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# **International Convention on the Elimination of All Forms of Racial Discrimination**

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**Nineteenth and Twentieth Reports of Canada**

Covering the period  
June 2005 – May 2009

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## List of Acronyms

ACW	Aboriginal Courtwork Program
AEF	Aboriginal Employees Forum
AJS	Aboriginal Justice Strategy
ANSEC	African Nova Scotian Employment Centre
AOcVF	<i>Action ontarienne contre la violence faite aux femmes</i>
ATA	<i>Anti-Terrorism Act</i>
BBI	Black Business Initiative (Nova Scotia)
CACVM	Commissioner's Advisory Committee on Visible Minorities
CAVAC	<i>Centre d'aide aux victimes d'actes criminels</i> (Québec)
CCOHR	Continuing Committee of Officials on Human Rights
CCRS	Cross-Cultural Roundtable on Security
CDPDJ	<i>Commission des droits de la personne et des droits de la jeunesse</i> (Québec)
CEDAW	<i>Convention on the Elimination of All Forms of Discrimination against Women</i>
CERD	Committee on the Elimination of Racial Discrimination
CHRA	<i>Canadian Human Rights Act</i>
CHRC	Canadian Human Rights Commission
CIRM	Critical Incident Response Model
CJOW	Community Justice Outreach Worker (Nunavut)
CRTC	Canadian Radio-television and Telecommunications Commission
CST	Canada Social Transfer
DMR	Double mother rule
EEA	<i>Employment Equity Act</i>
EEO	Equal Employment Opportunity Program (New Brunswick)
EAS	Employment Assistance Services (British Columbia)
FAIA	<i>Family Abuse Intervention Act</i> (Nunavut)
FLEW	Family Law Education for Women
F-P/T	Federal-Provincial/Territorial
FQR Plan	Foreign Qualification Recognition Plan
FVI	Family Violence Initiative
FVPP	Family Violence Prevention Program
FVS	Federal Victims Strategy
H&C	Humanitarian and compassionate
ICERD	<i>International Convention on the Elimination of All forms of Racial Discrimination</i>
IFHP	Interim Federal Health Program
IRPA	<i>Immigration and Refugee Protection Act</i>
IRPR	<i>Immigration and Refugee Protection Regulations</i>

LALS	Labrador Aboriginal Legal Services
LAO	Legal Aid Ontario
MCPEI AJP	Confederacy of Prince Edward Island Aboriginal Justice Program
MEAAC	Manitoba Ethnocultural Advisory and Advocacy Council
MFA	Manitoba Floodway Authority
MHRC	Manitoba Human Rights Commission
MLSN	Mi'kmaq Legal Support Network
NAPS	National Aboriginal Policing Services
NGO	Non-governmental Organization
NWAC	Native Women's Association of Canada
OPP	Ontario Provincial Police
PCVI	Policy Centre for Victim Issues
PSA	<i>Police Services Act</i> (Ontario)
RCMP	Royal Canadian Mounted Police
RPD	Refugee Protection Division
SEP	Shelter Enhancement Program
SIP Program	Communities at Risk: Security Infrastructure Pilot Program
SIS	Sisters in Spirit
UAS	Urban Aboriginal Strategy
WFA	Workforce availability

# **Part I**

## **Introduction**

1. The present report outlines key measures adopted in Canada from June 2005 to May 2009, to enhance implementation of the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD). As Canada updated the Committee on the Elimination of Racial Discrimination (CERD) during its February 2007 appearance and in Canada's Interim Report, submitted in August 2009, the primary focus of this report is from February 2007 to May 2009 (with occasional references to developments of special interest since May 2009).
2. This report focuses on selected key issues where there have been significant new developments and where information has not already been provided within reports under other treaties to which Canada is a party. Where detailed information is available in other reports, these reports are referred to, but, with few exceptions, the information is not repeated in this report.
3. The key issues addressed in this report were primarily identified through an examination of the 2007 Concluding Observations of the CERD by federal departments and the Continuing Committee of Officials on Human Rights (CCOHR), the principal federal-provincial/territorial (F-P/T) body responsible for intergovernmental consultations and information sharing on the ratification and implementation of international human rights treaties. These issues include:
  - Data collection;
  - Inter-provincial mechanisms for exchange of information concerning anti-racism legislation and policies;
  - Use of the term "visible minorities;"
  - National security measures as they pertain to anti-discrimination;
  - Accessibility of services for victims of gender-based violence;
  - Employment issues;
  - Civil society engagement;
  - Aboriginal issues (e.g. rights of Aboriginal women and children; law enforcement; Aboriginal land claims; repeal of section 67 of the *Canadian Human Rights Act*); and
  - Immigration and refugee issues.
4. The views of approximately 85 non-governmental organizations were sought with respect to the issues to be covered in this report. Organizations were also encouraged to forward the correspondence to other interested organizations. No comments were received from any of the organizations.
5. Information on significant Canadian jurisprudence relevant to the ICERD can be found in Appendix 1 to the present report.
6. Federal, provincial and territorial governments routinely consult with civil society in the development of legislation, policies and programs that relate to the provisions of the ICERD. Examples of such consultations are included in Appendix 2.



7. Detailed information on the implementation of human rights in Canada and Canadian federalism can be found in Canada's Fourth Report on the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) as well as Canada's Core Document.

## **Disaggregated data**

8. Relating to the Committee's Concluding Observation 11, with respect to disaggregated data, Canada uses a number of surveys to collect information on the Canadian population (e.g. age, gender, ethnic origins, etc.) that can be cross-tabulated with other socio-economic data (e.g. education, income, employment, etc.). A large number of these tabulations are available at: [www.statcan.gc.ca/start-debut-eng.html](http://www.statcan.gc.ca/start-debut-eng.html). Part II of this report provides a breakdown of the demographic characteristics of the Canadian population.

## **Support for victims of crime**

9. In Canada, the protection of victims of crime is a shared responsibility between the federal and provincial/territorial governments. Provinces and territories administer numerous programs and services including health care; emergency housing; social services, including emergency financial assistance; and legal aid. Civil society organizations also provide related social services, for example, through food banks. In addition, there are a variety of supports and services available across Canada that have been designed to specifically respond to the needs of victims of crime. These services vary from jurisdiction to jurisdiction and relevant information can be found in the respective federal, provincial and territorial sections of this report.

## **Federal-provincial/territorial collaboration**

10. Federal, provincial and territorial governments collaborate through various F-P/T fora on legislation, policies and programs that serve to implement the provisions of the ICERD. Some committees, like the CCOHR referred to above, discuss general issues, while others have a more specific focus. For example:
  - The Federal-Provincial/Territorial Forum of Ministers Responsible for Social Services and the Federal-Provincial/Territorial Forum of Ministers/Deputy Ministers Responsible for the Status of Women exchange information on issues regarding vulnerable groups, including new immigrants and Aboriginal people, which may touch on the issue of racial discrimination.
  - The Federal-Provincial/Territorial Network of Officials Responsible for Multiculturalism Issues, created in 2005, discusses policies and best practices related to multiculturalism - including discussions of anti-racism policies and programs.
  - The Federal-Provincial/Territorial Working Group on Aboriginal Justice examines victimization in Aboriginal communities resulting from family and interpersonal violence and has four priority areas: spousal abuse, child abuse, missing and murdered Aboriginal women, and family, offender, and community healing.

- The Federal-Provincial/Territorial Working Group on Missing Women, reviews and implements initiatives and recommendations on Aboriginal women's issues, focusing on strategies to protect Aboriginal women who have a high likelihood of being victimized.
  - The Federal-Provincial/Territorial Working Group on Victim Issues regularly discusses anti-racism issues within the context of legislation, policies and best practices, as racism is often interwoven into victimization dynamics. It also has a sub-committee on Aboriginal Victims of Crime that examines specific issues related to Aboriginal victimization and the delivery of victim services to Aboriginal people whether they live on-reserve or in urban areas.
  - The meetings of the Canadian Association of Chiefs of Police generally include an update/discussion on diversity initiatives within police services from across the country.
11. Federal, provincial/territorial (F-P/T) Ministers Responsible for the Status of Women unanimously confirmed their support for the 2007 Iqaluit Declaration, which stated:
- “Recognizing the urgent need to improve the lives of Aboriginal women and girls, the federal, provincial and territorial Ministers Responsible for the Status of Women come together in a declaration of their commitment to improve the social, economic and cultural well-being of Inuit, Métis and First Nations women, both on and off reserve, in Canada.”
12. This commitment continues to be realized through the actions of each government, within their respective jurisdictions. F-P/T Ministers have continued to work on three priorities for action to provide concrete support to Canadian women. These priorities address women's economic security; the importance of supporting Aboriginal women in leadership positions; and improving the treatment of Aboriginal women within the justice system by continuing to share information with their ministerial justice counterparts on training on issues specific to Aboriginal women.
13. In addition to on-going F-P/T fora, the Government of Canada also works with provinces and territories in specific areas. For example, the Government of Canada, provinces and territories have developed a principles-based *Pan-Canadian Framework for the Assessment and Recognition of Foreign Qualifications* ([www.hrsdc.gc.ca/eng/workplaceskills/publications/fcr/pcf.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/publications/fcr/pcf.shtml)). The Framework articulates a joint vision for governments to take concerted action to ensure a fair and competitive labour market where immigrants have the opportunity to fully use their education, skills and work experience.

## **Inter-provincial/territorial mechanisms**

14. With respect to CERD Concluding Observation 12, mechanisms exist at the inter-provincial/territorial level for the exchange of information concerning anti-racism legislation, policies and best practices. For example:
- The Canadian Coalition of Municipalities against Racism and Discrimination is comprised of local working groups representing municipal governments, ethnocultural organizations, and community service providers across Canada.
  - The Canadian Association of Statutory Human Rights Agencies, the national body of provincial and territorial human rights commissions and tribunals, regularly exchanges information, including on anti-racism legislation, policies and best practices.
  - The Welcoming Communities Working Group (members include provincial representatives from the governments of Ontario, Manitoba and British Columbia and the Government of Canada as well as universities in Ontario and Manitoba), shares information and collaborates on the development of comparative baseline data on mutual perceptions, attitudes and experiences of newcomers and established residents on issues associated with economic and social participation, social cohesion and identity.
  - The Western Canada Provincial Working Group on Multiculturalism, Anti-racism and Human Rights (members include provincial government representatives from Manitoba, Saskatchewan and British Columbia), was established in 2007 to transfer knowledge and share program information, challenges, strategies, priorities and best practices.
15. Meetings also occur between jurisdictions that focus on areas that may include anti-racism issues. For example, in September 2007, Nova Scotia hosted a training meeting among Victim Services representatives from Newfoundland and Labrador, Prince Edward Island, and New Brunswick. Officials from the Government of Canada also attended the meeting. The forum allowed for inter-provincial exchange of information, including discussion of gender-based violence issues that affect women belonging to racial/ethnic minority groups. Domestic Violence and Aboriginal Programming were specific topics on the agenda.

## **Parliamentarians**

16. In 2009, federal parliamentarians joined with their colleagues from around the world in London, England for the inaugural conference of the Inter-parliamentary Coalition for Combating Antisemitism. In their capacity as parliamentarians, the conference participants produced a resolution "The London Declaration for Combating Antisemitism," calling on all governments to face the problem of anti-semitism.

## Other international treaties

17. With respect to CERD Concluding Observation 27, at present, there are no plans for Canada to become a party to the *International Labour Organization (ILO) Indigenous and Tribal Peoples Convention No. 169*.
18. Canada has not ratified the 1954 *Convention relating to the Status of Stateless Persons*. As this Convention, to a large extent, duplicates the 1951 *Convention relating to the Status of Refugees* (to which Canada is a party), it is felt that there is no need for both instruments in the Canadian context. Canada has the safeguards necessary in its existing citizenship and immigration legislation to adequately cover the situation of stateless persons.
19. Canada is presently not considering becoming a party to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. Although the Convention has objectives that the Government of Canada supports, it has confidence that these aims are already addressed in its legal system, where human rights are fully protected through the various human rights treaties to which Canada is already party as well as the *Canadian Charter of Rights and Freedoms*.
20. Canada takes the promotion and protection of human and labour rights of migrants seriously, but does not see the Convention as an effective and practical instrument to improve the rights of migrants in Canada. For the effective management of immigration/migration, Canada believes that both source and destination countries must find their own paths according to their own legal, political, economic, cultural and social realities. Canada believes that the Convention espouses one prescriptive approach and that there can not be a “one size fits all” solution to the development of effective immigration/migration management programs.

## **Part II**

### **Demographic Characteristics of the Canadian Population**

21. Canada is a multicultural and multiethnic country where immigration plays a dominant role in demographic growth. Canadians reported more than 200 ethnic origins in response to the 2006 Census<sup>1</sup> question on the ethnic or cultural origins of their ancestors. The proportion of Canada's population that was born outside the country reached a 75-year high of 19.8 percent. While a small proportion of the population born outside of Canada was non-immigrant in 2006 (1.2 percent), the terms "born abroad", "born outside Canada" and "immigrant" are used interchangeably in this document to refer to the immigrant population.
22. Over five million people in Canada identified themselves as members of a visible minority group, accounting for 16.2 percent of the population overall. The three largest visible minority groups are: South Asians, Chinese and Blacks, with the 2006 census being the first time that the South Asian population surpassed the Chinese population. These three groups comprise almost two thirds of the visible minority population in Canada. They are followed by Filipinos, Latin Americans, Arabs, Southeast Asians, West Asians, Koreans, and Japanese.
23. In 2006, 68.9 percent of recent immigrants (arrived in Canada during the previous five years) lived in Canada's three largest census metropolitan areas: Toronto, Vancouver and Montreal, down from 72.8 percent in 2001. As the proportion of recent immigrants who have settled in these cities has declined, an increasing share of newcomers choose to live in census metropolitan areas other than the three largest. Only 2.8 percent of recent immigrants choose to live in a rural area.
24. According to 2006 Census data, Ontario and British Columbia were the two provinces with the highest proportion of people born outside the country. In Ontario, almost 3.4 million people were born outside the country, representing 28.3 percent of the total population in 2006; in British Columbia, 1.1 million people were born abroad, representing 27.5 percent of the total population.
25. Approximately 16.2 percent of Alberta's population was born abroad in 2006, making it the third highest proportion, followed by Manitoba (13.3 percent), Québec (11.5 percent) and Yukon (10.0 percent). Less than seven percent of the population of the other provinces and territories was born outside the country.
26. In 2006, 52.1 percent of all people born outside of the country were women. Women represent the majority of the people who are currently immigrating to Canada. For example, 52 percent of all people who immigrated to Canada in 2008 were women.
27. Women are most likely to be admitted to Canada as family class immigrants. In 2008, women represented 59.3 percent of all the people admitted to Canada as family class immigrants, whereas they represented 49.6 percent of the immigrants admitted as refugees, 52.1 percent of other immigrants (including persons admitted for humanitarian and compassionate reasons), and 49.2 percent of economic class immigrants.

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<sup>1</sup> The last Census conducted in Canada was in 2006.

28. Though approximately the same number of people (18.3 million) reported only one ethnic origin in 2001 and 2006, this represented a decrease in the proportion of the total Canadian population from 61.8 percent in 2001 to 58.6 percent in 2006. In contrast, the number of people reporting more than one ethnic origin is increasing. In 2006, 12.9 million people, or 41.4 percent of the population, reported multiple ethnic origins, an increase over the 11.3 million or 38.2 percent of the people who did so in 2001.
29. Most immigrants to Canada take the next step and become Canadian citizens. According to the 2006 Census, 85.1 percent of immigrants who were eligible in 2006 (i.e. who had been in Canada for at least three years) had become Canadian citizens.

### **Aboriginal people**

30. According to the 2006 Census, a total of 1,172,790 people identified themselves as an Aboriginal person (North American Indian, Métis, or Inuit). This figure was 20.1 percent higher than the 976,300 recorded in 2001. Aboriginal people currently represent 3.8 percent of the total population of the country, compared to 3.3 percent five years earlier.
31. Children aged 14 and under represent 29.8 percent of the Aboriginal population, which is much higher than the corresponding proportion of 17.4 percent among the non-Aboriginal population. Although the Aboriginal population represents only 3.8 percent of the total population of Canada, Aboriginal children account for 6.3 percent of all the children in Canada.
32. According to Statistics Canada, the growth of the Aboriginal population may be attributable to demographic factors, such as a high birth rate. Various other factors may also explain the growth, such as fewer reserves that were incompletely enumerated and the growing trend of people identifying themselves as Aboriginal.

### **Languages**

33. Canadians reported more than 200 languages in response to the 2006 Census question on mother tongue. The list includes languages that have long been associated with immigration in Canada, such as German, Italian, Ukrainian, Dutch and Polish. However, from 2001 to 2006, language groups from Asia and the Middle East posted the highest increases, with the exception of Spanish.
34. In 2006, nearly 6,293,110 people – approximately one person out of five – were allophones, meaning that they reported their mother tongue as neither English nor French. This figure rose by 18 percent over 2001, representing just over three times the Canadian population growth rate (which is 5.4 percent).
35. The 2006 Census confirmed that Chinese was the third most significant mother tongue in Canada. Over 1,034,000 people reported Chinese as their mother tongue, an increase of 160,000 people, or 18.5 percent, over 2001. They represent 3.3 percent of the population

in Canada compared to 2.9 percent five years earlier. Italian continued to rank fourth and German fifth, Punjabi ranked sixth, and Spanish ranked in seventh position.

36. The vast majority of allophones (92.6 percent) live mostly in four provinces: Ontario, British Columbia, Québec, and Alberta. Allophones represent 26.6 percent and 27.3 percent of the total population of Ontario and British Columbia respectively. In Alberta, they accounted for 18.4 percent of the population, and in Québec, 12.3 percent.
37. According to the 2006 Census, Cree (78,885 people), Inuktitut (32,015), and Ojibway (24,190) were the three largest groups of the Aboriginal languages reported as mother tongue. These groups ranked in the same order in the censuses taken in 1991, 1996 and 2001.
38. Nearly two thirds (62.9 percent) of the population whose mother tongue was Inuktitut lived in Nunavut, while 29.5 percent lived in Québec. Three quarters of the Cree population lived in the Prairies.

