

# CANADA 2017 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Canada is a constitutional monarchy with a federal parliamentary government. In a free and fair multiparty federal election held in October 2015, the Liberal Party, led by Justin Trudeau, won a majority of seats in the federal parliament, and Trudeau formed a government at the request of the Governor General.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues were reports of deadly violence against women, especially indigenous women, and forced labor, all of which authorities investigated and prosecuted.

There was no impunity for officials who committed violations, and the government took steps to investigate, prosecute, and punish them.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

#### **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**

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns cited in prisons and detention centers regarding physical conditions. Adults and juveniles were held separately, although minors were held with their parents in immigration detention centers as an alternative to splitting families.

Civil liberties and prisoners' rights nongovernmental organizations (NGOs) filed suits against the federal government in courts in British Columbia and Ontario over the use of "administrative segregation" or solitary confinement in federal correctional facilities. The suits alleged prison authorities overly relied on solitary confinement to manage crowded institutions and high-needs inmates; subjected individuals to cruel and unusual treatment or punishment; violated the right to be free from arbitrary detention; and failed to meet its duty to provide care. NGOs sought legislated caps on the time authorities may keep individuals in segregation. In March the federal correctional investigator reported the average daily count of inmates in administrative segregation decreased to fewer than 400 in 2015-16 (down from average counts of more than 800 in the previous two years). The average time inmates spent in solitary confinement also fell in part due to assignment of high-needs inmates to treatment programs and specialized units for mental care, drug addiction, or other factors as an alternative to segregation.

In July an Ottawa man filed suit against the Ontario government for a mental health breakdown which he alleged occurred after spending 18 months in solitary confinement while on remand awaiting trial.

Administration: Independent authorities investigated credible allegations of inhumane behavior, and documented the results of such investigations in a publicly accessible manner.

Independent Monitoring: The government permitted visits by independent non-governmental human rights observers.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court; the government generally observed these requirements.

#### **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. The federal Royal Canadian Mounted Police (RCMP) reports to the Department of Public Safety and the armed forces report to the Department of National Defense. Provincial and municipal police report to their respective provincial authorities. The Canada Border Services Agency reports to the Department of Public Safety and Emergency Preparedness and is responsible for enforcing immigration law. Civilian authorities maintained effective control over the RCMP and provincial and municipal police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

### **Arrest Procedures and Treatment of Detainees**

Authorities generally relied upon warrants in the apprehension of persons. A judge can issue a warrant after being satisfied 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. Authorities provided detainees with timely information on the reason for the arrest, and ensured prompt access to a lawyer of the detainee's choice, or, if the detainee was indigent, a lawyer provided by the state without restriction. Bail generally was available. Suspects were not detained incommunicado or held under house arrest.

Judges may issue preemptive peace bonds (orders to keep the peace) and apprehend individuals who authorities reasonably believe may carry out terrorist activities. Judges may also issue recognizances of bail to detain persons and impose bail conditions if authorities deem the restrictions likely to prevent terrorist activity. Authorities may hold persons under preventive detention under recognizance for up to seven days, subject to periodic judicial review. Restrictions may include limits on travel and surrender of passports. Use of peace bonds and recognizance for counterterrorism purposes is subject to annual reporting requirements to the federal parliament.

Pretrial Detention: Authorities released detainees immediately after they were 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 have the right to judicial review of their status at regular intervals. In 2016 the Supreme Court

imposed ceilings of 18 months for provincial courts and 30 months for superior courts to bring cases to trial. If authorities exceeded these limits, the Supreme Court ruling stated it would consider accused persons “to have suffered prejudice” and be entitled to a stay of charges or other remedy, unless authorities could demonstrate exceptional circumstances had caused the delay.

The government may detain or deport noncitizens on national security grounds through use of an immigration security certificate. The government issues certificates based on confidential evidence presented to two cabinet ministers by intelligence or police agencies, which is then reviewed by a federal court judge who determines “reasonableness” and either upholds or revokes the certificate. A judge may order an individual to be detained during the security certificate determination process if the government believes the individual presents a danger to national security or is unlikely to appear at the proceeding for removal. The judge 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 must provide full disclosure to court-appointed, security-cleared lawyers (special advocates), who can review and challenge the evidence on behalf of these individuals but 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 the evidence because 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 and impartiality.

