major problem.

In September an Ontario study on forced marriage reported 219 cases between 2010 and 2012 in the province, in which 97 percent of the victims were women, and 81 percent were aged between 16 and 34 years of age. The report identified culture, honor, money, and immigration as motives for forced marriage.

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.

On November 14, Toronto police announced the arrest of over 300 adults and the rescue of approximately 400 children in connection with an international child pornography investigation. The investigation is ongoing.

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\\_5928.html](http://travel.state.gov/abduction/country/country_5928.html).

### **Anti-Semitism**

Approximately 1 percent of the population is Jewish.

The B'nai Brith Canada League for Human Rights received 1,345 reports of anti-Semitic incidents in 2012, up 3.7 percent from 2011. More than half of such reports came from the province of Ontario. The reports included 1,013 cases of harassment, 319 cases of vandalism, and 13 cases of violence. There were 25 cases involving attacks on synagogues, 144 involving private homes, and 25 involving community centers. Jewish students reported 79 cases of anti-Semitic incidents on university campuses, compared with 113 in 2011; another 79 involved primary and secondary school settings, compared with 69 in 2011. B'nai Brith also received 521 reports of web-based hate activity, compared with 528 in 2011.

In March two Jewish brothers filed suit for libel to stop the distribution of anti-Semitic posters in Winnipeg, Manitoba. The posters, titled *\$hitlers List*, accuse prominent Jews in the city of being part of a "cabal of cockroaches." The suit also alleges the brothers were victims of hate speech. The provincial attorney general's office declined to bring charges against the distributor of the posters because the materials did not explicitly promote genocide. The courts issued an injunction against the man accused of writing these posters, prohibiting him from blogging or writing in any other format about the brothers, their character, or their business

interests. In August the court found him in contempt of court for violating the terms of the injunction and sentenced him to 25 hours of community service.

In June assailants scrawled a swastika and the message “watch your children” on the garage door of the home of a Jewish family in Toronto. Toronto Police arrested suspects in the incident.

On August 21, unknown vandals defaced four homes and parked cars in Vaughan, Ontario with swastikas and anti-Semitic graffiti. Also in August, vandals carved a swastika into a golf course at a golf club in Richmond Hill, Ontario. York regional police investigations into both cases continued.

### **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 attended primary, secondary, and higher education, and the majority attended classes with nondisabled peers or a combination of nondisabled and special education classes with parental consent. Disparities in educational access for students with disabilities existed between provinces and among school boards within provinces. Policy differences included type of services, criteria to determine eligibility, allocation of resources, access to inclusive compared to segregated classes or facilities, and the number of teachers, teacher’s aides and therapists. Ontario offered the greatest access, with 48.7 percent of children with disabilities ages five to 14 years in the province receiving some form of special education service and those in Prince Edward Island 21.8 percent, according to a 2006 study by the national statistical agency. The

proportion of children receiving a special education service nationwide was 43.1 percent.

Disability rights NGOs reported that persons with disabilities experienced higher rates of unemployment, under-employment and lower rates of job retention than their non-disabled peers, and higher rates of poverty and economic marginalization.

Federal and provincial human rights commissions protected and promoted respect for the rights of persons with disabilities. The government provided services and monetary benefits, but disability groups noted a lack of coordination among services. 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.

A judicial inquest opened in August in the case of a man with disabilities who died in a Winnipeg emergency room of a treatable condition in 2008 after being ignored by hospital staff for 34 hours. The Winnipeg Health Authority acknowledged responsibility. Its response to the incident has been the subject of criticism by disability advocates and others. The inquest continued at the end of the year.

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

According to the federal statistical agency, 1,332 incidents of hate crimes were reported to police in 2011 (a decrease of 5 percent from 2010), of which 52 percent were motivated by race or ethnic bias. Blacks constituted the most commonly targeted racial group, accounting for 21 percent of the total. A detailed breakdown of victims of hate crime incidents by ethnic origin (except black) is no longer available. The proportion of hate crimes involving violence, including assault and uttering threats, rose to 39 percent (from 34 percent in 2010). The law prohibits discrimination on the basis of race. Federal, provincial, and territorial human rights commissions investigate complaints and raise public awareness. The federal Canadian Race Relations Foundation coordinates and facilitates public education and research and develops recommendations to eliminate racism and promote harmonious race relations.

### **Indigenous People**

Indigenous people constituted approximately 4.3 percent of the national population and higher percentages in the country's three territories: Yukon, 23 percent; Northwest Territories, 52 percent; and Nunavut, 86 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. According to the national statistical agency, Aboriginal children accounted for almost 50 percent of the approximately 30,000 children in foster care in 2011.

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 26 comprehensive land claims and self-government agreements and two stand-alone self-government agreements with indigenous people. As of 2011, the government reported negotiations for 93 self-government and comprehensive land claims were active. As of November 2012, approximately 345 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, which is a judicial panel), 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 for a decision or to the courts.