## Religions

39. Seven out of ten people identified their religion as Roman Catholic or Protestant. However, the 2001 Census data (the latest Census information available) shows that major changes have occurred in the religious composition of Canada, owing mainly to immigration. There has been increased growth in the Muslim, Hindu, Sikh and Buddhist religions. Among the 1.8 million newcomers who arrived in the 1990s, 15.1 percent are Muslim, 6.5 percent are Hindu, 4.7 percent are Sikh and 4.6 percent are Buddhist.
40. The number of people who identified themselves as Muslim has doubled from 253,265 in 1991 to 579,640 in 2001. The number of people who reported being Hindu rose by 89.3 percent for a total of 297,200 people. Those who identified themselves as Sikhs increased by 88.8 percent, totalling 278,415, and the number of Buddhists rose to 300,345, an increase of 83.8 percent. In addition, the number of people who reported being Jewish grew by 3.7 percent during the 1990s, for a total of 329,995 people.



## **Part III**

### **Measures Adopted by the Government of Canada**

## Article 1: Definition, interpretation and general

### Use of the term visible minority

41. In Concluding Observation 13, the Committee on the Elimination of Racial Discrimination (CERD) asks Canada to reflect on the use of the term “visible minority.” The Government of Canada has taken the recommendation into consideration but has no plans of changing its standard usage. The term “visible minority” is not used for the purposes of the equality guarantees in either the *Canadian Charter of Rights and Freedoms*, the *Canadian Human Rights Act*, or any of the provincial or territorial human rights codes, all of which are key components of Canada’s anti-discrimination policy. The term is specific to the administration of the *Employment Equity Act* (EEA) (<http://laws.justice.gc.ca/PDF/Statute/E/E-5.401.pdf>) that seeks to address conditions of disadvantage in employment, in areas of federal jurisdiction, experienced by four specified groups - Aboriginal peoples, persons with disabilities, members of visible minorities, and women. The Act is similar to a “special measure” taken for the purpose of securing advancement of certain racial or ethnic groups as referred to in Article 1, paragraph 4 of the Convention.
42. In 2007-2008, the Government of Canada contracted with academic experts to write research papers examining the term, including its history, its usage in other countries and the effects and implications of using the term. An open workshop to discuss these issues took place in April 2008, which was attended by government officials, academics and representatives from non-governmental organizations (NGOs). There were divided views amongst the participants with respect to the use of the term.
43. In 2008, the Government of Canada commissioned a paper to look at the use of the term with respect to the administration of the EEA. While other terms were considered in the research, no other term fully encompassed the goals of addressing labour market disadvantage faced by groups designated by the EEA.

## Article 2: Legislative, administrative, judicial or other measures

### Gender-based violence

44. Research shows that Aboriginal women and women belonging to racial/ethnic minority groups are particularly at risk of gender-based violence.
45. As indicated in Canada’s response to recommendations under the Universal Periodic Review process ([www.pch.gc.ca/pgm/pdp-hrp/inter/101-eng.cfm](http://www.pch.gc.ca/pgm/pdp-hrp/inter/101-eng.cfm)), and Canada’s Sixth and Seventh Reports on the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) ([www.pch.gc.ca/pgm/pdp-hrp/docs/cedaw-cedef7/index-eng.cfm](http://www.pch.gc.ca/pgm/pdp-hrp/docs/cedaw-cedef7/index-eng.cfm)), the *Criminal Code* of Canada (<http://laws.justice.gc.ca/en/C-46/>) provides a broad-based response to all forms of violence against women. Measures include prohibitions on specific forms of violence such as assault, sexual assault and criminal harassment. As well, procedural protections (e.g. the use of testimonial aids),

preventative measures (e.g. restraining orders), and sentencing principles (e.g. spousal abuse and abuse of a position of trust/authority are aggravating factors for sentencing) ensure that the criminal justice system is able to respond to violence against women at all stages.

46. On October 29, 2010, the Government of Canada announced an investment of \$10 million over two years to improve community safety and to ensure that the justice system and law enforcement agencies can better respond to cases of missing and murdered Aboriginal women. The Government of Canada will provide new tools for law enforcement and improve the justice system and victims' services through the following seven initiatives:

- Through a \$4-million investment, the Royal Canadian Mounted Police (RCMP) will establish a National Police Support Centre for Missing Persons, including one resource, linked to National Aboriginal Policing Services, specifically dedicated to the issue of missing and murdered Aboriginal women; enhance the Canadian Police Information Centre to capture additional missing persons data; create a national registry for missing persons and unidentified remains so police have more comprehensive information on missing persons across jurisdictions; and create a national Web site to encourage the public to provide tips and information on missing persons cases and unidentified human remains.
- The Government of Canada's Department of Justice will introduce amendments to the *Criminal Code* to streamline the application process when specific court orders or warrants need to be issued in relation to an investigation for which a judge has given a wiretap authorization. Currently, a law enforcement officer may make multiple appearances before different judges to obtain authority to use these related investigative techniques. This amendment will improve the efficiency of investigations into serious crimes, including those that involve missing and murdered Aboriginal women. Other amendments will be proposed to section 184.4 of the *Criminal Code*, which provides authority for wiretapping without a warrant in emergencies (exigent circumstances). These circumstances can include murder or kidnapping investigations relating to missing and murdered Aboriginal women. The amendments being proposed would enhance privacy safeguards by, among other things, adding notification and reporting requirements to section 184.4. The notification amendment would require notice to be given in writing to persons who were the object of an interception under this provision. The reporting amendment would require an annual report to be prepared on the use of electronic surveillance under this provision.
- The Department of Justice will also provide \$1 million to support the development of school- and community-based pilot projects to help heal, move forward and provide alternatives to high-risk behaviour for young Aboriginal women, including young offenders. The overall goal of the initiative will be to reduce the vulnerability of young Aboriginal women to violence.

- Funds will be added to the Department of Justice's Victims Fund (see below) to help the western provinces develop or adapt victim services for Aboriginal people and specific culturally sensitive victim services for families of missing and murdered Aboriginal women. Additional investments in the Victims Fund will also be made available to Aboriginal community groups to respond to the unique issues faced by the families of missing or murdered Aboriginal women at the community level. This funding will total approximately \$2.15 million over two years.
- The Department of Public Safety Canada will provide \$1.5 million over two years to develop community safety plans to improve the safety of Aboriginal women within Aboriginal communities. The plans will be developed by Aboriginal communities with the support of the Government of Canada to improve community safety and wellness. The information gathered from this process will help the government improve its programs and services and better respond to community issues.
- In 2010-2011, the Justice Partnership and Innovation Fund will make available approximately \$850,000 to develop materials for the public on the importance of breaking intergenerational cycles of violence and abuse that threaten Aboriginal communities across Canada. This funding will be made available to Aboriginal organizations and Public Legal Education groups working with Aboriginal groups.
- The Department of Justice will also invest almost \$500,000 in the development of a national compendium of promising practices in the area of law enforcement and the justice system to help Aboriginal communities and groups improve the safety of Aboriginal women across the country. These "best practices" will be identified in a number of fields: law enforcement, victim services, Aboriginal community development and violence reduction.

#### *Family Violence Initiative*

47. As part of its Family Violence Initiative (FVI), the Government of Canada supports:
- The development, implementation and assessment of models, strategies and tools to improve the justice system's response to family violence, including for Aboriginal women and women belonging to racial/ethnic minority groups (<http://canada.justice.gc.ca/eng/pi/fv-vf/index.html>). Funding is available to non-governmental and community-based organizations. For example, Changing Ways and the Muslim Family Support Services received funding for a new manual: *Guidelines for Service Providers: Outreach strategies for family violence intervention with immigrant and minority communities*, produced in 2009.
  - Projects that raise public awareness of family violence. For instance, in 2007-2008, the Public Legal Information Association of Newfoundland received funding to adapt public legal information on family violence to meet the needs of people from Aboriginal cultures, and other ethnocultural and linguistic minority groups ([www.publiclegalinfo.com/publications.html#Criminal\\_Justice](http://www.publiclegalinfo.com/publications.html#Criminal_Justice)).

- Relevant research. For example, in 2008, a report was published entitled *Understanding Family Violence and Sexual Assault in the Territories, First Nations, Inuit and Métis Peoples* ([http://canada.justice.gc.ca/eng/pi/rs/rep-rap/2008/tr08\\_1/index.html](http://canada.justice.gc.ca/eng/pi/rs/rep-rap/2008/tr08_1/index.html)).
48. The FVI also funds the Shelter Enhancement Program (SEP) that assists in repairing and improving existing shelters for women and children in areas such as security, access for persons with disabilities, and improvement in play areas. SEP also provides capital funds for developing new shelters and second stage housing – this includes First Nations facilities on reserves. Overall, the Government of Canada and its provincial and territorial partners provided over \$82 million in funding for the SEP from 2003 to 2007. In 2008, \$10.6 million in funding was provided under SEP.
49. A recent evaluation of SEP indicated that from April 1, 2001 to March 31, 2007, SEP funding had significantly contributed to improvements in shelter conditions in Canada and that the condition of the shelter is a major factor aiding women and thus a factor enhancing success for shelters in addressing family violence. In First Nations communities where shelters are operating, it was also reported that fewer women had to leave their communities to seek protection. Shelters had also contributed to more community engagement in prevention activities.
50. Shelters for women, particularly First Nations women and children, are important for their safety and well-being in family violence crisis situations. As indicated in the Interim Report in follow-up to the review of Canada's Sixth and Seventh Reports under the CEDAW ([www.pch.gc.ca/pgm/pdp-hrp/docs/cedaw-cedef7/cedaw-cedef-eng.cfm](http://www.pch.gc.ca/pgm/pdp-hrp/docs/cedaw-cedef7/cedaw-cedef-eng.cfm)), in 2007, the Government of Canada announced investments to support the existing network of shelters. This includes \$2.2 million to support the construction of five new shelters in Québec, Ontario, Manitoba, Alberta, and British Columbia. Selection of the new shelter locations were recommended by a Review Committee that included representatives from the Government of Canada, Indian Residential Schools Resolution Canada, the Assembly of First Nations and the Native Women's Association of Canada (NWAC).

#### *Aboriginal communities*

51. The Government of Canada recognizes the varied socio-economic circumstances that intersect to render Aboriginal women particularly vulnerable to violence and marginalization. Aboriginal women are three times more likely to be victims of gender-based violence than non-Aboriginal women.<sup>2</sup> Aboriginal women are also significantly more likely than non-Aboriginal women to report the most severe and potentially life-threatening forms of violence, and have spousal homicide rates that are eight times that of non-Aboriginal women.<sup>3</sup> Violent incidents committed against Aboriginal people are much more likely to be perpetrated by someone who is known to the victim.

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<sup>2</sup> Measuring Violence Against Women: Statistical Trends 2006, Statistics Canada 2006, at 65.

<sup>3</sup> Ibid, at 65 and 67

52. From 2006 to 2008, the Government of Canada provided almost \$300,000 for the development and promotion of a violence prevention toolkit to help combat violence in Aboriginal communities and to engage Aboriginal youth to become valuable agents of change in their own lives. The toolkit also provides relevant information and empowerment to Aboriginal girls who are one of the most vulnerable segments of the Canadian population.
53. As indicated in the CEDAW Interim Report, the Government of Canada is supporting efforts to combat gendered racism and violence against Aboriginal women and girls through its funding of the renewed *Urban Aboriginal Strategy* (UAS) that funded 22 projects supporting Aboriginal women in 2007-2008, and NWAC's Sisters in Spirit (SIS) initiative (i.e. \$5 million over five years - 2005-2010). Additional information on the UAS is available in the CEDAW Interim Report.
54. Under the SIS initiative, NWAC released a report in March 2009, entitled "*Voices of Our Sisters in Spirit: A Report to Families and Communities*," 2nd edition ([www.nwac-hq.org/sites/default/files/download/admin/NWAC\\_VoicesofOurSistersInSpiritII\\_March2009FINAL.pdf](http://www.nwac-hq.org/sites/default/files/download/admin/NWAC_VoicesofOurSistersInSpiritII_March2009FINAL.pdf)), which includes research results, information on emerging trends and policy recommendations. As of March 31, 2009, NWAC documented 520 Aboriginal women and girls who have been murdered or have gone missing, mostly in the last three decades. More information on the SIS initiative is available in the CEDAW Interim Report.
55. The Government of Canada invested \$29.8 million in 2008-2009 in family violence prevention programs and protection services on reserve. The anticipated result of the Family Violence Prevention Program (FVPP) is a reduction in family violence and a more secure family environment for children on-reserve. The Government of Canada continues to work with its partners, such as First Nations, the National Aboriginal Circle Against Family Violence, NWAC, the Assembly of First Nations, as well as provincial and territorial governments, to provide culturally-relevant family violence prevention programs and services to better protect First Nations women, children and families.
56. In addition to the FVI, UAS and FVPP, the Government of Canada supports the efforts to prevent and reduce family violence, and enhance victim services for Aboriginal victims of family violence in Aboriginal communities and the North through a number of initiatives, including the Policy Centre for Victim Issues (PCVI), Aboriginal Justice Strategy, Youth Justice Fund, and Nunavut Fund. Many of these initiatives work closely with provincial and territorial partners in the delivery of programming (grants and contributions) and the development of policy. For example, the PCVI administers a Northern Program, which has resources for the three territorial governments to increase the capacity of victim service providers in the three territories, who work with many victims of crime, a large portion of whom are Aboriginal.

## Training for law enforcement and intelligence services

57. Regarding CERD Concluding Observation 20 on culturally-sensitive training for law enforcement officers, the RCMP, Canada's national police service, has policies and courses in place to raise the awareness and understanding of its officers to the prevalence of violence against women and female children; and that as first responders and investigators, they must be sensitive to gender biases and cultural differences and dynamics within relationships. Further, bias-free policing is an important component that has been integrated throughout development programs, with the objective of ensuring that the senior and middle managerial levels of the organization are equipped to address challenges. These training and development programs include:

- The RCMP Cadet Training Program includes several modules including those on cultural sensitivity – for example, *Police Service-Related problems*, *Investigative Conflict Situation in Community Research-First Nations* and *Aboriginal Policing*. Cadets receive 6.5 hours of training on the topic of bias-free policing and diversity and complete an on-line course on harassment while at the training academy.
- The RCMP's Cultural Awareness training includes a day of visits to three places of worship where local religious leaders provide a tour and answer technical questions on how to respectfully interact with members of their faith. Venues visited have included Mosques, Synagogues, Hindu Temples, and Sikh Gurdwaras. Also, the RCMP's National Security Criminal Investigations conducts community outreach to assist in increasing mutual understanding of different cultural norms and behaviours of various communities in Canada and the roles and responsibilities of the police. Community leaders are invited to act as instructors on cross-cultural training, which is mandatory for all national security investigators and seeks to enlarge investigators' knowledge and understanding of Canada's diversity of cultures, religions and ethnicity.
- An intranet database provides supplemental learning for police officers. The *Toolbox* includes information on *Cross Cultural Communications*, which assists officers in understanding the various cultures of people they may encounter, as well as a separate component on the RCMP Bias-Free Operational Policy.
- Promoting awareness of the needs of Aboriginal victims and the services available to them includes training front line officers, victim services workers, and volunteers. For example, Aboriginal Perceptions training is offered to members and staff to provide an understanding of the history of Canada's Aboriginal peoples, including the impact of colonialism, residential schools and their unique position within Canada's social structure.
- The RCMP's National Aboriginal Policing Services (NAPS) is responsible for planning, developing and managing the organization's strategies and initiatives for working with Aboriginal communities. The NAPS Branch oversees a number of Aboriginal programs and initiatives that include: the Commissioner's National



- Aboriginal Advisory Committee, Aboriginal Perceptions Training, and Inuit Perceptions Training. An informative Web site provides employees with easy access to resources and teachings on Aboriginal cultures and policing in Aboriginal communities.
58. In addition, the RCMP has developed strong partnerships with Canada's federal, provincial and territorial victim services organizations. For example, the RCMP works closely with Aboriginal victim advocacy organizations to ensure that a victim's culture, customs, and traditions are respected throughout RCMP policies and throughout the justice process.
59. Canada's national security intelligence service provides mandatory training for all new employees on valuing diversity, including increasing employee awareness on the subjects of culture, religion, age, and gender. This has been supplemented by learning events aimed at educating employees about, or exposing employees to the experiences and knowledge of, specific cultural groups. There is also training for employees being deployed abroad – for example, with respect to culture and religion. Basic training courses for new intelligence officers include a focus on diversity, including the significant diversity that exists within the service itself and the valuable contribution that makes to the service's work.

## **Support for victims of crime**

### *Federal Victims Strategy*

60. Since 2007, the Government of Canada has committed an additional \$52 million in funding – \$13 million a year over four years starting in April 2007 – for the Federal Victims Strategy (FVS). The objectives of the FVS are to:
- improve the experience of victims of crime in the criminal justice system by working with partners to enhance victim participation;
  - ensure that victims of crime and their families are aware of their role in the criminal justice system and services and assistance available to support them;
  - enhance capacity to develop policy, legislation and other initiatives, which take into consideration the perspectives of victims;
  - increase the awareness of criminal justice system personnel, allied professionals and the public about the needs of victims of crime, legislative provisions designed to protect them and services available to support them; and
  - develop and disseminate information about effective approaches, both within Canada and internationally, to respond to the needs of victims of crime.
61. Among other things, this enhanced funding has enabled the Government of Canada to provide a wider range of assistance to victims in Canada's North. While the Aboriginal population of Canada is only about 3.8 percent, it is much higher in the North (85 percent in Nunavut, 50 percent in the Northwest Territories, and 25 percent in Yukon). Research demonstrates that those living in the North are three times more likely to be victims of



violent crime than those living in the rest of Canada. Among Northern residents, Aboriginal residents are much more likely to be victims of spousal violence than non-Aboriginal residents. Enhanced support has included the hiring of additional Crown Witness Coordinators in the territories, who deliver court-based support for victims of crime, and training for northern victim service providers.

#### *Victims Fund*

62. As of 2007, the Government of Canada funds the Victims Fund, through which grants and contributions are made available to provincial and territorial governments and non-governmental organizations in order to create new services for victims of crime or improve or expand existing services. A portion of this fund also assists Canadians who are victims of crimes, including hate crimes, while abroad. One of the priorities for the additional funding that commenced in 2007 is enhanced services for underserved victims, such as Aboriginal victims, seniors, members of minority communities and victims with disabilities. For example, a publication entitled, "*Working with victims of crime: A manual applying research to clinical practice*," written by James K. Hill, PhD., a clinical psychologist, is designed to assist those who work with crime victims to understand and apply the research on the psychological impacts of victimization. The second edition of this manual, published in 2009, includes a chapter on Victims of Hate Crimes ([www.justice.gc.ca/eng/pi/pcvi-cpcv/pub/res-rech/index.html](http://www.justice.gc.ca/eng/pi/pcvi-cpcv/pub/res-rech/index.html)).