#### **Trial Procedures**

The law provides for the right to a fair and public trial, and the independent judiciary generally enforced this right. Trials are held before a judge alone or, for more serious cases, before a judge and jury. Defendants have the right to a fair and timely trial, to be present at their trial, 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 may confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys generally have adequate time and facilities to prepare a defense. 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 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. Individuals may also bring human rights complaints to the UN or the Inter-American Commission on Human Rights.

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

The law prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution and law provide for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Freedom of Expression: 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. The court has also 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.

The criminal code prohibits public incitement and willful promotion of hatred against an identifiable group in any medium. Inciting hatred (in certain cases) or genocide is a criminal offense, but the Supreme Court sets a high threshold for such cases, specifying that these acts must be proven willful and public. Provincial-level film censorship, broadcast licensing procedures, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography impose some restrictions on the media.

In January a gunman killed six persons and injured 17 more in a shooting at the Quebec Islamic Cultural Center in Quebec City. The gunman was arrested and charged, although the government did not charge him with terrorism. While public and official reaction to the event was overwhelmingly condemnatory, in July an unidentified individual left a package at the same mosque with a note expressing hate and a defaced Quran.

In July police charged a Mississauga, Ontario, man with one count of willful promotion of hatred for posting abusive videos and materials against Muslims and other groups on his website [freedomreport.ca](http://freedomreport.ca) and other social media platforms. The charge related to a series of online postings over a five-month period, rather than a single incident.

In April, Justice Jacques Chamberland opened public hearings in Quebec in an inquiry ordered by the provincial government into reports Quebec law enforcement agencies surveilled eight journalists between 2008 and 2016 as part of internal police investigations into sources of leaked information. Although the police had a warrant from a Quebec court for each case, testimony suggested police might have based warrant applications on unsubstantiated allegations. The electronic monitoring allowed police authorities to track the journalists' movements and telephone logs.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

Approximately 99 percent of households could access broadband services. According to 2016 International Telecommunication Union data, 90 percent of the population used the internet in 2016.

## **Academic Freedom and Cultural Events**

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

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

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

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

### **d. Freedom of Movement**

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, or other persons of concern.

## **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

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 (in the form of temporary residence permits) to persons who may not qualify as refugees.

## **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

Recent Elections: In 2015 following a free and fair election, the Liberal Party won a majority of seats in the federal parliament and formed a national government.

Participation of Women and Minorities: No laws limit the participation of women and/or members of minorities in the political process, and they did participate. In March the government of New Brunswick implemented a plan--the first in the country's history--to provide financial incentives to political parties to field more female candidates in provincial elections.

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

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated reports of government corruption during the year.

Corruption: In July a Quebec court sentenced Claude Deguise, the former director of the engineering department of the city of Laval, Quebec, to 30 months in prison for masterminding a collusion scheme with construction firms bidding on municipal contracts. Thirteen individuals from participating companies also pled guilty.

Financial Disclosure: By law public officeholders, including elected members of the executive branch and their staffs and designated senior nonelected officials, must disclose information about their personal financial assets. These declarations, as well as an annual report, are 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. 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. Provincial governments provide independent audits of government business and ombudsman services.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 the commissions 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. Most federal departments and some federal agencies employed ombudsmen. Nine provinces and one territory also employed ombudsmen.

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

### **Women**

Rape and Domestic Violence: The law criminalizes rape of men or women, 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. Most victims of sexual assault were women.

The law prohibits domestic violence against men or women, although most victims were women. 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.

According to the government's statistical agency, indigenous women were three times more likely than nonindigenous women to experience violent abuse and, according to the RCMP, were four times more likely to be victims of homicide.

Civil society groups also claimed the government failed to allocate adequate resources to address these cases.

The federal government launched an independent national inquiry into the issue of missing and murdered indigenous women in 2016 with a budget of C\$53.8 million (\$42.1 million) and a mandate to report by the end of 2018. By August the inquiry had held only one public hearing, and one of the five commissioners and a number of senior staff had resigned. In response to criticism, the commissioners widened the scope of the mandate to consider the conduct of policing services and policies across the country.