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 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 January 8, the Federal Court ruled that Metis (persons of mixed Aboriginal and European heritage) and non-status Indians (persons who claim Aboriginal identity, but whom the government does not recognize as indigenous under the Indian Act that defines Indian status) are “Indians” under the constitution and are a direct federal responsibility. The ruling did not specify federal obligations, but Metis and groups representing non-status Indians hoped that the judgment could lead to access to federal benefits and services restricted to status Indians, hunting, fishing, and trapping rights, and the ability to enter or negotiate treaties with the federal government. In February the government appealed the lower court ruling to the Federal Court of Appeal.

On March 20, the government appointed a special federal representative on West Coast energy infrastructure to consult with Aboriginal groups in British Columbia and Alberta on natural resource development and to recommend measures to accommodate their views. The representative reports directly to the prime minister and will issue final recommendations by November.

On June 19, the government passed the Northern Jobs and Growth Act to fulfill federal obligations under land claims agreements in the North and clarify regulatory procedures for land use planning and environmental processes for proposed development.

Resolutions remained pending for complaints Aboriginal people filed previous to 2008 against the government under the 2008 Canadian Human Rights Act, alleging unequal funding of social services on reserves when compared to similar services off reserves. The government argues that funding of services on reserves falls outside the jurisdiction of the act.

In February the Canadian Human Rights Tribunal continued hearings begun in 2012 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 (LGBT) 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. NGOs reported that stigma or intimidation was a known or likely factor in the underreporting of incidents of abuse. Some police forces employ LGBT liaison officers, and Toronto Police partnered with community organizations to develop public awareness campaigns such as *Report Homophobic Violence, Period* to encourage reporting of harassment and abuse. In 2011 the national statistical agency reported a 10 percent increase in police-reported hate-crime incidents motivated by sexual orientation compared to 2010.

In August unknown assailants uttered homophobic slurs and severely beat a homosexual male in St. John's, Newfoundland, in an unprovoked attack. A police investigation into the assault continued.

In October police in New Glasgow, Nova Scotia, charged an individual with attempted murder, aggravated assault, and possession of a weapon in a violent stabbing incident on October 11 that left a gay man paralyzed from the waist down. Witnesses believed the attack was motivated by the victim's sexual orientation, but police declined to comment on the motivation.

In March the Quebec government launched an anti-homophobia television, radio, and online advertising campaign as part of a C\$7 million (\$7 million) five-year plan drawn up in 2008 to coordinate provincial government resources against homophobia. Quebec authorities claimed the advertising campaign was unprecedented in North America. In August Quebec Premier Pauline Marois participated in Montreal's large Pride Day festivities, marking the first time a premier of Quebec has participated in this event.

### **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 some provincial laws, including related regulations and statutory instruments, provide for right of workers 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 affecting 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, leaving categories of workers excluded from statutory protection of freedom of association in several provinces. Additionally, some provinces restricted 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 and regulations 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. Private sector workers also faced limitations in the right to strike. In several actions between 2011 and 2013, the government referred cases to the industrial relations board, effectively suspending the right to strike or forcing

employees back to work, and used back to work legislation, or plans to introduce it, to end employment disputes.

Labor rights organizations and unions continued to raise concerns about federal and provincial government intent to interfere with collective bargaining rights. On August 30, the federal court found that the federal government had denied the Customs and Immigration Union procedural fairness in ordering a forced vote by union members on a contract offer under legislation passed in 2005, and halted the vote. The government and union returned to the bargaining table and reached a settlement in October.

There were instances of employers using contractors without bargaining rights as opposed to employees. In March Shaw Communications was found in violation of the Canadian labor code after it treated two employees as independent contractors, although they worked alongside full-time employees and performed the same duties.

#### **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.

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, though it did not report on whether it had done so during the year. 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, and in domestic service. NGOs reported that bonded labor, particularly in the construction industry, and domestic servitude constituted the majority of cases of forced labor.

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 p.m. and 6 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 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 11 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 offenses, 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\$9.75 to C\$11.00 (\$9.75 to \$11.00) per hour. There is no official poverty income level. 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, which is lower than the respective minimum for adult workers. Federal

law requires equal pay for equal work for four designated groups in federally-regulated industries enforced through the CHRC on a complaint basis: women, persons with disabilities, Aboriginal people, and visible minorities. Ontario and Quebec have pay equity laws that cover both the public and private sectors, and other provinces require pay equity only in the public sector.

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.

Federal and provincial labor departments monitored and effectively enforced labor standards by conducting inspections through scheduled and unscheduled visits, in direct response to reported 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 offenses, 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. NGOs also 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 2011, the most recent year for which data are available, there were 919 workplace fatalities. During the year there were some reports of workplace accidents. For instance, on June 21, two workers died in an explosion and fire at a fireworks plant in Coteau-du-Lac, Quebec.