#### **Access to justice for vulnerable groups**

63. The Government of Canada and provincial/territorial governments work cooperatively to facilitate access to justice through provincial and territorial delivery of civil and criminal legal aid. Since 1972, the Government of Canada has collaborated with the provinces/territories by providing contribution funding for criminal legal aid. Funding for civil legal aid is currently provided through a block transfer called the Canada Social Transfer (CST), which provides federal support for post-secondary education, children's programs, as well as social assistance and social services. Each jurisdiction has the flexibility to allocate funding provided through the CST to the supported areas according to their respective needs and priorities, including civil legal aid. Since 2001-2002, the Government of Canada has provided, through legal aid agreements, an additional \$11.5 million (outside the CST) for Immigration and Refugee legal aid to six provinces currently providing these services (i.e., Newfoundland and Labrador, Québec, Ontario, Manitoba, Alberta, and British Columbia). For fiscal year 2009-2010, the Government of Canada increased, for that fiscal year only, its contribution for immigration and refugee legal aid services to \$17.5 million because of a large increase in refugee claimants.
64. In 2007, the Government of Canada increased Canada's contributions for criminal legal aid to the provinces and territories by \$30 million annually for a five-year period (2007-2008 to 2011-2012). As a result, Canada's funding for criminal legal aid was increased from a previous level of \$81.9 million to \$111.9 million.

65. In 2007, the Government of Canada also enhanced the support provided through the CST, which totals \$10.9 billion in 2009-2010, nearly \$300 million higher than 2008-2009, as a result of the annual three percent escalator.

## Employment

66. Since 2000, the numbers of visible minorities in the core federal public administration, who have self-identified as members of this employment equity group, has more than doubled, from 7,764 to 19,264, as of March 31, 2009. While the representation of visible minorities in the federal public service was still below workforce availability (WFA) as of March 31, 2009, at 9.8 percent versus 12.4 percent (based on 2006 Census data), steady progress is being made.
67. The number of visible minorities in the executive group in the federal public service has increased from 3.1 percent (103) in 2000 to 6.9 percent (353) as of March 2009; however, this representation is below the WFA of 7.6 percent.
68. It should be noted that members of visible minority groups are well represented in the scientific and professional domains in the federal public service. As well, salary levels for employees who are visible minorities compare favourably with the levels for all employees in the federal public service.
69. The Government of Canada has put measures in place to increase the representation of members in the four employment equity designated groups, including visible minority groups. For example, under the *Public Service Modernization Act* (<http://laws.justice.gc.ca/en/P-33.4/>) and the *Public Service Employment Act* (<http://laws.justice.gc.ca/en/P-33/>), federal deputy heads have flexibility to achieve employment equity objectives based on organizational needs. For example:
- Membership in an employment equity designated group can be added to an area of selection; and
  - Employment equity objectives can be defined as a merit criterion for selection purpose.
70. Additionally, since 2007-2008, federal deputy heads are required to develop integrated business and human resources plans that “[include] a strategy for the recruitment, development and advancement of visible minorities, as well as Aboriginal people and persons with disabilities, setting out how to achieve representation at all levels that reflects their workforce availabilities.” Performance is measured through the Management Accountability Framework (People Management) ([www.tbs-sct.gc.ca/maf-crg/index-eng.asp](http://www.tbs-sct.gc.ca/maf-crg/index-eng.asp)). Overall results are considered in determining Deputy Ministers’ compensation.
71. In order to close the gap in representation of members of visible minority groups in the federal public service, the 2008-2009 Public Service Renewal Action Plan required federal deputy heads to hire members of this group above their workforce availability.

72. The Government of Canada's *Racism-Free Workplace Strategy* seeks to help federally-regulated private sector employers with the recruitment, retention and advancement of members of visible minority groups and Aboriginal peoples ([www.hrsdc.gc.ca/eng/lp/lo/lsw/we/special\\_projects/racismfreeinitiative/initiativehome.shtml](http://www.hrsdc.gc.ca/eng/lp/lo/lsw/we/special_projects/racismfreeinitiative/initiativehome.shtml)).

## Article 4: Prohibition against promotion of racism

### Racist violence and hate-motivated crime

73. In its response to recommendations resulting from its Universal Periodic Review, Canada did not accept the recommendation that it enact legislation to create an offence of racial violence. Canada criminalizes acts of racist violence through the use of regular criminal law and the application of subsection 718.2(a)(i) of the *Criminal Code*. Acts of violence are prohibited by a number of criminal offences, including assault and assault with a weapon (causing bodily harm). Inciting a person to commit an act of violence is also an offence, whether or not the offence is committed. Under subsection 718.2 (a)(i), for any offence under the *Criminal Code*, during sentencing a judge must take into consideration any aggravating factors, including evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor.
74. Subsection 430(4.1) of the *Criminal Code* makes it a specific crime to vandalize or otherwise damage property that is primarily used for religious worship, including a church, mosque, synagogue or temple or a cemetery, if the action is motivated by bias, prejudice or hate based on religion, race, colour or national or ethnic origin.
75. In 2007, the Government of Canada launched the Communities at Risk: Security Infrastructure Pilot Program (SIP Program) aimed at deterring hate-motivated crime and increasing the sense of safety and security in communities at risk. This program provides funding for security infrastructure for communities that are at risk of hate-motivated crime, providing support to organizations, including recognized educational institutions, community centres, and places of worship. The SIP Program provides up to \$100,000 in matched funding for infrastructure such as security cameras, lighting, alarm systems, etc.
76. The Nationally Standardized Data Collection on Hate-Motivated Crime Initiative, part of Canada's Action Plan Against Racism, provides data annually by race, ethnicity, religion, as well as other factors. Since 2008, the Canadian Centre for Justice Statistics has produced three reports on the incidence of hate crime in Canada that show that the majority of victims of hate crimes in Canada are black and people of the Jewish faith. According to the report entitled "Police-Reported Hate Crime in Canada, 2008" ([www.statcan.gc.ca/pub/85-002-x/2010002/article/11233-eng.htm](http://www.statcan.gc.ca/pub/85-002-x/2010002/article/11233-eng.htm)), in 2008, Canadian police services, covering 88 percent of the population,<sup>4</sup> reported 1, 036 hate crimes. This

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<sup>4</sup> In 2008, hate crime data were collected from all municipal and provincial police services as well as the Royal Canadian Mounted Police (RCMP) in British Columbia. The RCMP, who provide policing services to all provinces

number was up from 765 incidents in 2007 and 892 in 2006, the first year that near-national statistics on hate crimes were available. Despite the 35 percent increase, hate crimes continued to account for a low proportion of all crimes, at less than one percent. Three primary motivations surrounding police-reported hate crimes were identified in 2008: race or ethnicity (55 percent), religion (26 percent) and sexual orientation (16 percent).

77. It should be noted that information from police indicates that year-over-year changes do not necessarily reflect actual increases or decreases in the incidence of this type of offence since the number of hate crimes recorded in a given area can be influenced by many different factors. These may include the existence (or absence) of specialized police hate crime units, training initiatives, zero tolerance policies, victim assistance programs, hot-lines and community awareness campaigns. In other words, the rate of hate crime in a given area may be more indicative of reporting practices by the public and local police services rather than prevalence levels.

## Hate speech

78. The *Criminal Code*, the *Canadian Human Rights Act* (<http://laws.justice.gc.ca/en/H-6/index.html>), the *Broadcasting Act* (<http://laws.justice.gc.ca/en/B-9.01/>) and provincial and territorial legislation all have provisions that relate to the prohibition of hate speech in Canada, both in traditional media and over the Internet.

### *Criminal Code*

79. Since 1970, the Parliament of Canada has prohibited the dissemination of hate propaganda by amendments to the *Criminal Code*. The *Criminal Code* prohibits:
- (a) advocating or promoting genocide against an “identifiable group”, that is, any section of the public distinguished by colour, race, religion, ethnic origin or sexual orientation (section 318);
  - (b) inciting hatred against an “identifiable group” by communicating in a public place statements that are likely to lead to a breach of the peace (subsection 319(1)); and
  - (c) communicating statements, other than in private conversation, to wilfully promote hatred against an “identifiable group” (subsection 319(2)).
80. Under the *Criminal Code*, the Attorney General of Canada must consent to any proceedings under either section 318 or section 319(2); “identifiable group” is intended to be defined as “any section of the public distinguished by colour, race, religion, ethnic origin or sexual orientation;” and the term “statements” is defined broadly as including “words spoken or written or recorded electronically or electromagnetically or otherwise and gestures, signs or other visible representations.”

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and territories (except Québec and Ontario), were unable to report hate crime data outside of British Columbia due to on-going changes in their electronic reporting system.

81. Advocating or promoting genocide is an indictable offence, punishable by a maximum of five years imprisonment. Inciting hatred in a public place likely to lead to a breach of the peace or wilfully promoting hatred are punishable by a maximum of two years imprisonment. In addition, the *Criminal Code* provides for the seizure and forfeiture of hate propaganda kept on premises for distribution or sale (subsections 320(1) and (4)), and for the forfeiture of the instruments used in the commission of the offence (subsection 319 (4)).
82. A provision for the deletion of hate propaganda from the Internet was added to the *Criminal Code* in 2001 (section 320.1). This provision authorizes a court to order deletion of publicly available on-line hate propaganda when it is stored on a server that is within the court's jurisdiction. The person who posted the material is given an opportunity to be heard before the judge decides to order deletion of the material. This procedure is independent from prosecution. It allows the material to be deleted in cases where the person who posted it is unknown, or is outside the country.

#### *Canadian Human Rights Act*

83. Section 13 of the *Canadian Human Rights Act* (CHRA) states that it is a discriminatory practice to repeatedly communicate by telecommunications or the Internet any matter that is likely to expose persons to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, or conviction for which a pardon has been granted. The Supreme Court of Canada, in *Canada (Human Rights Commission) v. Taylor*, [1990] 3 S.C.R. 892, upheld section 13 as a justifiable limit on the right to freedom of expression under the *Canadian Charter of Rights and Freedoms* (<http://laws.justice.gc.ca/en/charter/1.html>). In *Taylor*, the Supreme Court was not dealing with the communication of messages over the Internet.
84. In 2008, in response to numerous concerns regarding section 13 and limits on free speech, the Canadian Human Rights Commission (CHRC) commissioned a comprehensive study on how to best address hate messages on the Internet. The "Moon Report" ([www.chrc-ccdp.ca/publications/report\\_moon\\_rapport/toc\\_tdm-en.asp](http://www.chrc-ccdp.ca/publications/report_moon_rapport/toc_tdm-en.asp)) recommended that section 13 of the CHRA be repealed, that hate speech continue to be prohibited in the *Criminal Code*, but that the prohibition should be confined to expressions that advocate, justify or threaten violence. It also recommended possible amendments to the CHRA should section 13 not be repealed, including changes to powers and procedures under the CHRA. Some non-legislative options were also recommended.
85. In June 2009, the CHRC tabled a Special Report to Parliament in which it recommended that section 13 be retained but amended to: define the words "hatred" and "contempt;" allow early dismissal of complaints that do not satisfy the definitions; allow the Canadian Human Rights Tribunal (CHRT) to award costs if a party has abused the process; repeal the fine for a violation of section 13; and reconsider the requirement for the Attorney General of Canada to consent for *Criminal Code* hate propaganda offences.

### *Broadcasting Act*

86. The *Broadcasting Act* permits the Canadian Radio and Television Commission (CRTC) to make regulations regarding the content of radio and television programs. The CRTC has promulgated regulations which prohibit the broadcasting of “any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;” as well as any false or misleading news (section 8 of the *Broadcasting Act Regulations*).

### **Criminal liability**

87. The Government of Canada notes the concern of the CERD in Concluding Observation 16 that under Canada’s *Criminal Code*, criminal liability cannot be established on the basis of the nature of racist organizations. The Government of Canada is of the view that criminal liability for violating prohibitions under the *Criminal Code* extends to a racist organization itself, and not only its members.
88. In operation with other sections of the *Criminal Code*, individuals and organizations are prohibited from acting together to commit any of these offences. For example, they are prohibited from aiding, abetting, conspiring together or counselling someone else to commit these offences.
89. The Government of Canada’s approach is to focus on prohibiting the objectionable activities of racist organizations rather than simply on the associational nature of the organizations. This is consistent with how Canada addresses organized crime gangs and terrorist groups, where membership is not, by itself, a criminal offence.
90. Canada’s concern with prohibiting membership in an organization is that both a ‘guilty act’ (*actus reus*) and a ‘guilty mind’ (*mens rea*) are essential elements to the determination of criminal liability. By focusing on the actual activities of the individual and the organization, Canada is consistent with these criminal law principles and ensures protection of other human rights such as freedom of association while at the same time denying the ability of these organizations to continue their racist activities.

## **Article 5: Equality before the law**

### **Anti-terrorism Act**

91. In its response to recommendations resulting from its Universal Periodic Review, Canada did not accept the recommendation to include an anti-discrimination clause in the *Anti-terrorism Act* (ATA) ([www.justice.gc.ca/eng/antiter/act-loi/index.html](http://www.justice.gc.ca/eng/antiter/act-loi/index.html)). Canada disagrees that its national laws on security are discriminatory and does not accept the presumption that Canada engages in racial or religious profiling. Canada’s law enforcement and security intelligence professionals investigate threats to national security



and criminality based on available intelligence and information and do not broadly target any community, group, or faith. Canada does not agree that the ATA should contain a specific anti-discrimination clause. The Act in its content and application is subject to the constitutional prohibition against discrimination set out in the *Canadian Charter of Rights and Freedoms*.

92. As indicated in the Interim Report in follow-up to the review of Canada's Seventeenth and Eighteenth Reports under the ICERD, one of the tools the Government of Canada has used to implement the Convention is the Cross-Cultural Roundtable on Security (CCRS). The CCRS has contributed to a 2005-2006 review of the ATA as well as other issues related to national security. More information on the CCRS is available in the ICERD Interim Report ([www.pch.gc.ca/pgm/pdp-hrp/docs/cerd/f-rppr\\_17\\_18/index-eng.cfm](http://www.pch.gc.ca/pgm/pdp-hrp/docs/cerd/f-rppr_17_18/index-eng.cfm)).

## **Indian Act**

93. In June 2009, the Government of Canada announced that it would not appeal the ruling of the Court of Appeal in British Columbia in *McIvor v. Canada*, 2009 BCCA 153, and would proceed with amendments to the *Indian Act* (<http://laws.justice.gc.ca/en/I-5/>) as ordered by the Court. More details on this case can be found in Appendix 1. Subsequently, the Government of Canada launched an engagement process to help First Nation leadership and regional and Aboriginal women's organizations better understand the implications of the *McIvor* decision and the government's approach to legislative amendments, and to hear their views. More information on the engagement process can be found at: [www.ainc-inac.gc.ca/br/is/iss/iss3/index-eng.asp](http://www.ainc-inac.gc.ca/br/is/iss/iss3/index-eng.asp).

## **Measures to address possible discriminatory approaches to law enforcement**

94. The Government of Canada has adopted measures to address possible discriminatory approaches to law enforcement, particularly through the RCMP. The RCMP's Bias-Free Policing policy provides explicit guidance to all RCMP employees for the conduct of all policing activities and services, including national security. An RCMP employee's knowledge of community and cultural issues may be evaluated through the competency-based management system for employees within a particular function. The "Competency Dictionary" is the organization's official list of functional competencies, such as knowledge, skills and abilities or personal characteristics defined in terms of behaviours required by employees to achieve a required performance output/outcome.
95. The RCMP currently assesses whether an employee is knowledgeable regarding the different cultures within the client groups or communities he/she serves. Knowledge of community and cultural issues is defined as a thorough understanding of the community or region, as well as of the customs, values and norms of the cultures and/or special interest groups with which he/she works.

## Aboriginal people

96. The Government of Canada provides contribution funding to the provinces and territories to support the provision of Aboriginal courtwork services. The Aboriginal Courtwork Program (ACW) is designed to help ensure that Aboriginal persons in contact with the criminal justice system receive fair, equitable, culturally-sensitive treatment. The ACW provides information, support and referral services to both Aboriginal communities and justice system officials at the initial stages and throughout the court process.
97. Aboriginal Courtworkers advise their clients on their rights, responsibilities and the court process and serve as a “bridge” between criminal justice officials and Aboriginal people and communities, by providing information and promoting communication and understanding.
98. Aboriginal Courtworkers may direct their clients to police complaint commissions and assist them in providing necessary information. They also sit on various community councils and task forces that address a range of issues and may be involved with providing cultural training to various justice system officials working in their communities. Aboriginal Courtworkers provide referrals to alternative/restorative community justice programs and other social, legal, health and community resources and are often asked by the courts to provide information prior to sentencing on the background, social and economic situation of clients and available community resources.
99. Three *Criminal Code* provisions directly or indirectly support alternatives to imprisonment for Aboriginal offenders:
  - The sentencing principle in subsection 718.2(e) reminds sentencing judges that “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.” Jurisprudence has resulted in non-carceral or lower carceral sentences for Aboriginal offenders in appropriate cases and has led to the creation of three experimental courts to deal specifically with Aboriginal accused persons.
  - Section 742.1 allows sentencing judges to impose conditional sentences where specific criteria are met, whereby convicted offenders serve their sentences in the community rather than in a carceral institution, but subject to stringent conditions. Given that the majority of Aboriginal crimes involve non-violent property offences, resulting in less severe sentences, substantial numbers of Aboriginal offenders have received conditional sentences rather than custodial sentences.
  - Subsection 717(1) authorizes “alternative measures” whereby offenders may be diverted from the formal courts system in appropriate cases to be dealt with through rehabilitative programs. The Government of Canada’s Aboriginal Justice Strategy (AJS), delivered in partnership with provincial and territorial governments, as well as Aboriginal communities, seeks to divert Aboriginal offenders, wherever possible, from the mainstream justice system. Operating at the community level, AJS uses



traditional dispute resolution methods to address Aboriginal over representation in Canada's federal institutions and provides opportunities for victims and communities to participate in the sentencing of offenders, healing circles, mediation, and arbitration mechanisms for civil disputes. Diversion through AJS programs can take place pre- or post-charge or at the time of sentencing. A 2006 recidivism study indicates that offenders who participate in AJS programs are approximately half as likely to re-offend as those offenders who do not participate in these programs. AJS programs operate in approximately 400 communities in Canada, including on reserves, urban areas and Northern communities.