Police received training in treating victims of domestic violence, and agencies provided hotlines to report abuse. The RCMP, Ontario and Quebec provincial police services, and various municipal police forces announced reviews of their handling of sexual assault allegations. This review followed an investigative media report analyzing 870 police jurisdictions between 2010 and 2014 that found police dismissed complaints of sexual assault as “unfounded” without laying charges at an average national rate of 19 percent, with reported rates as high as 60 percent in some jurisdictions. The government’s Family Violence Initiative involved 15 federal departments, agencies, and crown corporations, including Status of Women Canada, Health Canada, and Justice Canada. These entities worked with civil society organizations to eliminate violence against women and advance women’s human rights. In June the government launched a national strategy to prevent and address gender-based violence, budgeting C\$101 million (\$79 million) over five years to create a center of excellence within Status of Women Canada for research, data collection, and programming. Provincial and municipal governments also sought to address violence against women, often in partnership with civil society.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C of women and girls and prosecutes the offense as aggravated assault with a maximum penalty of 14 years’ imprisonment. Persons committing or aiding another person to commit the offense may be charged with criminal negligence causing bodily harm (maximum penalty of 10 years’ imprisonment) or criminal negligence causing death (maximum penalty of life imprisonment). Persons convicted of removing or assisting the removal of a child who is ordinarily a resident in the country to have FGM/C performed on the child may face a maximum penalty of five years’ imprisonment. Refugee status may be granted on the grounds of threatened FGM/C that may be considered gender-related persecution. Provincial child

protection authorities may intervene to remove children from their homes if they suspect a risk of FGM/C.

Internal government reports obtained by media organizations asserted FGM/C practitioners travelled to a third country to provide the illegal procedure. The government instructed border services officers to monitor baggage for FGM/C equipment and to be aware of young female nationals returning from travel in regions where they may be subjected to the practice.

Other Harmful Traditional Practices: The criminal code does not specifically refer to “honor” killings, but it prosecutes such cases as murder. Murder convictions in the first or second degree carry minimum penalties of life imprisonment with eligibility for parole. The law limits the defense of “provocation” to prevent its application to cases of “honor” killing and cases of spousal homicide. The government enforced the law effectively. The government’s citizenship guide for new immigrants explicitly states “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.

Sexual Harassment: The law does not contain a specific offense of “sexual harassment” but criminalizes harassment (defined as stalking), punishable by up to 10 years’ imprisonment, and sexual assault, with penalties ranging from 10 years for non-aggravated sexual assault to life imprisonment for aggravated sexual assault. The government generally enforced these prohibitions. Federal and provincial labor standards laws 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 had internal policies against sexual harassment, and federal and provincial governments provided public education and advice.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: Women have the same legal status and rights in the judicial system as men, and the government enforced the rights effectively. Seven

provinces and two territories require private-sector companies to report annually on their efforts to increase the number of women appointed to executive corporate boards. The government's 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.

Indigenous women living on reservations (where land is held communally) have matrimonial property rights. 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.

Indigenous women and men living on reserves are subject to the Indian Act, which defines status for the purposes of determining entitlement to a range of legislated rights and eligibility for federal programs and services. Indigenous women do not enjoy equal rights with indigenous men to transmit officially recognized status to their descendants.

## **Children**

Birth Registration: Citizenship is derived both by birth within the country's territory and from one's parents. Births are registered immediately and are not denied or not provided on a discriminatory basis. There were no reports of the government denying public services, such as education or health care, to those who failed to register.

Child Abuse: 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, when warranted. For additional information, see UNICEF child protection at [www.unicef.org/protection/](http://www.unicef.org/protection/).

Early and Forced Marriage: The law establishes 16 years as the legal minimum age of marriage. Early marriages were not known to be a major problem. The law criminalizes the removal of a child from the country for the purpose of early and forced marriage and provides for court-ordered peace bonds, which may include surrendering of a passport, to disrupt an attempt to remove a child for that purpose.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children, the sale of children, and offering or procuring a child for child prostitution and practices related to child pornography. Authorities enforced the law effectively. The minimum age of consensual sex is 16 years. Persons convicted of living from the proceeds of the prostitution of a child younger than 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 younger than 18 engaging in prostitution face between five and 14 years' imprisonment. Persons who solicit or obtain the sexual services of a child younger than 18 face between six months' and five years' imprisonment. Children, principally teenage females, were exploited in sex trafficking.