100. The Government of Canada has eight Aboriginal Correctional Programs that target general crime prevention, violence prevention, family violence prevention, substance abuse, sex offending, and community-based programming. A 2008 evaluation found these programs to be relevant and effective. For example, exposure to the "In Search of Your Warrior Program" increased Aboriginal offenders' likelihood of discretionary release, and reduced their risk for readmission upon release into the community.

### **Measures to enhance the social, economic and cultural rights of Aboriginal people**

101. With respect to CERD Concluding Observation 21, the Government of Canada views negotiation as the best means for engaging Aboriginal groups, and provincial and territorial governments in considering pragmatic, practical options that respond to different needs across the country. Canada continues to negotiate self-government agreements with Aboriginal communities, which leads to the enhanced enjoyment of economic, social and cultural rights.
102. The Government of Canada's Aboriginal Health Transition Fund aims to improve access to existing health services for all Aboriginal Canadians through the improved integration of federally funded programs with those of the provinces/territories as well as the adaptation of health services to better suit the health care needs of First Nations, Inuit and Métis. Recognizing the different health priorities and models for integration/adaptation across Canada, local and regional partnerships, including Aboriginal, provincial/territorial and federal representatives have collaborated in planning and implementing projects to advance the integration and/or adaptation of health services. Examples of projects funded through the transition fund can be found at: [www.hc-sc.gc.ca/fniah-spnia/services/acces/projects-projets-eng.php](http://www.hc-sc.gc.ca/fniah-spnia/services/acces/projects-projets-eng.php).
103. The Government of Canada's Economic Action Plan 2009 ([www.fin.gc.ca/pub/report-rapport/2009-3/pdf/ceap\\_sept\\_2009\\_eng.pdf](http://www.fin.gc.ca/pub/report-rapport/2009-3/pdf/ceap_sept_2009_eng.pdf)) makes significant labour market and regional investments of almost one percent of its Gross Domestic Product (approximately \$1 billion) in Aboriginal communities in: Aboriginal skills development and training, health, education, employment partnerships, housing, water treatment infrastructure, policing infrastructure, and northern economic development.

104. Launched on June 29, 2009, the new Federal Framework for Aboriginal Economic Development builds on a number of Government of Canada initiatives to improve the participation of First Nations, Inuit and Métis people in the Canadian economy. These include an investment of \$200 million through Canada's Economic Action Plan for Aboriginal skills and training to improve labour market outcomes for Aboriginal peoples, amendments to the *Indian Oil and Gas Act* (<http://laws.justice.gc.ca/en/I-7/index.html>), investments to benefit all Canadians living in the North, and a commitment to establish a new regional economic development agency for the North.
105. This Framework is the first step in a fundamental change in how the Government of Canada supports Aboriginal economic development, and ensures that First Nations, Inuit and Métis people in Canada have every opportunity to share in Canada's economic opportunities and prosperity. The Framework adopts a modern and comprehensive approach to Aboriginal economic development that is opportunity-driven and puts emphasis on building strategic partnerships with Aboriginal groups, the private sector, and the provinces and territories. Under the Framework, the Government of Canada is investing \$1.68 billion over five years in a new Aboriginal Skills and Employment Training Strategy to support the development of Aboriginal capital. By focusing on opportunities, responding to new and changing conditions, leveraging partnerships and focusing on results, the Government of Canada, Aboriginal Canadians and willing partners work together to ensure that Aboriginal Canadians enjoy the same opportunities for employment, income and wealth creation as other Canadians. The New Federal Framework for Aboriginal Economic Development is available at [www.ainc-inac.gc.ca/ecd/ffaed-eng.asp](http://www.ainc-inac.gc.ca/ecd/ffaed-eng.asp).

### **Limitations on land use by Aboriginal people**

106. In Canada, various federal and provincial statutes allow the taking of private lands by provincial or municipal governments, a local authority and certain corporations. Such takings are known as expropriations and are granted for specific public purposes such as works of public utility (e.g. highways, railways etc.). Normally, such powers of expropriation cannot be applied to reserve lands. However, under section 35 (1) of the *Indian Act* where by a federal or provincial act, provincial or municipal governments or certain corporations are empowered to take or use lands or any interest therein without the consent of the owner, the Governor in Council may consent to an expropriation or authorize a grant in lieu of compulsory taking, in relation to lands in a reserve or any interest therein. In so doing, the relevant Order in Council must establish a clear and plain intention to remove land from a reserve. In addition, the scope of the expropriation power set out in the Order in Council may not exceed the scope of the power set out in the relevant federal or provincial legislation.
107. In interpreting this provision in *Osoyoos Indian Band v. Oliver (Town)*, 2001 SCC 85, the Supreme Court of Canada set out two main conditions in which expropriation of reserve lands may be possible. First, the Crown must act in the public interest to determine whether an expropriation involving Indian lands is required in order to fulfill some public purpose. Second, once the decision to expropriate has been taken, a fiduciary obligation

is triggered. This duty requires the Crown to expropriate an interest that will fulfill the public purpose while preserving the Indian interest in the land to the greatest extent practicable. In fulfilling this duty, the Crown is obliged to ensure minimal impairment of the reserve lands by consenting to, granting or transferring the minimum interest required in order to fulfill the public purpose for which the land is required. The Crown is also required to ensure that Bands are compensated for expropriated lands.

108. In fact, as a matter of policy and established practice, the taking or using of reserve lands without First Nation consent may only be sought in exceptional circumstances. Therefore, while not a legal requirement under the *Indian Act*, section 35 is usually only invoked after a negotiated agreement has been reached between the First Nation and the expropriating authority. At a minimum, such an agreement must address: the purpose of the expropriation, compensation, minerals, surveys and land descriptions, appraisals, environmental protection, individual interests, encumbrances and interim use and occupation. Once an agreement is reached, the First Nation then asks Canada to grant or transfer the land or an interest in the land to the expropriating authority.
109. For additional information on Canada's policy regarding the management of reserve lands, Canada draws the Committee's attention to the Lands Management Manual at: [www.collectionscanada.gc.ca/webarchives/20071127101612/http://www.ainc-inac.gc.ca/ps/lts/pdf/lmm\\_e.pdf](http://www.collectionscanada.gc.ca/webarchives/20071127101612/http://www.ainc-inac.gc.ca/ps/lts/pdf/lmm_e.pdf).

## **Aboriginal title**

110. *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010, is the leading case on Aboriginal title in Canada. In this case, the Supreme Court of Canada found that Aboriginal title encompassed the right to exclusive use and occupation of the land held pursuant to that title for a variety of purposes. These purposes need not be aspects of those Aboriginal practices that are integral to distinctive Aboriginal cultures. However, the protected uses must not be irreconcilable with the nature of the Aboriginal group's attachment to the land, which forms the basis of the group's Aboriginal title. This inherent limit on the use of the land flows from the fact that Aboriginal title is a unique interest in land that is distinct from simply ownership.
111. The source of Aboriginal title is the prior occupation of Canada by Aboriginal peoples. Aboriginal title affords legal protection to prior occupation of land in the present-day and thus recognizes the importance of the continuity of the relationship of an Aboriginal group to its land over time. Uses of land that would threaten that future relationship are excluded from the content of Aboriginal title. For example, where prior occupation of title land is established on the basis of its use for hunting, the value of the land for such a use may not be destroyed by its subsequent use for activities such as strip mining. Aboriginal groups who wish to use their lands in a way that is not permitted under Aboriginal title may surrender those lands to the Crown, thereby converting them to non-title lands.

### **Additional information requested by the Committee**

112. Canada thanks the Committee for its observations and recommendations. By letter dated March 12, 2010, the Committee made supplementary requests for Canada to provide further information in its periodic report regarding several situations involving Aboriginal communities in British Columbia. Canada has thus included the information requested as part of its periodic reporting. Although these calls for additional information originated from submissions referred to the Committee's Working Group on Early Warning and Urgent Action, the provision of the information by Canada in no way constitutes agreement that these situations are appropriate for consideration under the Early Warning and Urgent Action Procedure. Furthermore, as the Committee is aware, Canada has not entered a declaration under Article 14 of the Convention and does not recognize the competence of the Committee to receive or consider complaints by individuals or groups of individuals.
113. Canada appreciates the need for transparency of treaty votes and will continue to work with other treaty parties to ensure such procedural transparency. In so doing, Canada must consider and respect independent decisions of democratically elected Aboriginal leaders such as the decision of the Tsawwassen First Nation Council to provide elder benefits. In its sole discretion, the Tsawwassen First Nation Council elected to provide elder benefits to enable certain elders to participate in the future benefits of the Tsawwassen Treaty, that, because of their age, they may not otherwise have lived to enjoy. Elder benefits were provided by the Tsawwassen First Nation Council to 18 elders who had attained the age of 60 years or older. As previously stated, 130 Tsawwassen First Nation members (representing 70 percent of all voters) voted in favour of ratification of the Tsawwassen First Nation Treaty.<sup>5</sup> Other than this small group of 18 elders, no eligible Tsawwassen First Nation voters received any monies from the Tsawwassen First Nation or from any Government. The Tsawwassen First Nation Government continues to provide elder benefits to Tsawwassen First Nation members reaching 60 years of age on the same basis that underlay provision of such benefits to the 18 initial recipients following the Tsawwassen Final Agreement ratification vote.<sup>6</sup>
114. Canada will also seek to ensure that loan funding offered to Aboriginal groups to permit their unfettered participation in the treaty process is properly understood as a means to facilitate the achievement of constitutionally protected treaties for Aboriginal groups as well as a new relationship between federal and provincial governments and Aboriginal groups. In regard to the Xaxli'p First Nation, the Xaxli'p First Nation accepted loan monies to participate in the Treaty process and elected to withdraw from Treaty negotiations in 2001. Canada restates that Canada has written to the Xaxli'p First Nation to state that the obligation to repay the loan amount has been placed into abeyance and thus loan repayment is not being sought by Canada. In regard to the Lheidli T'enneh First Nation, the Lheidli T'enneh First Nation is presently undertaking community wide

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<sup>5</sup> On July 25, 2007, the Tsawwassen First Nation members voted to ratify their Treaty. Of the 187 members, 130 members (approximately 70% of voters) voted in favour of the Treaty.

<sup>6</sup> The successful ratification vote occurred in 2007 and the Tsawwassen First Nation Treaty was successfully implemented on April 3, 2009.

consultations to determine whether the community desires a second ratification vote or a preliminary democratic vote on whether a second ratification vote is desired. The development and direction of this process is entirely within the sole discretion and direction of the Lheidli T'enneh First Nation.

115. Canada further draws the Committee's attention to the constitutional protection of Aboriginal rights in Canada. Many First Nations have successfully challenged governmental decisions in Canadian courts on the basis of asserted but unproven Aboriginal rights and successfully enjoined developmental activity until proper consultation and, where required, reasonable accommodation of asserted Aboriginal rights occurs. In regard to the Secwepemc Nation, protesters at Sun Peaks elected not to pursue protection of their asserted but unproven constitutionally protected rights through available judicial processes or through their democratically elected First Nation leadership. Instead, they acted extra-judicially.<sup>7</sup> As previously stated, in one case, protesters employed large wood blocks, rocks, fire, pallets, as well as human beings, to form a highway blockade. Participants in the protests represented small numbers within only two of the 17 bands of the Secwepemc Nation. Neither the Secwepemc Nation nor any of its constituent 17 bands sponsored the extra-judicial activities. Canada restates that while only four convictions resulted from the totality of these extra-judicial activities, none resulted in incarceration.
116. Finally, in regard to the Committee's recommendation on the use of independent mediators for land claims, Canada notes that such mediators are already available via the British Columbia Treaty Commission. The BC Treaty Commission is an independent body created pursuant to the recommendations of Aboriginal leaders, Canada and the Province of British Columbia to oversee the British Columbia land claims or "treaty process". It is mandated to carry out three complementary roles: facilitation, funding and public information and education on the treaty process. In its facilitation role, upon the request of the parties, BC Treaty Commission representatives attend treaty negotiations, offer advice to the parties, "chair" table negotiations and assist the parties in developing solutions and resolving differences arising from negotiations. The BC Treaty Commission is further specifically mandated to obtain dispute resolution services to facilitate resolution of differences or disputes between the parties and does so, upon request of the parties, through the appointment of independent mediators.<sup>8</sup>

### **Migrant and stateless persons**

117. In Canada, stateless persons can make a refugee protection claim with respect to their country or countries of former habitual residence, and in the case of individuals whose refugee protection claims have been rejected, they may apply for a Pre-Removal Risk Assessment; or apply to remain in Canada for humanitarian and compassionate (H&C) reasons. Successful refugee claimants as well as those whose applications are accepted

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<sup>7</sup> These extra-judicial activities focussed around three primary events: a protest camp occurring in the period 2000 to 2001 and two road blockades occurring on two dates in 2001. See [www.courts.gov.bc.ca/Jdb-txt/CA/08/01/2008BCCA0143.htm](http://www.courts.gov.bc.ca/Jdb-txt/CA/08/01/2008BCCA0143.htm).

<sup>8</sup> For further information, see [www.bctreaty.net/files/facilitation.php](http://www.bctreaty.net/files/facilitation.php) and [www.bctreaty.net/files/sixstages-dis.php](http://www.bctreaty.net/files/sixstages-dis.php).



based on H&C grounds may apply for permanent residence within Canada with the prospect of becoming Canadian citizens once they fulfill the requirements applicable to all permanent residents of Canada.

118. Consideration of the best interests of the child is the only statutory criterion listed as a factor to be considered in a request for H&C consideration under section 25 of the *Immigration and Refugee Protection Act* (IRPA) (<http://laws.justice.gc.ca/en/showtdm/cs/I-2.5>). The H&C provision allows the Government of Canada the discretion to consider a wide variety of factors when determining whether to grant permanent residence to a foreign national on H&C grounds. Thus, if a foreign national seeking H&C consideration includes statelessness as a factor for consideration, the Government of Canada is obligated to consider this factor in its decision. Since the obligation exists within the existing legislative framework, the Government of Canada does not have plans to amend the IRPA.
119. A new law amending the *Citizenship Act* (<http://laws.justice.gc.ca/en/C-29/index.html>) came into effect on April 17, 2009 ([www.cic.gc.ca/english/citizenship/rules-citizenship.asp](http://www.cic.gc.ca/english/citizenship/rules-citizenship.asp)), which gave Canadian citizenship to former Canadians who had lost it due to outdated provisions in earlier citizenship legislation, and to children born outside Canada to a Canadian parent in the first generation who had never acquired citizenship. The new law also introduced a first generation limitation to citizenship by descent. The new limit on citizenship by descent creates the possibility that a person born outside Canada to a Canadian parent after the Bill came into effect could be stateless. Provisions are in place to deal with these cases, including family class sponsorship under the IRPA or a grant of citizenship under the *Citizenship Act* for persons who were born outside Canada to a Canadian citizen and who have always been stateless.
120. Anybody who claims refugee status in Canada will first go through an eligibility review as enacted in Division 2 of Part 2 of the IRPA in order to determine whether the claim can be referred to Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB). In terms of determining the eligibility of a refugee claim to be referred to the RPD, the Government of Canada does not make a distinction between documented migrants, undocumented migrants and stateless persons. The availability of documentation and credibility is only examined at the RPD stage, after the claim is referred and the applicant is deemed to be a refugee claimant. Other undocumented migrants and stateless persons who do not apply for refugee status in Canada and may choose to immigrate through other channels do not fall under the mandate of the Asylum Division.

#### *Access to social services*

121. Undocumented and stateless persons who make a refugee claim are eligible for coverage of emergency and essential health care under the Interim Federal Health Program (IFHP). Asylum seekers whose claims are rejected continue to be eligible for coverage until departure/removal. Under the IFHP, refugee claimants, resettled refugees, persons detained under the IRPA, victims of trafficking in persons and the in-Canada dependants of these groups, who are unable to pay for health care are eligible for benefits until they

become eligible for provincial/territorial or private health plan coverage. The benefits continue for rejected refugee claimants until they are removed from Canada. More information is available at:

[www.cic.gc.ca/english/information/applications/guides/5568E.asp](http://www.cic.gc.ca/english/information/applications/guides/5568E.asp).

122. Refugee claimants can apply for student authorization to attend school while they are waiting for a decision on their claim. Consistent with its commitment under article 28 of the *Convention on the Rights of the Child*, Canada also provides automatic eligibility for minor children of refugee claimants to attend primary school when they arrive in Canada. This eligibility is also extended to studies at secondary schools. Under the *Immigration and Refugee Protection Regulations* (IRPR), through an application for a study permit, rejected claimants continue to have access to education until their removal from Canada.
123. The IRPR also provides access to work permits for refugee claimants waiting for a determination and rejected refugee claimants until they are removed from Canada. Usually, only people who cannot live without public assistance are eligible for employment authorization.
124. Under the *Constitution Act, 1867* (<http://laws.justice.gc.ca/en/const/1.html>), design, delivery and administration of social assistance programs in Canada are provided by the provinces. Depending on the residence of the applicant, there may be minor differences as to the eligibility requirements for social assistance. In general, provinces and territories assess the need and the residence of the applicants without giving consideration to their immigration status. As a result, refugee claimants waiting for a decision and rejected refugee claimants have access to social assistance based on their needs and residence.

## Article 6: Effective protection and remedies

125. An *Act to amend the Canadian Human Rights Act* (S.C. 2008, c. 30) ([www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=3598216&file=4](http://www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=3598216&file=4)) came into force on June 18, 2008, repealing section 67 of the CHRA. The Canadian Human Rights Commission can now accept complaints against the Government of Canada dealing with the *Indian Act*. A grace period of 36 months maintains the exemption until June 18, 2011, for First Nation governments.
126. In fulfillment of its obligation under section 4 the Act to conduct a joint study of the needs of First Nations to implement the repeal of section 67, the Government of Canada has funded the Assembly of First Nations, the Congress of Aboriginal Peoples and the Native Women's Association of Canada to provide input into the needs assessment study. The study report is due to Parliament in June 2011.

## Article 7: Education, culture and information

127. The Government of Canada delivers four annual public education and promotion activities which help combat prejudice and discrimination. These include:

- 1) The Mathieu da Costa Challenge, an annual artwork and writing contest encouraging youth to express their thoughts about Canadian values and diversity and develop a clear understanding of Canada's collective heritage and contributions of those of Aboriginal, African and other descent;
  - 2) Black History Month, which honours the legacy of black Canadians and celebrates their achievements and contributions to making Canada a culturally diverse, compassionate and prosperous nation;
  - 3) The Racism. Stop It! National Video Competition, part of the national March 21 campaign against racial discrimination, which encourages young Canadians to create videos articulating their thoughts on eliminating racism; and
  - 4) Asian Heritage Month, which celebrates the history of Canadians of Asian descent and their contributions to building Canada as a culturally diverse, prosperous and compassionate nation.
128. On June 24, 2009, Canada became a member of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research (ITF) in Oslo, Norway. Initiated in 1998, the ITF is a coalition of government and non-government organizations (NGOs) whose purpose is to build support behind the need for Holocaust education, commemoration and research – both domestically and internationally.
129. Achieving membership represents the culmination of more than two years of work and relationship-building with stakeholders at the international, federal, provincial/territorial, institutional and NGO levels. As a member, the Government of Canada has the opportunity to demonstrate its leadership in the areas of human rights education and combating racism, including anti-semitism, and its commitment to the implementation of national policies and programs in support of Holocaust issues expressed in the 2000 Stockholm Declaration.
130. In 2009, the Government of Canada:
- Announced funding toward the creation of a three-year National Task Force on Holocaust Research, Remembrance and Education;
  - Hosted a conference with partners in the United States and France entitled “The St. Louis Era: Looking Back and Moving Forward” that brought together government officials, academics, educators and civil society in a discussion about discriminatory policies and practices and how to best educate future generations ([www.stlouis2009conference.ca](http://www.stlouis2009conference.ca));
  - Launched the Paul Yuzyk Award for Multiculturalism that recognizes individuals and groups across Canada for ongoing dedication to the pursuit of a multicultural and pluralistic society in Canada. It includes a \$20,000 grant to be given to an eligible registered not-for-profit Canadian organization or association of the recipient's choice that demonstrates a track record of achievements in raising awareness of racism and



discrimination, fostering a more inclusive behavior among Canadians and institutions, and engaging Canadians in informed intercultural dialogue; and

- Participated in the Holocaust Era Assets Conference in Prague, Czech Republic, and supported the adoption of the non-binding Terezin Declaration. This also established the new Terezin Institute (Shoah Legacy Institute), which Canada has committed to supporting.
131. In 2008-2009, the Government of Canada, in partnership with the Government of Nova Scotia and Sankofa Films, funded an innovative education project. The *In Our Own Voices* project worked to develop pro-social attitudes and working skills for young offenders from the African-Nova Scotian community who are gang-involved or at risk of gang involvement. They produced a twenty-minute documentary, an interactive Web site, a weekly radio show and a research paper on issues facing minority groups and their linkages to high-risk behaviour. The documentary will be used for public education to further build awareness and support in the community.

## **Part IV**

### **Measures Adopted by the Governments of the Provinces**

## Newfoundland and Labrador

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

132. The Government of Newfoundland and Labrador's Violence Prevention Initiative provides funding for the Aboriginal Women's Violence Prevention Grants program, which addresses priority action items identified at the first National Aboriginal Women's Summit in Newfoundland and Labrador in June 2007. During the summit, it was recognized that increased financial resources were necessary for family violence prevention initiatives and abuse prevention programs specific to the situation of Aboriginal women in Newfoundland and Labrador. Examples of projects funded through the Grants program are: the Rigolet Partnership Against Family Violence, which provides a safe house for women and children experiencing family violence in the community of Rigolet, Labrador; and a project of the St. John's Native Friendship Centre to enhance and promote community services that assists in the successful reintegration of incarcerated Aboriginal women, and their affected children, who have been exposed to family violence.

#### Training for law enforcement

133. In 2007, the province instituted a program in conjunction with Memorial University of Newfoundland for the training of new members of the Royal Newfoundland Constabulary. A component of this program includes cultural awareness training, primarily with respect to increasing awareness of Aboriginal issues and more generally promoting respect for cultural differences.

#### Employment

134. The Government of Newfoundland and Labrador provides funding to the Association for New Canadians to support the delivery of an employment services program for immigrants to the province. The program consists of a series of career and employment workshops and one-on-one counselling to enable individuals to develop an employment action plan and make the transition to work. The program includes components for resumé development, job shadowing, interview preparation and long-term job maintenance. This initiative is part of the government's \$6 million immigration strategy for the province entitled *Diversity – Opportunity and Growth*.

#### Access to justice for vulnerable groups

135. The Government of Newfoundland and Labrador has increased its funding to the Labrador Aboriginal Legal Services (LALS), an organization based in Labrador, which provides interpretative and assistance services for Aboriginal persons finding themselves in contact with the justice system. In particular, LALS supports the government's

Aboriginal Courtwork Program, which provides Aboriginal persons charged with a criminal or provincial offence with information, support and referrals, at the earliest stage and throughout the criminal justice process. Services include referring Aboriginal persons to appropriate legal resources as well as social, educational, employment, health, Aboriginal community and other resources to address underlying problems which may contribute to the charges.

## **Article 4: Prohibition against promotion of racism**

136. In 2006, the Government of Newfoundland and Labrador amended section 14 of its *Human Rights Code* to add the grounds of “family status” and “age” to those matters related to barring persons from publishing or displaying discriminatory publications.

## **Article 5: Equality before the law**

### **Measures to address possible discriminatory approaches to law enforcement**

137. Provincial courts have been adopting more traditional methods of seeking restitution and balance with respect to Aboriginal offenders. Sentencing circles are generally accepted as an alternative to the imposition of a penal sanction, primarily for offences of a non-violent nature. Community service is another common approach to restitution for non-violent offences.

### **Aboriginal people**

138. Part of LALS’s mandate is the potential reintegration of Aboriginal offenders into their residential communities. Aspects of this service include discussing reintegration with the offender and community leaders and elders and putting both parties in contact with legal and social support services. Reintegration has been largely successful for non-violent offences and on a case-by-case basis for offences where forms of violence had occurred.

### **Migrant and stateless persons**

139. A refugee claimant or foreign visitor has the right to health services, education and social services if he or she receives a work permit and otherwise satisfies any statutory residency requirement, such as a three-month residency period for access to insured medical services. A stateless person or undocumented migrant would be a person with no recognized legal status, and as a result would not be entitled to state-sponsored health, education and social services.

## **Article 7: Education, culture and information**

140. Programs directed to multiculturalism and respect for diversity are frequently undertaken by the schools in Newfoundland and Labrador, particularly in urban school districts. The Government of Newfoundland and Labrador provides funding to accommodate the costs

of such programs. Decisions with respect to the content of such programs are taken by the respective schools in conjunction with regional school district officials.

## Prince Edward Island

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

141. Two new women's shelters opened in 2004 serving primarily, but not exclusively, Aboriginal women. One of the shelters receives funding from the Government of Canada and the other has received a one-time grant from the Government of Prince Edward Island.
142. Further, a tripartite funding agreement (federal/provincial/Mi'kmaq Confederacy) was put in place for an Aboriginal child welfare services program called Mi'kmaq Family PRIDE Program ([www.mcpei.ca/node/28](http://www.mcpei.ca/node/28)).

#### Training for law enforcement

143. The Government of Prince Edward Island provides annual training for police across the province on the dynamics of family violence and the police response.

#### Employment

144. The government partners with the PEI Association for Newcomers to Canada to provide employment services for immigrants. Examples include the Internationally Educated Health Professionals program, which assists internationally educated health professionals overcome barriers to employment within the health care system in the province, and the Employment Assistance Service for Newcomers, which helps newcomers overcome barriers to finding work and acquiring the skills needed to find employment ([www.peienc.com](http://www.peienc.com)). Information about foreign credential recognition and other employment information can be found at [www.gov.pe.ca/immigration/index.php3?number=1015659&lang=E#fcrpro](http://www.gov.pe.ca/immigration/index.php3?number=1015659&lang=E#fcrpro).

#### *Employment in the public service*

145. In keeping with the Diversity and Equity Policy, the Government of Prince Edward Island's summer employment program focuses on hiring from disadvantaged groups. A Public Internship Program, which provided 50 one-year and 80 six-month jobs in the provincial public service for university and college graduates, also gave priority consideration to members of minority and other disadvantaged groups.

#### Access to justice for vulnerable groups

146. The government has re-established an Aboriginal Victim Assistant program to enhance services for Aboriginal victims of crime. Assistants will be contracted on an as-needed basis to help Aboriginal victims of crime through the criminal justice process and will

supplement the support provided to victims of crime throughout the province by Victim Services Workers.

147. Through the distribution of posters, brochures, and pocket cards to all police services and justice agencies in the province, the Mi'kmaq Confederacy of Prince Edward Island Aboriginal Justice Program (MCPEI AJP) promotes the self-identification of Aboriginal people who come into contact with the criminal justice system ([www.mcpei.ca](http://www.mcpei.ca)). Self-identification assists with ensuring that Aboriginal people are informed about the services available to them. The MCPEI AJP is funded by the Government of Prince Edward Island and the Government of Canada.
148. In 2009, Victim Services launched new informational brochures designed for newcomers to Prince Edward Island, which explain the services available for victims of crime in the province. With funding support from the Government of Canada's Victims of Crime Fund, the materials have also been translated into the four dominant languages spoken by the province's immigrant population - Chinese, Korean, Persian, and Spanish.

## **Article 5: Equality before the law**

### **Aboriginal people**

149. In 2009, MCPEI AJP invited the RCMP, municipal police and 911 dispatchers to training sessions on Aboriginal culture, working with Aboriginal offenders, assistance available through the program, and encouraging Aboriginal offenders to self-identify. Approximately 60 officers (of a total of approximately 200 officers in the province) took part. The program also conducted two half-days of similar training at the Atlantic Police Academy, attended by 77 police cadets and 70 correctional officers in training.
150. The sentencing principle in the *Criminal Code*, which states "all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders," is routinely considered by the courts in the province.
151. In the province, many sentences are served in the community rather than in correctional centres and other cases are diverted from the courts through the use of alternative measures for youth and adult offenders. In 2007-08, 654 adults received probation orders and 45 received conditional sentences as the result of a court process while 149 were diverted through the Alternative Measures Program; 101 youth received probation orders and 83 were diverted through the Program ([www.gov.pe.ca/attorneygeneral](http://www.gov.pe.ca/attorneygeneral)).
152. For comparison purposes, the Adult Correctional Services in Canada 2007-2008 Reference Tables indicate there were 771 sentenced admissions to adult custody in Prince Edward Island and one percent of those admitted to adult custody were Aboriginal persons. Data on youth sentenced to custody is not yet available for 2007-2008, but data from the Youth Court Statistics Juristat 2006-2007 indicates that 26 Prince Edward Island

youths were sentenced to custody and 130 received probation sentences (www.ccjscssj.statcan.gc.ca).

153. The Alternative Measures Policy was revised in 2008 to specifically refer to and promote the use of the MCPEI AJP in appropriate cases. During 2007-2008, the program received 12 referrals from the police or probation services, 10 of which were accepted; two were rejected because they involved domestic violence.
154. In terms of reintegration, the province has a caseworker on Aboriginal issues who assists Aboriginal offenders with reintegration. The MCPEI AJP also offers healing circles which assist with reintegration.
155. No recent evaluations have been conducted to measure the success of these programs. The numbers of cases in the MCPEI AJP are currently too small to be included in an emerging national study on recidivism.

### **Migrant and stateless persons**

156. Health services that are medically necessary are available to any person in the province, but there are two statutes that determine whether the services are covered by provincial public health insurance.
  - Under the *Health Services Payment Act* basic health services are covered for residents. The relevant part of the definition of resident reads:

*“Resident” means a person legally entitled to remain in Canada and who makes his or her home in and is ordinarily present in Prince Edward Island...*
  - Under the *Hospital and Diagnostic Services Insurance Act*, hospital and diagnostic services are covered for residents, who are persons who have resided in the province for at least two months, and others specified in the regulations as follows:

*Every person who is a (i) landed immigrant, (ii) repatriated Canadian, (iii) returning Canadian, (iv) returning landed immigrant, (v) Canadian citizen or spouse of a Canadian citizen assuming residence in Canada for the first time, and who established permanent residence in Prince Edward Island shall be entitled to benefits under these regulations from the date he establishes such residence...*
157. Access to social assistance is available to those who have a public health insurance number in the province; in other words, if someone is eligible for funded health services and meets the financial criteria, social assistance is also available. Others may be assisted on humanitarian grounds, but the Government of Prince Edward Island would work with the Government of Canada to ensure compliance with immigration rules. In some cases, those who have come to the province for employment, which subsequently did not work out, have been assisted on humanitarian grounds to return to their home country.



158. Free access to education at the primary and secondary level is available to residents, in accordance with the *School Act*, as follows:

*68. Persons between the ages of six and twenty years who (a) are residents of the province; (b) have not graduated from high school; and (c) are not excused from attending school under section 70, have the right to free school privileges in the public schools of the province, as defined by the regulations and as provided in accordance with this Act. 1993, c.35, s.68.*

## **Article 7: Education, culture and information**

159. Each June, Public Service Week activities focus on promotion of diversity and cultural understanding in the provincial public service through information displays, presentations, concerts, etc.
160. The government is implementing a cultural awareness training program to make provincial government employees more aware of the value of a diverse workforce and to help them acquire the skills necessary to work effectively within a diverse workplace. A diversity/cultural awareness trainer designed and delivered training to selected employees and senior managers from the public service, facilitating three half-day workshops that covered the following areas:
- Diversity awareness;
  - Cultural awareness/understanding in the workplace (Aboriginal, Francophone, multicultural aspects, growing immigrant communities); and
  - Analysis and accountability (intended for senior managers, directors, CEOs and deputy ministers).
161. The Government of Prince Edward Island also sponsors an annual award for the advancement of human rights. The award recognizes individuals, groups or organizations that have made a significant contribution towards the advancement of human rights on Prince Edward Island. The selection of the recipient of the Award is based on exceptional achievement on a volunteer basis to promote human rights and equality in Prince Edward Island.

## Nova Scotia

### Article 2: Legislative, administrative judicial or other measures

#### Gender-based violence

162. In collaboration with the Mi'kmaq Legal Support Network, the Government of Nova Scotia implemented a three-year Aboriginal Outreach Pilot Project in 2008, with funding from the Government of Canada, to develop Aboriginal victim services outreach capacity. After completing a needs assessment, it developed a specialized model of service delivery that addresses the unique needs of Mi'kmaq victims and hired an Aboriginal Victim Services Officer, fluent in the Mi'kmaq language, to provide culturally appropriate services from an office located in Eskasoni – the largest Aboriginal community in Nova Scotia. While services are available to both female and male Aboriginal clients, the majority of clients are women, and priority is given to intimate partner violence and sexual assault victims (<http://gov.ns.ca/news/details.asp?id=20080620003>).
163. The government also created two new police officer positions in 2008 with a specialized focus on domestic violence. One of the officers is of Aboriginal decent and is located in the Eskasoni community.
164. Through the Mi'kmaw-Nova Scotia-Canada Tripartite Forum Justice Working Committee, research was undertaken to examine the issue of violence from an Aboriginal community perspective. This research was co-sponsored by the Atlantic Aboriginal Health Research Foundation and its results were published in January 2010. The recommendations from the research are supporting the development of a pilot initiative, designed to develop and test community based interventions that will support a culturally grounded intervention model.
165. Shelter services for Aboriginal women and children who have experienced family violence are provided in Nova Scotia through two Aboriginal healing centres. These shelters are situated within First Nations communities and are fully funded by the Government of Canada. They work closely with the network of mainstream women's shelters to ensure assistance to Aboriginal women seeking shelter services.

#### Training for law enforcement

166. Domestic and intimate partner violence training is provided to all police officers in Nova Scotia on an annual basis. In 2008, this training was enhanced through the addition of training on the Ontario Domestic Assault Risk Assessment, which is a validated risk assessment tool used by police and other criminal justice stakeholders to assess domestic violence issues for case management purposes. In 2009, the training was further enhanced through the implementation of a Master Trainer System.

## Employment

167. The Government of Nova Scotia has adapted its Parents of Career Coaches Program to meet the needs of Aboriginal and African Nova Scotian populations, and has developed career fairs to meet the needs of new immigrants ([www.parentsascareercoaches.ca/](http://www.parentsascareercoaches.ca/)).
168. In 2008, the Canada-Nova Scotia Labour Market Agreement was signed. This six-year agreement provides new funding to the province for labour market program for individuals who are not eligible to receive employment insurance. Targeted clients include African Nova Scotians, Aboriginal peoples, immigrants, persons with disabilities, women, youth, and older workers. Eligible labour programs include, but are not limited to, employment support, literacy and essential skills, skills training, and business development counselling.
169. In 2008, as part of the Labour Market Agreement and in order to work more closely with diversity groups, the employability table model was developed to elaborate strategies to increase access to the labour market. There are four employability tables representing Acadians, African Nova Scotians, Aboriginal persons and persons with disabilities. Representation can come from third party service providers, employment specialists, training providers, federal and provincial governments, and employers. This province-wide initiative will identify supply and demand side goals.
170. The African Nova Scotian Employability Table includes members from the African Nova Scotian Employment Centers, federal and provincial government departments providing employment programs and services, education and training institutions, employer organizations, and economic development organizations. The mandate of this table is to develop an integrated African Nova Scotian labour market strategy, which will be driven by leadership at the local level and grass-root initiatives. The goal of the integrated Aboriginal Nova Scotia Labour Market Strategy is to increase the number of Aboriginal people who successfully enter the Nova Scotia workforce. The Aboriginal Employability Roundtable is made up of representatives of Mi'kmaq community organizations.