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. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

Approximately 1 percent of the population is Jewish.

The B'nai Brith Canada League for Human Rights received 1,728 reports of anti-Semitic incidents in 2016, a 26 percent increase from 2015. The greatest number of reports (490) came from the province of Ontario. Some university students reported anti-Semitic attacks on campus. For example, in January in Sackville, New Brunswick, an unidentified person carved a large swastika in the school's field. In January unknown individuals left a rock with anti-Semitic messages written on it on the doorstep of a Jewish person's home in Winnipeg, Manitoba. City authorities and university officials denounced both incidents publicly.

In March Ryerson University officials fired Imam Ayman Elkasrawy, a teaching assistant, for making anti-Semitic comments that were captured on video during prayers at a Toronto mosque. Elkasrawy apologized for the comments, but the Toronto police and the Muslim Association of Canada were investigating the incident. The Muslim Association of Canada apologized for the incident and suspended Elkasrawy for preaching an unauthorized sermon.

In July unknown individuals left anti-Semitic graffiti on a car in Montreal. Montreal police reportedly refused to open an investigation into the incident and advised the car owner to remove the graffiti herself. Following public pressure, the Montreal police apologized and opened an investigation into the incident.

### **Trafficking in Persons**

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

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities, and the government effectively enforced these prohibitions. The federal minister of families, children, and social development, supported by the minister of persons with disabilities, provides federal leadership on protecting the rights of persons with disabilities, and provincial governments also have ministerial-level representation. Federal and provincial governments effectively implemented laws and programs mandating access to buildings, information, and communications for persons with disabilities, but regulation varies by jurisdiction. No comprehensive federal legislation protects the rights of persons with disabilities, creating a situation where accessibility provisions are unevenly implemented and enforced throughout the country.

Children with disabilities attended primary, secondary, and higher education, and the majority attended classes with nondisabled peers or in a combination of nondisabled and special education classes with parental consent.

Disability rights NGOs reported that persons with disabilities experienced higher rates of unemployment and underemployment, lower rates of job retention, and higher rates of poverty and economic marginalization than the broader population.

Federal and provincial human rights commissions protected and promoted respect for the rights of persons with disabilities. The government provided services and monetary benefits. Facilities existed to provide support for persons with mental health disabilities, but mental disability 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**

The law prohibits discrimination because of race. Federal, provincial, and territorial human rights commissions investigated complaints and raised 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.

According to the government's statistical agency, 1,362 incidents of hate crimes were reported to police in 2015, of which 641 were motivated by race or ethnic bias, and 38 percent involved violence, including assault and uttered threats. Blacks constituted the most commonly targeted racial group, accounting for 224 incidents, and Jews 178. According to the report, there were 49 police-reported hate crimes against East or Southeast Asians, 48 against South Asians, and 92 against Arab or West Asians.

## **Indigenous People**

Indigenous peoples constituted approximately 4 percent of the national population and much 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 peoples remained underrepresented in the workforce, leadership positions, and politics; overrepresented on welfare rolls and in prison populations; and more susceptible than other groups to suicide, poverty, chronic health conditions, and sexual violence. According to the government's statistical agency, the overall violent victimization rate (which includes sexual assault, assault, and robbery) for indigenous persons in 2014 was 163 incidents per 1,000 persons, more than double the rate of 74 incidents per 1,000 among nonindigenous persons.

The law recognizes individuals registered under the Indian Act based on indigenous lineage and members of a recognized First Nation as Status Indians and thereby eligible for a range of federal services and programs. Status and services are withheld from unregistered or non-Status indigenous persons who do not meet eligibility criteria for official recognition or who may have lost status through marriage to a nonindigenous person or other disenfranchisement. According to the government's statistical agency, in 2011 indigenous children accounted for almost 50 percent of the approximately 30,000 children younger than 14 in foster care. A Supreme Court ruling in 2016 confirmed that some federal government

responsibilities do exist for non-Status First nations and Metis peoples (descendants of historical unions between indigenous and European persons).

The law recognizes and specifically protects indigenous rights, including rights 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 western part of the country that had 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 or legal challenges.