### *African Nova Scotians*

171. The African Nova Scotian Community is identified as a priority group for workforce development in the Labour Market Agreement for Nova Scotia. Efforts to work with the community include consultations, inclusion, and sustainable funding to support economic development, employment, education, health, community and pride of place for the community. The Government of Nova Scotia's initiatives include:
- hosting a multi stakeholder employability table for the community to identify common workforce development challenges/barriers and develop an action plan to advance opportunities in education, training and employment;
  - adapting the Aboriginal Workforce Participation Initiative for the African Nova Scotian community and creating an employer tool for the community to support sustainable labour market attachment;

- providing seed funding to the Greater Halifax Partnership for Ujiima (oo-ga-ma), a community development project to support long-term employment, sustainability, and positive change;
  - piloting the Parents as Career Coaches program, a career coaching tool for parents and guardians, adapted for the community;
  - participating in the Black Construction Sector Strategy Roundtable in 2008, sponsored by the Black Business Initiative (BBI). Discussion focused on business partnership opportunities available for people in the construction industry and the training needs for the industry; and
  - providing essential skills training to African Nova Scotian workers in the construction sector and working to eliminate barriers to certification.
172. Created in 1996 by the Government of Nova Scotia, as part of a strategy for business and economic development in the African Nova Scotian community, the BBI formed and established a construction project management company - ADEPA, in 2008, to give African Nova Scotian workers and owners of African Nova Scotian construction businesses the ability to bid on large contracts (<http://www.bbi.ca/about-bbi/index.html>).
173. In 2008, a partnership agreement was signed by Michelin North America, the African Nova Scotian Employment Partnership Committee's Collaborative Partnership Network, the Office of African Nova Scotian Affairs, African Canadian Services division of the Department of Education, the Public Services Commission's strategic support services, and the BBI to work with the African Nova Scotian community to develop skills and further career opportunities in the industry. This is the first time that this type of partnership has been undertaken with the African Nova Scotian community.
174. The Government of Nova Scotia continues to support the Cape Breton African Nova Scotian Employment Centre (ANSEC), formerly known as the Cape Breton Black Employment Partnership Committee. The Centre is working to promote and facilitate the training and employment of African Nova Scotians on the Sydney Tar Ponds Remediation Project. In 2008, the government provided resource materials and documentation to assist both the management for the project and ANSEC to move towards incorporating the principles of the province's Employment Equity policy. The policy provides a template for the project to develop equity policies and outreach programs for the engagement of African Nova Scotians in the project.
175. The province is also working with business, industry, and community agencies to assist industries in filling identified skills shortages by supporting the labour market attachment of income assistance and employment insurance recipients. Upon successful completion of industry approved job specific skills training through the One Journey Program, participants move immediately into jobs that have been negotiated with partnering industries and employers. Eighty percent of participants in this program remain employed after completing it. From 2007-2009, 13 programs were delivered across the province which supported the labour market attachment of 130 individuals in positions such as continuing care assistants, professional truck drivers and residential counselors.

176. In 2008-2009, the Targeted Initiative for Older Workers, which is a federal-provincial partnership developed to aid unemployed older workers between the ages of 55-64 in communities affected by significant workforce downsizing or workplace closures through programming for reintegrating into the workforce, funded the Valley African Nova Scotia Development Association for a project developed specifically for the African Nova Scotian community to assist older workers who were unemployed in the valley area of Nova Scotia.
177. Under the Labour Market Agreement, the Government of Nova Scotia created the Bridging to Apprenticeship program to provide support to individuals who face barriers in transitioning to the workforce with a focus on skilled trades. Bridging to Apprenticeship projects targeting the African Nova Scotia Community include the:
- BBI's *Constructing the Future* (2008-2009), which is a construction training and job readiness program for the unemployed and under-employed African Canadians in the trades sector that equips existing and aspiring tradespeople from the Black community with enhanced skills, certifications and competence to establish a stronger presence in Nova Scotia's construction sector; and
  - Valley African Nova Scotian Development Association (2009), which provides support to individuals who face barriers in transitioning to the workforce with a focus on skilled trades.

#### *Aboriginal people*

178. In 2008, the Government of Nova Scotia conducted 25 Bridging the Aboriginal Community workshops across the province to provide over 200 Aboriginal employment officers and case managers with labour market training and employment information.
179. The Government of Nova Scotia in partnership with the Government of Canada also funded the Aboriginal Set Aside Program, which aims to increase capacity in Aboriginal companies through training and skill building on the Tar Ponds Project. Certain aspects of the clean up have been set aside for qualified local businesses with at least 51 percent Aboriginal ownership ([www.tarpondscleanup.ca/index.php?sid=3&cid=14](http://www.tarpondscleanup.ca/index.php?sid=3&cid=14)).
180. The Nova Scotia Aboriginal Labour Market Strategy is a two-phase strategy to make it easier for Aboriginal people to access the training, skills, and employment opportunities required for sustainable participation in Nova Scotia's workforce. An Aboriginal Labour Market Strategy Coordinator position, housed at the Confederacy of Mainland Mi'kmaq, was created to increase Aboriginal labour market attachment and an individual was hired from the Aboriginal community.
181. Nova Scotia is also working to help Aboriginal youth acquire the educational qualifications needed to enter post-secondary education to lead to greater workforce participation and success. The Government of Nova Scotia, with input from Aboriginal communities, tailors the content and delivery of the Nova Scotia School for Adult Learning - Adult Learning Program (ALP) to meet the needs and culture of these

learners. The students learn in a multilingual environment and there is a transition process, developed in 2008, to help them progress from community-based learning to advanced levels at the Nova Scotia Community College, as they work towards a Nova Scotia High School Graduation Diploma for Adults. Grants are provided on an annual basis to communities who deliver this program. In the period of this report, funding went to the Mi'kmaq Friendship Centre (off-reserve); Eskasoni (Literacy Unama'ki); Waycobah (We'koqma'q); Chapel Island (Potlotek); Bear River; and L'nu Sipuk Kina'Muokuom (LSK) Indian Brook.

182. Transition teams including Adult Education, Nova Scotia Community College (NSCC), and Mi'kmaq teachers are established to support students throughout their studies. This unique Adult Learning Program (ALP) transition process also includes:
- introduction and training for teachers regarding the ALP curriculum;
  - visits by Mi'kmaq teachers to a local NSCC campus to see how the ALP is being delivered and how the community college system works;
  - visits by NSCC teachers and Mi'kmaq Services Coordinators to the ALP delivered in Aboriginal Communities to review their delivery, discuss best teaching practices for Mi'kmaq students and, where appropriate, plan for the effective transition of Mi'kmaq students into NSCC; and
  - visits by Mi'kmaq ALP students to local NSCC campus for a tour and meeting with instructors and other students, including an introduction to the NSCC "Test-Drive", an interactive program that provides information on various NSCC programs.
183. In 2008, the Government of Nova Scotia introduced the Aboriginal Apprenticeship Strategy, which promotes the participation of the Aboriginal population participating as apprentices in the Nova Scotia Apprenticeship system ([www.gov.ns.ca/lwd/pubs/docs/LWD-accountability2009.pdf](http://www.gov.ns.ca/lwd/pubs/docs/LWD-accountability2009.pdf)).

#### *Employment in the public service*

184. The Government of Nova Scotia has addressed the issue of representation of racial and ethnic communities in the Public Service through the development of policy, programs, and educational opportunities for public servants. It has adopted three foundational corporate policies: the Fair Hiring Policy, the Respectful Workplace Policy and the Employment Equity Policy, which was updated ensuring that applicants from minority groups who self-identify and meet minimum requirements are granted an interview. These policies came into effect in October 2008.
185. The province has introduced several Diversity Employment Initiatives to improve the representation of minorities in the Public Service, including a Diversity Talent Pool, the Diversity Accommodation Fund, a Diversity Selection Panel Pool and several programs through the Career Starts Program including a Summer Diversity Program.



## Article 5: Equality before the law

### Measures to address possible discriminatory approaches to law enforcement

186. Nova Scotia's Department of Justice, partnered with the Halifax Regional Police to provide "Bias-free policing" or "Ensuring a Bias Free Approach to Policing" training to police officers. Bias-free policing means providing fair and equitable policing to all community members; never taking action or failing to take action because a person has one or more of the protected characteristics named in the *Human Rights Act*. This training helps participants to identify objective reasons for taking action before the action is taken and to be able to articulate those reasons afterwards. This ongoing training program has been delivered to all police officers in the Halifax Region, and is being delivered to other police agencies across the province.

### Aboriginal people

187. The Government of Nova Scotia, through work of the Mi'kmaw-Nova Scotia-Canada Tripartite Forum, has been able to institute the Mi'kmaw Legal Support Network (MLSN), which provides a range of legal services to Aboriginal persons across the province. This Aboriginal Legal Service is co-funded by the Government of Canada and the Government of Nova Scotia. One service which MLSN provides is the Mi'kmaw Customary Law Program, which offers a diversion option under the Extra Judicial Sanctions provisions of the Youth Criminal Justice Act (YCJA). This allows for the diversion, pre-charge or post-charge, of Aboriginal youth to a culturally grounded intervention program delivered by Mi'kmaw justice professionals. The Program is being expanded to adults.
188. Additionally, the Customary Law Program is able to provide Sentencing Circle services to the courts, pursuant to the *Criminal Code* and the YCJA. These processes do not provide a diversion service, but do allow the courts to request these processes in order to bring forward a range of information to assist in their decision making.
189. There are no specific programs sponsored by the province that are designed to support the reintegration of Aboriginal offenders into society. The MLSN, in partnership with Correctional Services of Canada is in the early stages of developing community capacity to support early community releases under the special provisions of the *Correctional Services Act*. It is anticipated that once established, these processes will be used to support the reintegration of provincial offenders, where appropriate. On an individual basis, Correctional Services Chaplains regularly support reintegration by connecting inmates to elders and other spiritual supports from the Mi'kmaw community.

### Migrant and stateless persons

190. Refugee claimants, undocumented migrants and stateless persons are able to access health and other social services until such time as they reach a deportation date. Even if their claim is denied, services are provided on humanitarian grounds up until deportation.



However this group would not be covered by the provincial Medical Services Insurance Program unless they had documentation from Citizenship and Immigration Canada. They may be covered by the Interim Federal Health Program referred to in the Government of Canada section of this report.

191. Refugee claimants, undocumented migrants and stateless persons would not be able to access education services in Nova Scotia.

## **Article 7: Education, culture and information**

### **Education**

192. New employees with the Public Service attend Diversity and Employment Equity Training as well as Respectful Workplace Training. Additional training opportunities include Diversity Management for Leaders; Leading a Respectful Workplace; Aboriginal Perceptions Training and an E-Learning option "Aboriginal Cultural Awareness."
193. In addition to the above mentioned policies, programs and educational opportunities, the Government of Nova Scotia has established a Diversity Round Table where information on diversity is shared, best practices identified and key diversity champions inform the development of policies, programs and educational opportunities.

## New Brunswick

### Article 2: Legislative, administrative, judicial or other measures

#### Training for law enforcement

194. The Government of New Brunswick is working to improve law enforcement officers' access to Cultural Sensitivity Training.

#### Employment

195. The Government of New Brunswick is continuing its work with other governments to improve foreign credential recognition for immigrants, which remains a barrier impeding their access and participation in local labour markets.

#### *Employment in the Public Service*

196. Since 1984, the Equal Employment Opportunity (EEO) program, which provides Aboriginals, persons with disabilities, and members of a visible minority group with equal access to employment, training and advancement opportunities in the New Brunswick Public Service, has placed 623 individuals in term positions and 274 (46 percent) have been appointed to regular, casual or contract positions. In 2007-2008, the EEO program permitted 161 individuals to find long- and short-term employment, including 50 individuals placed in term positions; and in 2008-2009, the EEO program permitted 112 individuals to find long- and short-term employment opportunities, including 36 individuals placed in term positions.
197. The Government of New Brunswick is in discussion with the City of Fredericton to implement a Diversity Requirement Strategy, to increase the numbers of visible minorities among provincial law enforcement officers.

### Article 5: Equality before the law

#### Measures to address possible discriminatory approaches to law enforcement

198. The Government of New Brunswick is in discussions with local law enforcement agencies to increase the representation of visible minorities in their organizations and improve their personnel's access to Cultural Sensitivity Training.

### Article 7: Education, culture and information

199. In 2008, the New Brunswick Human Rights Commission issued a news release and participated in a news conference to denounce offensive graffiti that had appeared on several Moncton establishments, and to reassure local residents that the Commission is there to guarantee them equal access to housing, employment, education and other public

services. On the same day, some Commission members and staff also met with representatives of the Tiferes Israel Synagogue; the Moncton Mosque; the Multicultural Association of the Greater Moncton Area; and Moncton's Committee on Cultural Affairs and Heritage to get their insights on these incidents.

200. The Government of New Brunswick launched a Public Awareness Campaign to better inform the public about the value of increased immigration and diversification of New Brunswick regions. This campaign is aimed at reducing discriminatory and prejudicial attitudes and to facilitate the creation of more welcoming communities in New Brunswick.
201. In 2008-2009, the Government of New Brunswick negotiated \$10 million in federal funding, over the next four years, under the Roadmap for Canada's Linguistic Duality 2008-2013: Acting for the Future. This funding is for promoting New Brunswick to immigrants in Francophone markets and the integration and settlement of newcomers in Francophone communities across New Brunswick and will also be used to strengthen the settlement and integration infrastructure in the province's Francophone regions. Work will also be done to ensure that the existing immigrant-serving agencies, in other parts of New Brunswick, have the capacity to provide programming to Francophone newcomers.
202. Further, three business guides for immigrant entrepreneurs and an orientation manual for newcomers were developed by the province.
203. New Brunswick is focused on making sure that no child faces an uphill battle when they first enter school. Steps taken to address the issue include:

For both the Anglophone and Francophone communities:

- The early years' evaluation assessments have been expanded throughout the province, which includes a planning process to discuss with parents their child's results.
- A new early learning curriculum has been developed to help early childhood learning specialists determine appropriate learning outcomes.
- Readiness kits entitled Welcome to Kindergarten / Bienvenue à la maternelle are provided to students entering kindergarten, as well as their parents, at the beginning of every school year. These kits contain various educational materials that parents may use to help their children in the transition to school life.

For the Anglophone community:

- Educators have been hired to work on the question of transition to school in First Nation communities. This is part of the school readiness initiatives and early years' evaluation delivery.
- Work is underway in collaboration with the Literary Coalition of New Brunswick and New Brunswick Community College to develop programs that will help improve adult literacy with the understanding that success in this is likely to have a positive effect on child literacy as well.

- District student services Learning Specialists have been engaged in a review of district policies and processes for the development of Special Education Plans for kindergarten students.

For the Francophone community:

- Pre-kindergarten intervention specialists are in place in all Francophone districts. They are responsible for the coordination of school readiness initiatives and a follow-up process with parents of children identified as being at-risk.
- A kit for kindergarten preparedness has been produced by the Partenariat en éducation and is distributed to each parent enrolling their child in kindergarten.

## Québec

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

##### *Aboriginal women*

204. The Government of Québec provides recurrent annual funding to two shelters for Aboriginal women, in Québec City and Montréal, to better meet the special needs of Aboriginal women. Elsewhere in Québec, women's shelters accept Aboriginal women who are victims of spousal violence and their children every year. In Nunavik, three shelters offer services for Inuit women who are victims of violence. The Government of Québec provides average annual funding of \$550,000 for all shelters.
205. The Government of Québec subsidizes 41 *Centres d'aide et de lutte contre les agressions à caractère sexuel* (CALACS) across the province, offering support services for women and teenaged girls who are victims of sexual assault. The CALACS located in Abitibi-Témiscamingue, Northern Québec and the North Shore offer services more specifically addressed to Aboriginal women who are victims of sexual assault.
206. The Government also subsidizes 17 *Centres d'aide aux victimes d'actes criminels* (CAVACs) throughout Québec. With an average annual budget of \$16 million, the CAVACs provide victims of crime, their families and witnesses with reception services, comfort and moral support, information about the judicial process and victims' rights and recourse, support and guidance in dealing with private and public organizations, and referrals to appropriate legal, medical, social and community resources. They also offer professional intervention in situations of post-traumatic shock. There is one CAVAC specifically serving Inuit women of Nunavik.

##### *Women from cultural communities*

207. There are 69 organizations funded by the Government of Québec acting individually to advance the social integration of newcomers, including screening for problems with violence, information on available services, and referral to health and social service agencies network specializing in spousal violence. Government grants totalling \$870,000 have been allocated to projects specifically geared to immigrant women, and three organizations have received additional financial support to carry out spousal violence prevention activities under the Government of Québec's action plan on immigration.
208. The Government of Québec provides recurrent annual funding to some 10 shelters that work specifically with immigrant women and women from cultural communities to better meet the special needs of this client group. These shelters are located mainly in Montréal, Laval and Québec City. As well, the 41 shelters managed by the *Fédération*

*des ressources d'hébergement pour femmes violentées et en difficulté du Québec*, whose funding is provided in part by the Government of Québec, have all received training on how to respond appropriately to the needs of the cultural communities.

209. Sixteen of Québec's 123 women's centres funded in part by the Government of Québec have tailored their services to better meet the needs of immigrant women. The women's centres are local initiatives, created by and for local women. Combatting spousal violence and sexual assault is one of their priorities.
210. The *Regroupement québécois des CALACS* receives a specific annual budget for its female clientele exposed to double discrimination, including immigrant women and women from cultural communities.
211. In an effort to inform sexual assault victims of the assistance and protective services available, the Government of Québec has distributed an *Information Guide for Sexual Assault Victims*, produced by the *Table de concertation sur les agressions sexuelles de Montréal* for community agencies likely to be dealing with situations of sexual assault. This tool is available in French, English and Spanish.
212. The Government has provided financial support to a Women's Centre of Montréal project designed to provide students learning French with information and awareness sessions on spousal and family violence. The Women's Centre has also been mandated to develop an information and awareness session on preventing sexual assault.

#### *Awareness campaigns*

213. In 2006, the Government of Québec launched a new domestic violence awareness campaign. One specific component of this campaign addresses Aboriginal communities, under which \$50,000 was provided to Québec Native Women Inc. to develop family violence awareness tools together with the *Table pour le mieux-être des Premières Nations*. These tools were launched in May 2008.
214. During phase 5 of the campaign, communication tools such as publications, multilingual videos and awareness sessions on spousal violence were provided to members of cultural communities.

### **Training for law enforcement**

#### *Aboriginal women*

215. Over the last 15 years, training sessions have been provided to socio-legal workers on Aboriginal community issues, and sessions on spousal violence and sexual assault have been provided to criminal prosecutors. A *Guide de formation destiné aux procureurs aux poursuites criminelles et pénales portant sur l'agression sexuelle et la violence familiale en milieu autochtone et le système judiciaire* has also been released.

216. Other measures from the 2004-2009 government action plan on domestic violence aim at raising greater awareness for justice system representatives about issues affecting Aboriginal people by:
- promoting the mentoring of new criminal prosecutors working in Aboriginal communities;
  - continuing to develop a pool of court interpreters for all First Nations and organizing training sessions for Native interpreters; and
  - continuing steps to gradually increase access by Aboriginal communities to CAVACS, and encouraging CAVACS to hire staff who are well informed about the needs of Aboriginal victims.
217. Public colleges and the Québec National Police Academy offer specific training in the *Guide des pratiques policières en matière de violence conjugale*. Police forces that wish to tailor their family violence approaches to the various ethnocultural communities are encouraged to use this guide to do so.
218. Aboriginal policing services are also encouraged to adopt certain directives in order to structure their family violence response based on the guide, and to participate in the Uniform Crime Reporting Survey in cases of offences involving spousal violence.

#### *Women from cultural communities*

219. Certain municipal police forces are adapting their tools and interventions to immigrants or members of cultural communities living with domestic violence. The establishment of the *Partager une culture égalitaire* program has resulted in agreements signed with certain cities (Montréal, Laval, Longueuil, Gatineau, Sherbrooke and Québec City) interested in promoting gender equality in cultural communities. With regards to violence against women, certain cities introduced measures tailored to immigrants and cultural communities.

### **Employment**

220. The Government of Québec has undertaken various measures aimed at removing barriers to employment faced by minority groups. These include:
- The implementation of the Workforce Skills Development and Recognition Framework: This measure, introduced in June 2007, in the *Act to promote workforce skills development and recognition*, is one of the tools made available to companies to promote the acquisition, mastery and recognition of workforce skills in the workplace, with a view to increasing access to regulated trades and enhancing the transferability of learning. Immigrants can benefit from this measure the same way as other workers.
  - Faster recognition of professional qualifications for persons trained outside Québec. One of the purposes of *Project 5* of Québec's new economic program (*Le nouvel*



*espace économique du Québec*) is to ensure faster recognition of professional qualifications for people trained outside Québec, helping them to enter the labour market by reducing the barriers to exercising their profession or trade. In a joint statement in 2008, the government and the professional orders agreed to an overall acceleration of the processes for recognizing occupational qualifications. A special \$5 million fund will support the professional orders and regulatory agencies, especially in their efforts to conclude reciprocal skills recognition agreements with their Canadian and French counterparts.

- The provision of additional funding for the *PRIME* program: Under the Employment Pact introduced in 2008, an additional \$15 million has been granted to the PRIME program, an incentive measure to encourage businesses to hire immigrants or persons from cultural minorities and to continue employing them once the subsidized period is over. Furthermore, the refundable tax credit for on-the-job training has been increased from 30 percent to 40 percent. An evaluation of the PRIME program conducted from a sample of registrants indicated that over 80 percent of them were still employed three months after the end of the employment assistance grant.
- The strengthening of partnerships with First Nations: Certain measures have been introduced under the Action Plan to Combat Poverty and Social Exclusion to intensify the dialogue with First Nations and support the emergence of local job development strategies in Aboriginal villages and reserves.
- The introduction of *Défi Montréal* : A project launched in 2009 and coordinated by the *Conseil régional des partenaires du marché du travail de Montréal*. This project aims to involve regional players in implementing an action strategy to help integrate newcomers into the labour market.
- The expansion of the *Québec Pluriel* program: This mentoring program launched in 2004 aims to facilitate the social and vocational integration of youth aged 16 to 24 from cultural and Aboriginal communities and for young immigrants aged 16 to 35 who have been in Québec less than five years. In 2006, given the decisive results of implementing the program in the Québec City and Island of Montréal regions, the Government of Québec agreed to expand it to the cities of Gatineau, Laval, Longueuil and Sherbrooke under the 2006-2009 youth action strategy. There were 259 matches in 2007-2008 and 288 in 2008-2009.
- Employer awareness and training in managing diversity and preventing employment discrimination: Many publications have been issued to educate employers about the benefits of having a diverse workforce and to help them better manage cultural diversity in their businesses. Awareness and immigrant labour force development workshops have been offered to companies in five regions of Québec through an initiative by the *Commission des partenaires du marché du travail*, coordinated by the *Fédération des Chambres de commerce du Québec* and with the support of the Government of Québec. These workshops include professional networking

experiences among representatives of cultural communities, immigrants and businesses.

### **Access to justice for vulnerable groups**

221. The *Act to amend the Code of Civil Procedure to prevent improper use of the courts and promote freedom of expression and citizen participation in public debate* received Royal Assent on June 4, 2009. This Act amends the *Code of Civil Procedure* to promote respect for freedom of expression and prevent potential procedural abuse of the courts by companies or organizations that attempt to neutralize or censor public mobilization concerning their activities.
222. In addition, in 2009, the Government of Québec announced a pilot project to create three justice centres near Québec City, Rimouski and Sherbrooke. The objective is to offer the public a single window where they can access referral, consultation and information services, thereby helping to make justice more accessible. Cultural communities are able to benefit from this new structure.

### **Article 4: Prohibition against promotion of racism**

223. In October 2008, the government policy to promote participation of all in Québec's development, *Diversity: An Added Value*, was released. It included an action plan containing about 100 initiatives covering the period of 2008-2013. The policy has three main thrusts:
- Recognize and combat prejudice and discrimination by heightening public awareness and providing human rights education;
  - Renew practices by eliminating discrimination in employment and public services, improving practices to ensure real equality and full participation by all, and enhancing recourse so that everyone can ensure that their rights are respected; and
  - Coordinate efforts by mobilizing and securing the commitment of all of society to seeking solutions so as to ensure that efforts complement each other.

### **Article 5: Equality before the law**

#### **Aboriginal people**

224. In accordance with the *Act respecting the Québec correctional system*, which came into force in February 2007, specialized programs and services adapted to the needs of accused and convicted Aboriginal offenders are provided by resources in their community within certain houses of detention ([www2.publicationsduQuébec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/S\\_40\\_1/S40\\_1\\_A.htm](http://www2.publicationsduQuébec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/S_40_1/S40_1_A.htm)).
225. In addition, agreements signed since 2007 between the Government of Québec and Inuit and between the Government of Québec and the Cree are intended to develop

correctional services and programs adapted to Aboriginal communities. An agreement between the Government of Québec and the Conseil Innu Takuaikan Uashat Mak Mani-Utenam provides for the development of an Innu Community Residential Centre that can accommodate Aboriginal offenders from the region.

### **Migrant and stateless persons**

226. The services provided by the Government of Québec to asylum seekers include temporary and emergency accommodation, housing search assistance, last-resort financial assistance, housing allowance, social services, legal aid, free pre-school education and free primary and secondary education for minors, part-time French courses for adults and specialized French courses (with no allowance), the *Programme de francisation en milieu de travail*, the family budget supplement and school day care services.
227. Persons whose asylum claims have been rejected still have access to social security, health care and educational services as long as they have permission to stay in the province or a final decision on their removal has not been made. It should be noted that social security and educational services are funded by the provincial governments, whereas costs of health care for asylum seekers are covered by the Government of Canada.

### **Article 7: Education, culture and information**

228. The training session *Different But Equal* is provided by the *Commission des droits de la personne et des droits de la jeunesse* (CDPDJ) for teachers, non-teaching staff and community agency workers. It educates participants about the consequences of exclusion and stigmatization based on perceptions of racial inferiority and superiority. It includes a review of the *Charter of Human Rights and Freedoms*, presents the various recourses available to assert equality rights and proposes anti-racism initiatives.
229. Another training session offered by the CDPDJ, *Beyond the Appearances*, deals specifically with racial profiling and is offered to the same clientele. It covers the definition of racial profiling, its manifestations and the various possible recourses. Between February 2007 and May 2009, these sessions were presented 48 times.

## Ontario

### Article 1: Definition, interpretation and general

#### Use of the term visible minority

230. The term “visible minorities” does not appear in Ontario statutes or regulations, or in the application forms of the Human Rights Tribunal of Ontario. The use of the term in Tribunal decisions is mostly in reference to the language used by witnesses, or in statistical data or past jurisprudence. The term is not used in the publications of the Ontario Human Rights Commission, other than in quoting from submissions. Its use by the Government of Ontario is mainly in reference to demographic data, which primarily comes from national Census data.

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

231. In 2007, the Ontario Federation of Indian Friendship Centres and the Ontario Native Women's Association released a report, *A Strategic Framework to End Violence Against Aboriginal Women*, which recommended action to prevent violence against Aboriginal women and was the culmination of several provincially-funded summits. An intergovernmental response is being undertaken to ensure a coordinated response to the prevention of violence against Aboriginal women.
232. The Government of Ontario, which is committed to protecting women from domestic violence, sexual assault and other forms of gender-based violence, such as sexual harassment, provided more than \$208 million in 2009 to services and programs to protect women from gender-based violence, including \$87 million from its Domestic Violence Action Plan. This Plan is a comprehensive, multi-ministry commitment to initiatives aimed at improving public education and training, community supports and the justice system response to domestic violence. It provides improved access to French-language services and targeted initiatives to address the unique needs of Aboriginal communities, people with disabilities, and ethno-cultural/racial communities.
233. Initiatives to protect women from gender-based violence include: community based services (\$18.8 million investment in services for abused women and children), training (funding of training programs run by the Ontario Council of Agencies Serving Immigrants and the Ontario Federation of Indian Friendship Centres), public education (expansion of the *Neighbours, Friends and Families* campaign) and measures to strengthen the justice system response (creation of the Victim Quick Response Program pilot project).

*Community based services*

234. The Government of Ontario has made a number of investments in recent years to provide stabilized funding to core services and to expand community supports. This includes an \$18.8 million investment announced in September 2008 to help reduce wait lists and address gaps in programs and services for abused women and their children. The investment supported the addition of 83 shelter beds to the existing system and many of these beds went into high population growth areas with large immigrant populations.
235. A new 10-bed Francophone shelter has been opened in Timmins, northern Ontario, to provide services in French and is accessible to persons with disabilities.
236. Employment training pilot programs for Aboriginal women experiencing or at risk of abuse were funded through Nipissing First Nations, Constance Lake First Nations, Seven Generations Education and Minwaashin Lodge Aboriginal Women's Support Centre. As of March 2009, 167 Aboriginal women had completed their training and 84 percent of the graduates had found employment or went on to further training.
237. Other initiatives undertaken include funding for research projects and conferences on the issue of sexual assault, to improve the responses to this form of violence that affects primarily women. Colibri, an organization that provides services to Francophone women who are victims of sexual assault, was established through the Ministry of the Attorney General community grants program and began offering services in January 2008.

*Training*

238. The Ontario Council of Agencies Serving Immigrants received government funding to support its Prevention of Domestic Violence against Immigrant and Refugee Women: Facilitated e-Learning and Community Capacity Building for Front-Line Settlement Workers Program. This program provides on-line workshops for service providers who work with immigrant and refugee women but who do not have training or extensive knowledge of domestic violence issues. An on-line Ontario-wide community of service providers will be developed and maintained to share issues, learning and best practices on prevention of domestic violence against immigrant and refugee women in Ontario.
239. The Ontario Federation of Indian Friendship Centres has received government funding to provide training to improve Aboriginal cultural competency for non-Aboriginal government staff and front line service staff. This training includes a component specific to violence against Aboriginal women in order to enhance an understanding of the issues from a historical perspective and to increase knowledge of the traditional societal roles of Aboriginal women.
240. *Action ontarienne contre la violence faite aux femmes* (AOcVF) received funding to create a Francophone Training Institute on Violence against Women. It is developing and delivering high-quality training to front-line staff and managers in organizations that offer services to abused women in French. As of April 2009, 714 participants were

served through the Institute's training initiatives either in person, by Internet or by web-broadcasting.

#### *Public education*

241. The Government of Ontario has expanded the *Neighbours, Friends and Families* public education campaign that aims to raise awareness of the signs of woman abuse and help people close to an abused woman provide support. The campaign is available in more than 170 communities and materials have been culturally adapted and translated into 16 languages. The campaign has also been adapted to meet the cultural needs of the Aboriginal and Francophone communities: the Ontario Federation of Indian Friendship Centres is implementing *Kanawayhitowin*, an Aboriginal version of the campaign, and AOcVF is implementing the Francophone campaign, *Voisin-es, ami-es et familles*. The Ontario Council of Agencies Serving Immigrants is promoting the campaign in newcomer communities.
242. Ontario also continues to support the Promoting Healthy Equal Relationships Program, which provides funding for initiatives targeting youth (ages 8 to 14) and the adults who influence them, to change attitudes that perpetuate violence against women. Targeted initiatives are reaching out to Aboriginal, Francophone and diverse communities. An example is the province-wide Aboriginal male youth role model initiative *Kizhaay Anishinaabe Niin: I Am A Kind Man*, which engages Aboriginal men and boys aged 10 to 14 in speaking out against violence against Aboriginal women and supports Aboriginal men and boys in choosing not to use violence. The campaign is sponsored by the Ontario Federation of Indian Friendship Centres.
243. The government has also contributed to the Nishnawbe Aski Nation's Youth Resiliency Program, which is empowering Aboriginal youth through its Girl Power and Wolf Spirit Warrior programs in ten First Nations communities. These programs for Aboriginal female and male youth promote cultural awareness and identity, self-esteem, suicide prevention, healthy and active lifestyle choices, and healthy, equal relationships. Girl Power camps have helped 50 Aboriginal girls, aged 10 to 14, develop self-esteem and self-expression and build interpersonal and decision-making skills.

#### *Strengthening the justice system response*

244. The Government of Ontario has supported the Family Law Education for Women (FLEW) public legal education project to inform newcomer women of their rights and options under Ontario and Canadian law. Launched in 2008, FLEW has created a series of plain language guides addressing key areas under family law including marriage and divorce, custody and access, child and spousal support, and child protection. Issues involving domestic violence and the abuse of women are interwoven through a number of these publications. Materials are available in 10 languages (in addition to English and French) and were developed with the assistance of community agencies to adapt them to specific communities (e.g. Christian, Muslim, Aboriginal and Jewish).



245. The government continues to make improvements to Ontario's criminal and family court justice system to help ensure women, including Aboriginal, Francophone and racialized women, who are victims of abuse and their children get help faster and are better protected from future harm. This includes \$8.2 million in new funding, announced in 2008 for:
- an Early Victim Contact program that provides same-day help for victims as part of the specialized court program on domestic violence cases;
  - the Bail Safety Project, an innovative approach to identifying high-risk situations for victims of domestic violence, currently operating in 10 sites; and
  - annual ongoing funding for the Partner Assault Response Program, and to the province's 79 Supervised Access Program locations.
246. The Government of Ontario has enacted the *Family Statute Law Amendment Act, 2009*. Under the legislation, which amended the *Child and Family Services Act*, the *Children's Law Reform Act* and the *Family Law Act*, restraining orders in Ontario have been strengthened to improve the security of those suffering from domestic violence, most of whom are women and children. Reform measures in the legislation include the following:
- Prosecuting restraining order breaches under the *Criminal Code*, which would allow for tougher enforcement and stricter bail conditions.
  - Expanding eligibility for restraining orders to those living together in a relationship for less than three years.
  - Including an evidentiary test for a judge to grant a restraining order when the judge is satisfied that there are reasonable grounds for someone to fear for his or her safety or for the safety of his or her children.
247. Ontario has established a pilot project, the Victim Quick Response Program, which provides emergency funding to victims of crime including victims of domestic violence and sexual assault. Women living in rural and northern areas and Aboriginal women are eligible to receive funding from this pilot program. Emergency expenses which qualify for the program include: accommodation and meals, funeral expenses, and short-term counselling.
248. The Government of Ontario has funded a number of initiatives to improve the justice sector supports for Aboriginal women through various grants programs:
- Two million dollars in one-time funding over two years has been provided to improve services to Aboriginal victims of crime through the Aboriginal Victims Support Grant Program. Twenty Aboriginal organizations have received funding for 21 projects to increase the capacity of local communities to respond to the needs of Aboriginal victims of domestic violence, sexual assault, hate crimes and historic abuse, primarily in underserved areas of the province.
  - Under the Community Grants Program, \$2.7 million was provided to 37 projects for Aboriginal victims of violence. Projects included training for First Nation



community mental health workers to increase their knowledge and skills to provide support to victims of sexual abuse, and a culturally appropriate program for abused Aboriginal women to develop self-esteem and life management skills.

- Through the Community Hate Crimes Response Grants, the Ontario Native Women's Association received \$70,000 to conduct qualitative research into hate crimes perpetrated against Aboriginal women, information sharing and workshop training for service providers and justice workers.

### *Social assistance programs*

249. Ontario's social assistance programs provide income and employment supports to single adults and families who are in financial need. The government has made changes to streamline and enhance access to social assistance for victims of domestic violence in a manner that ensures the safety of the individual is not put at risk.

For Ontario Works, the changes include:

- An expedited intake process for individuals trying to escape domestic violence, under which individuals may forego the preliminary discussion at application and proceed directly to an intake appointment with an Ontario Works caseworker;
- Eligibility to receive full assistance for the first three months in an interval or transition home where a person needs assistance with shelter costs to maintain their accommodation in their community; and
- Temporarily waiving documentation requirements at application, the obligation to pursue support for three months or up to 12 months and deferring participation requirements.

For Ontario Disability Support Program, the changes include:

- Eligibility to receive income support for three months for recipients who have fled their homes because of violence, without requiring the person to pursue joint financial resources, including support that may be owing;
- Temporarily waiving the obligation to pursue spousal and child support where there is family violence that can be verified by a third party; and
- Temporarily waiving the requirement to pursue sponsorship support where family violence can be verified by a third party and the recipient has moved out of the sponsor's home.

### **Training for law enforcement**

250. The *Police Services Act* requires the police to provide services in accordance with the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*, and the need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.