The law imposes statutory, contractual, and common-law obligations to consult with indigenous peoples on the development and exploitation of natural resources on land covered by treaty or subject to land claims by First Nations. According to a Supreme Court ruling, 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 indigenous and treaty rights. This law was yet to be uniformly implemented.

The Supreme Court has affirmed that indigenous title extends to territory used by indigenous peoples for hunting, fishing, and other activities prior to contact with Europeans, as well as to settlement sites. Provincial and federal governments may develop natural resources on land subject to indigenous title but are obliged to obtain consent of the indigenous titleholders in addition to existing constitutional duties to consult, and where necessary, accommodate indigenous peoples in matters that affect their rights. If governments cannot obtain consent, they may proceed with resource development only based on a "compelling and substantial objective" in the public interest, in which the public interest is proportionate to any adverse effect on indigenous interests. The court has established that indigenous titles are collective in nature.

In January 2016 the Canadian Human Rights Tribunal ruled the federal government discriminated against indigenous children when it failed to fund welfare services for children living on reserves at the same level of services for off-reserve populations. While the government dedicated new funds to address inequities in welfare services for children living on reserve, the tribunal issued three noncompliance orders, most recently in May. The government filed an application for judicial review of two parts of the tribunal's ruling in June.

In February the Ontario Metis signed a memorandum of understanding with the federal government to initiate discussions toward an agreement to set up negotiations on Metis self-government, lands, rights, and other outstanding claims against the government. In April the government and Metis leaders signed an additional agreement to start negotiations on shared priorities in a permanent forum chaired by the prime minister. In 2016 the Supreme Court ruled unanimously the Metis and non-Status Indians are Indians under the Constitution Act and fall under the jurisdiction of the federal government. Nearly 600,000 Canadians identify as Metis.

In February an Ontario judge ruled the federal government was liable for the “Sixties Scoop,” during which child welfare services removed an estimated 20,000 indigenous children, 16,000 of them in Ontario, from their parents’ custody and placed them with nonindigenous foster families in Canada and the United States. In October, Ontario plaintiffs and the federal government announced they had reached a settlement of C\$800 million (\$63 million); individual plaintiffs will receive between C\$25,000 (\$20,000) and C\$50,000 (\$39,000) in compensation. The government also agreed to pay the plaintiffs’ legal fees (estimated at C\$75 million [\$59 million]), and provide C\$50 million (\$39 million) for a new Indigenous Healing Foundation, which had been a key demand of the plaintiffs

### **Acts of Violence, Discrimination, and Other Abuses 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, Saskatchewan, and the Northwest Territories explicitly prohibit discrimination on the basis of gender identity. Ontario, Nova Scotia, Prince Edward Island, Alberta, Newfoundland and Labrador, Quebec, New Brunswick, and British Columbia prohibit discrimination based on gender identity and gender expression. Nunavut and Yukon territories prohibit such discrimination implicitly based on “sex” or “gender.”

In June parliament amended the federal human rights act to add gender identity and gender expression as prohibited grounds of discrimination.

Provinces and territories have different requirements for persons to change their legal gender marker in documents such as birth certificates and identifications.

Some provinces require one or more physicians to certify the applicant has completed gender reassignment surgery before an applicant may change the legal gender marker. The provincial governments of Newfoundland and Labrador, Prince Edward Island, Nova Scotia, British Columbia, Ontario, Saskatchewan, Manitoba, and Alberta allow residents to change their gender marker with a personal and/or physician's declaration indicating the individual's gender identity.

There were occasions of violence and abuse against individuals based on sexual orientation, but in general, the government effectively implemented the law criminalizing such behavior. NGOs reported that stigma or intimidation was a known or likely factor in the underreporting of incidents of abuse. Some police forces employed liaison officers for the lesbian, gay, bisexual, transsexual, and intersex communities.

In January the federal government settled a case with a transgender individual who sought to remove a gender identification from the individual's social insurance card. The government pledged to review its policy on collecting personally identifiable gender information and further pledged to do so only if there are "legitimate purposes."

In August the government permitted transgender citizens to add an observation to their passports to indicate that they do not identify as either male or female. The change is an interim measure pending the availability of passports allowing individuals to designate their gender as "x."

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

There were reports of societal violence and discrimination against members of other minority, racial, and religious groups, but the government generally implemented the law criminalizing such behavior effectively.

## **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 the 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 provide for due process and to 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 of workers fired for union activity. There were no reports of antiunion discrimination or other forms of employer interference in union functions.

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 the federal 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.

The law grants the government exclusive authority to designate which federal employees provide an essential service and do not have the right to strike. The law also makes it illegal for an entire bargaining unit to strike if the government deems 80 percent or more of the employees of the unit essential.

Provincial and territorial governments regulate and are responsible for enforcing their own labor laws in all occupations and workplaces that are not federally regulated, leaving categories of workers excluded from statutory protection of freedom of association in several provinces. Some provinces restrict the right to strike. For example, 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 such as corrective workplace practices and criminal prosecution for noncompliance and willful violations, and generally respected freedom of association and the right of collective bargaining. Penalties were sufficient to deter violations. Administrative and judicial procedures were not subject to lengthy delays and appeals.

In June parliament repealed legislation public service unions had claimed contravened International Labor Organization conventions by limiting the number of persons who could strike.

## **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 law prescribes penalties for violations of up to 14 years' imprisonment, or life imprisonment in the case of certain aggravating factors, such as kidnapping or sexual assault. Such penalties were sufficiently stringent. During the year 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 periodic inspections and mandatory compliance reviews, ensuring that employers provided substantially the same wages, living conditions, and occupation specified in the employers' original job offer. The government can deny noncompliant employers permits to recruit foreign workers for two years and impose fines of up to C\$100,000 (\$78,500) per violation for employer abuses of the program. 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, 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 and that some victims had participated in the Temporary Foreign Worker Program.

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

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

There is no federal minimum age for employment. In federally regulated sectors, children younger than 17 may work only when they are not required to attend school under provincial legislation, provided 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. Enforcement occurs through a range of laws covering 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 restrict the number of hours of work to two or three hours on a school day and eight hours on a non-school day, and prohibit children ages 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.

There were reports that child labor occurred, particularly in the agricultural sector. There were also reports that children, principally teenage females, were subjected to sex trafficking and commercial sexual exploitation (see section 6, Children).

#### **d. Discrimination with Respect to Employment and Occupation**

The law and regulations prohibit discrimination with respect to employment or occupation on the basis of race, color, sex, religion, national origin or citizenship, disability, sexual orientation and/or gender identity, age, language, HIV-positive status, or other communicable diseases. Some provinces, including Quebec, New Brunswick, and Newfoundland and Labrador, as well as the Northwest Territories, prohibit employment discrimination on the grounds of social origin, “social condition,” or political opinion. Federal law requires on a complaint basis equal pay for equal work for four designated groups in federally regulated industries enforced through the Canadian Human Rights Commission: women, persons with disabilities, indigenous persons, 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.

Authorities encouraged individuals to resolve employment-related discrimination complaints through internal workplace dispute resolution processes as a first recourse, but federal and provincial human rights commissions investigated and mediated complaints and enforced the law and regulations. The government enforced the law effectively, but some critics complained that the process was complex and failed to issue rulings in a timely manner. Foreign migrant workers have the same labor rights as citizens and permanent residents, although NGOs alleged that discrimination occurred against migrant workers.

#### **e. Acceptable Conditions of Work**

As of August provincial and territorial minimum wage rates ranged from C\$10.72 to C\$13.00 (\$8.40 to \$10.17) 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 for persons younger than 18 who work less than 28 hours per week when school is in session a minimum wage lower than the respective minimum for adult workers.

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 complete 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. Provincial and territorial legislation provides for all other employees, including foreign and migrant workers. Standards were current and appropriate for the industries they covered. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work and to 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 Center for Occupational Health and Safety, a federal agency composed of representatives of government, employers, and labor.

Minimum wage, hours of work, and occupational health and safety standards were effectively enforced. 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 include a graduated response, with a preference for resolution via voluntary compliance, negotiation, and education; prosecution and fines serve as a last resort. Some trade unions continued to note that limited resources hampered the government's inspection and enforcement efforts.

NGOs reported 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 types of labor complaints accepted for investigation and delays in processing cases discouraged the filing of complaints.

According to the Association of Workers Compensation Boards of Canada, during 2015, the most recent year for which data were available, there were 852 workplace fatalities. During the year there were some reports of workplace accidents.