251. The Government of Ontario has issued the Equal Opportunity, Discrimination and Workplace Harassment Guideline, which provides that:
- Police service's procedures on responding to and preventing discrimination and harassment have to meet some criteria.
  - Every chief of police should ensure that no sexist, racist or other offensive or derogatory material is displayed in the workplace.
  - Every police service's procedures on employment accommodation should be in accordance with the Ontario *Human Rights Code* and section 47 of the *Police Services Act*.
  - Every chief of police should ensure that all officers receive training on race relations, diversity and human rights.
  - Every chief of police should ensure that, as part of this training, the police service's policy and procedures dealing with equal opportunity, discrimination and workplace harassment are reviewed with all officers.
252. The Ontario Provincial Police (OPP) Policy on Domestic Violence Occurrence prohibits officers from being influenced by factors such as marital status, race, ethnicity, socio-economic status, or occupation of the victim or suspect in deciding whether to lay a charge. The officers are expected to explain the cycle of violence, the status of the court case, the availability of support services, and where the victim consents, the immediate dispatch of victim services. Officers are expected to provide service in a culturally-sensitive manner. The detachment commander is responsible for monitoring domestic occurrences for compliance to ensure that detachment supervisors receive accredited domestic violence investigator training, and for developing a domestic violence protocol with applicable social services agencies.
253. Police training addresses issues such as language barriers, cultural pressure, customs, and other influences that may make it difficult for victims to report incidents of domestic violence. Front-line officers require training on the Model Police Response to Domestic Violence produced by the Ministry of Community Safety and Correctional Services before they can be designated as domestic violence investigators. The training is comprised of four guidelines: Domestic Violence Occurrences, Criminal Harassment, Bail and Violent Crime and Preventing and Responding to Occurrences involving Firearms.
254. The Ontario Police College, in conjunction with law enforcement stakeholders, provides training and organizes forums and workshops on domestic violence, for example:
- The Basic Constable Training includes domestic violence training, which consists of training sessions on ethnic/cultural issues dealing with myths of domestic violence, which are discussed in the context that victims and abusers are found in all social, ethnic and cultural segments of society. The importance of using a trained cultural interpreter is stressed at every level of training on the subject of domestic violence.

- In 2007, the Aboriginal and Diversity Police Forum entitled *Moving Forward Together: Building Capacity for Tomorrow* provided the following sessions to attendees: Cultural Competency, Gender and Sexual Identity 101, and Gender Equity in Policing.
- In 2009, the Ontario Police Video Training Alliance released the DVD entitled *Faith Diversity: An Interactive Guide*, which provides a glimpse into several prevalent cultures and religions found in the communities that the police serve: the traditions of Islam, the beliefs of Hinduism, the origins of the Sikh faith, the foundations of Buddhist beliefs, and the practices of Judaism.

## Employment

### *Removing barriers to employment among minority groups*

255. Social assistance is provided to everyone in Ontario who meets eligibility requirements. Ethnicity, race or gender is not considered when determining eligibility. Improvements made to the programs since 2007 to help recipients find and maintain employment include:
- launching a number of pilots to test innovative employment supports that will help people on social assistance move to sustainable paid employment such as Hostels to Homes;
  - exempting as income and assets the earnings of social assistance recipients attending full-time post-secondary education; and
  - increasing the flexibility of child care benefits to help recipients continue to work or pursue employment assistance activities

### *Protection of foreign nationals working as live-in caregivers*

256. The government has enacted the *Employment Protection for Foreign Nationals Act (Live-in Caregivers and Others)*, 2009 to protect foreign nationals working as live-in caregivers. The Act prohibits:
- Recruiters from charging any fees to live-in caregivers, either directly or indirectly, including recruitment fees and fees for related services such as resume writing.
  - Employers and recruiters from taking possession of a live-in caregiver's personal documents such as passports and work permits.
  - Employers from recovering recruitment and placement costs from foreign live-in caregivers.
257. The legislation also allows live-in caregivers up to three and a half years to make a complaint – an increase from the two year period permitted under the *Employment Standards Act*. In addition, the Ministry of Labour launched a toll-free telephone hotline and information sheet to help foreign nationals address their employment rights as live-in caregivers. The hotline provides them with information on their rights under the

*Employment Standards Act* and assists them in filing complaints, all of which are investigated. The fact sheet provides information on wages, hours of work, overtime pay, and other rights under the *Employment Standards Act* and is posted on the ministry's Web site and distributed to Canadian embassies and consulates ([www.labour.gov.on.ca/english/es/pubs/factsheets/fs\\_fedcaregivers.php](http://www.labour.gov.on.ca/english/es/pubs/factsheets/fs_fedcaregivers.php)). As of October 2009, 893 calls have been received and 15 complaints filed through the hotline.

### **Access to justice for vulnerable groups**

258. In 2008, Ontario restructured its human rights system to make it more effective in raising awareness of human rights and deal more quickly with complaints. As part of the reforms, claims are now filed directly with the Human Rights Tribunal of Ontario, which has been provided with updated statutory powers to resolve disputes fairly, quickly and effectively. The changes to the Tribunal are intended to ensure a fairer and more open process for all those who come before it, and the protection of the rights of all parties is an important aspect of the new system. The Ontario Human Rights Commission now focuses on preventive measures such as public education, policy development, monitoring, research and analysis.
259. Legal Aid Ontario (LAO) promotes access to justice for low-income individuals by providing legal aid services in a cost-effective and efficient manner. In 2009, Ontario announced an additional investment in LAO of \$150 million in funding over four years to protect the most vulnerable and help drive significant reforms in the family and criminal courts. The government set up five advisory groups to work on the details of the legal aid transformation.
260. The government has also established the Human Rights Legal Support Centre, a new agency, to provide legal services to individuals who believe that they have experienced discrimination ([www.hrlsc.on.ca/](http://www.hrlsc.on.ca/)).

### **Article 4: Prohibition against promotion of racism**

261. The Federal/Provincial/Territorial Justice Ministers' Conference has agreed to the request of Ontario to review the hate crime provisions of the *Criminal Code* of Canada, with a view to looking at how to strengthen them to further deter hate crime in the country. Ontario's initiative was a follow-up to one of the recommendations in the 2006 Final Report of the Hate Crimes Community Working Group entitled *Addressing Hate Crime in Ontario* ([www.attorneygeneral.jus.gov.on.ca/english/about/pubs/hatecrimes/HCCWG\\_full.pdf](http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/hatecrimes/HCCWG_full.pdf)).

## Article 5: Equality before the law

### Measures to address possible discriminatory approaches to law enforcement

262. Section 1 of the *Police Services Act* (PSA) sets out the principles that govern policing in the province and states that police services shall be provided in accordance with the following principles:
- The need to ensure the safety and security of all persons and property in Ontario.
  - The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.
  - The need for co-operation between the providers of police services and the communities they serve.
  - The importance of respect for victims of crime and understanding of their needs.
  - The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.
  - The need to ensure that police forces are representative of the communities they serve.
263. Police policy prohibits the use of illegal profiling. The public may complain about the conduct of a police officer under the PSA, and they may file a complaint that could be heard before the Human Rights Tribunal of Ontario. Police supervisors are responsible for ensuring that their members refrain from racial profiling.

### Aboriginal people

264. The Government of Ontario has taken a proactive approach to ensuring that Aboriginal people who come before the courts are treated with respect and dignity. Ontario has taken initiatives to assist those who work in the courts to understand the unique circumstances of Aboriginal offenders and victims.
265. Ontario offers a number of programs and services aimed at facilitating the reintegration of Aboriginal offenders into society, for example:
- Native Inmate Liaison Officers provide Aboriginal services to Aboriginal offenders in custody, including discharge planning and community reintegration.
  - Native Community Correctional Workers provide services to Aboriginal offenders in their home communities.
  - Correctional Services has developed and delivers Aboriginal Core Rehabilitative programs (orientation, domestic violence, “Turning Full Circle”, sexual offending).
  - Correctional Services operates nine sweat lodges in institutional settings.
  - Correctional Services contracts with Aboriginal organizations and service providers to deliver community-based supervision and programs.

Although empirical studies have yet to be completed and data is unavailable to determine the effectiveness of these programs, Aboriginal offenders' response has been positive. Increasing demand for such services suggests the effectiveness of this model.

266. The police do not play a role in the sentencing or re-integration of Aboriginal offenders; however, they may work with Probation and Parole to monitor offenders who serve the remainder of their sentence in the community.

## **Migrant and stateless persons**

267. Regulation 552 of the *Health Insurance Act* outlines who is eligible for Ontario health insurance coverage and residency requirements. Individuals have to qualify for Ontario Health Insurance Program coverage to be eligible for admission to long-term care homes. This criterion is stated in section 130 of the *Regulation made under the Nursing Homes Act*, section 61 of the *Regulation made under the Charitable Institutions Act* and section 8 of the *Regulation made under the Homes for the Aged and Rest Homes Act*.
268. Community support services help seniors, the frail elderly, and persons with physical disabilities and chronic diseases to: live in the community independently and safely; reduce use of more expensive health care services; and reduce caregiver burnout; and delay hospitalization. Support services include: meal programs; homemaking; friendly visiting; palliative pain and symptom management, and volunteer hospice services. Hundreds of agencies provide such services through volunteer and paid staff. The *Long-Term Care Act* requires the agencies to be not-for-profit.
269. More information on health services and social assistance for migrant and stateless persons can be found in Canada's response to the Committee on Economic, Social and Cultural Rights' advance questions in preparation for Canada's review of its Fourth Report on the *International Covenant on Economic, Social and Cultural Rights*.

## **Article 7: Education, culture and information**

### **Law enforcement and correctional services**

270. The Government of Ontario has undertaken the following activities in law enforcement and correctional services to promote awareness of racism in line with the Convention:
- The Ministry of Community Safety and Correctional Services has established an Organizational Effectiveness Division tasked with addressing racism and all forms of discrimination as defined under Ontario's *Human Rights Code*.
  - Staff training curriculum includes awareness of and commitment to the principles of fair and equitable treatment of all people.
  - The Ministry is actively seeking to diversify its workforce to reflect the population that it serves (for example, Correctional Officer Training and Assessment North, which focuses on hiring and training Aboriginal recruits for correctional officer positions).

- The Ontario Association of Chiefs of Police has made available a workbook to all police services called Anti-Racial Profiling Best Practices – A self-audit to minimize corporate risk.
- The OPP has a number of initiatives in place to support non-discriminatory conduct both in hiring and service delivery, and also offers a one-week Aboriginal awareness training that focuses on Aboriginal history and culture.

*Funding for anti-hate crime projects*

271. The Government of Ontario, through its 2008 Community Hate Crimes Response Grants program, provided \$1.35 million to 23 community organizations for anti-hate crime projects focusing on eliminating and preventing hate crimes and racism. The projects funded focused on enhancing community resources and education regarding hate crime, identifying gaps in services to victims of hate crime and holding anti-hate forums to strengthen networks and share information. Projects included:

- A three-day National African Canadian Policy Conference and Forum on Anti-Black Hate, which launched a hate crime tool kit.
- Theatrical productions in northern communities to increase awareness of hate crimes committed against Aboriginal people.
- A two-day community forum, CommUNITY Alliance Forum: Building Partnerships to Counter Hate.
- A hate crimes Web site to ensure the public and communities that are victims of hate crimes have access to information about hate crimes and hate crime prevention.
- The development of a community-based Victim Impact Statement template for hate crimes, accompanied by a resource guide for service providers and victims.



## Manitoba

### Article 1: Definition, interpretation and general

#### Use of the term visible minority

272. *The Human Rights Code* of the Government of Manitoba does not use the term “visible minority” as a personal characteristic protected from discrimination. It refers to “ancestry, including colour and perceived race”, “nationality or national origin”, “ethnic background or origin”, etc.
273. Manitoba’s Civil Service Commission still utilizes the term “visible minorities” under the Manitoba Employment Equity Policy to describe one of the designated groups to benefit from special hiring policies and procedures. Other designated groups are women, Aboriginal persons, and persons with disabilities.
274. The Manitoba Human Rights Commission has begun to use the term “racialized communities” instead of the term “visible minorities” in contexts where it considers the term to reflect an erroneous social construct involved in perceptions that persons or groups who share a given ancestry are different and unequal.

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

275. The Government of Manitoba has developed *Living in Manitoba: A Resource Guide for Immigrant Women* to help them navigate provincial resources and services and offers advice on cultural practices, housing, child care, and legal rights and protections.
276. The government’s Status of Women Web site provides a list of shelters and other violence against women service providers. It also has research and reports on the issue of violence against women, including information and resources specific to Aboriginal and immigrant women ([www.gov.mb.ca/msw/index.html?/index.html](http://www.gov.mb.ca/msw/index.html?/index.html)).
277. Manitoba’s Workplace Initiative to Support Employees on Family Violence provides awareness and information within workplaces on recognizing and responding to the signs of family violence and reaches a wide range of individuals in many workplaces, including those who may identify as belonging to racial/ethnic minority groups ([www.gov.mb.ca/fs/fvpp\\_toolkit/pubs/intro\\_fs1.pdf](http://www.gov.mb.ca/fs/fvpp_toolkit/pubs/intro_fs1.pdf)).
278. The Government of Manitoba initiated and is funding Pitawik (Hear Me) to review, analyze and make recommendations building on the priority areas established in discussions at the first National Aboriginal Women’s Summit. An initial roundtable was held in 2008, and regional gatherings with Aboriginal women are being held across the province to increase understanding of Aboriginal women’s needs and leading up to the

third National Aboriginal Women's Summit 2010, which is being co-hosted by Manitoba and the Native Women's Association of Manitoba. Violence against Aboriginal women is a priority issue in the regional gatherings and the national summit ([www.gov.mb.ca/msw/resources/docs/pitawik\\_report.pdf](http://www.gov.mb.ca/msw/resources/docs/pitawik_report.pdf)).

279. The Human Trafficking Response Team, created by the Government of Manitoba and comprised of the Royal Canadian Mounted Police (RCMP) and various provincial and community partners, was formed to develop a coordinated response on the part of key stakeholders in the event that victims of human trafficking are identified in Manitoba. Steps have been taken by Family Services, Health, and other provincial departments and agencies toward arranging safe residential emergency shelter space, social assistance and other support for victims.
280. In 2009, Manitoba, the RCMP and the Winnipeg Police Services established a Manitoba Integrated Task Force for Missing and Murdered Women, which reviews cases involving missing and murdered women to help bring closure for families and bring offenders to justice and determine if there are links in the cases. Manitoba has also announced an Action Group on Exploited and Vulnerable Women that provides strategic advice to the province as it develops new policies to address the crisis of abused and exploited women in Manitoba. The group consists of representatives from the provincial government and Aboriginal organizations.

### **Training for law enforcement**

281. The Government of Manitoba does not provide cultural-sensitive training for law enforcement officers. However, it is recognized as being relevant for all police work and is routinely addressed through training and follow-up service programs by the RCMP, the Winnipeg Police Service and the Brandon Police Service – Manitoba's recognized police trainers. Beginning at entry and throughout their careers, through in-service training modules, law enforcement officers receive training that meets the requirements of the environment they are providing policing services to. Training is organized by the police services, but the actual presentations come from knowledgeable people or experts in the specific area police are looking to address. Training also includes domestic violence, child abuse, ethnic based violence, etc. In addition, efforts are made to have police officers reflect to some degree the cultural diversity in the community.

### **Employment**

282. Employment of minority group members in the Manitoba Civil Service continues to rise as a result of the Employment Equity Policy and recruitment programs. In 2009, 5.7 percent of employees identify themselves as visible minorities; in 2008, the comparable figure was 4.9 percent; in 2007, the relevant figure was 4.5 percent.
283. Through the Civil Service Renewal Strategy, the government continues to implement activities aimed at increasing employment rates of minority groups in all positions within the civil service. Further, the Civil Service Commission continues its Aboriginal

Management Development Program and its Aboriginal Public Administration Program; and Manitoba Aboriginal and Northern Affairs invites and welcomes students to seek placements with the department to foster understanding of complex legal and policy issues related Aboriginal people in Manitoba.

284. Challenges related to technical issues in data collection, particularly for First Nations and Métis people exist. Despite this gap in data, there is evidence that Aboriginal employment has increased in the workplace. For example:

- The Government of Manitoba's Hydro Northern Training Initiative and the Manitoba Floodway Authority (MFA) have allocated positions for increased Aboriginal participation. The MFA established an Employment Equity Strategy with the Aboriginal Set-Aside Initiative, which awarded 25 construction tenders, worth approximately \$43 million, as of January 2009 ([www.floodwayauthority.mb.ca/aboriginal\\_setaside.html](http://www.floodwayauthority.mb.ca/aboriginal_setaside.html)).
- The government has been working with employers in the public and private sector to develop Aboriginal Employment Partnership Agreements. Such Partnership Agreements include six regional health authorities and other private and public institutes and have resulted in the hiring of over 900 Aboriginal employees. Private institutes that have signed on include IBM and Manitoba Customer Contact Association. The goal of the Agreements is to facilitate the development of Aboriginal employment strategies that increase Aboriginal participation and representation in Manitoba's workforce.
- In May 2008, the provincial and the federal governments provided funding to the Northern Manitoba Sector Council in Thompson Inc. to increase skilled labour in northern Manitoba. A long-term strategy was implemented to support skill development programming and has led to additional training in the North including to Aboriginal people.
- The province is currently collaborating with the organizations that are parties to the Government of Canada's Aboriginal Human Resource Development Agreements to increase Aboriginal representation in the apprenticeship training sector.

### **Access to justice for vulnerable groups**

285. The Government of Manitoba and the Government of Canada continue to fund a community-based Aboriginal restorative justice program, *Onashowewin Inc.*, jointly developed by the Aboriginal Council of Winnipeg Inc. through the tripartite process and the Southern Chiefs' Organization Inc. The program takes into consideration holistic approaches to justice ([www.onashowewin.com/](http://www.onashowewin.com/)).

## **Article 5: Equality before the law**

### **Aboriginal people**

286. In 2007, the Manitoba Human Rights Commission (MHRC) settled two systemic complaints against the Government of Manitoba regarding the treatment of women incarcerated at Portage Correctional Centre; this included a focus on programs to meet the needs of Aboriginal women  
([www.gov.mb.ca/hrc/publications/news\\_releases/pdf/06\\_28\\_07.pdf](http://www.gov.mb.ca/hrc/publications/news_releases/pdf/06_28_07.pdf))
287. In 2008-2009, the MHRC met several times with a coalition of organizations with respect to health and support services for persons with disabilities residing in First Nation communities. A workshop to explore this issue took place in April 2010 and resulted in a Memorandum of Understanding between the Treaty Relations Commission of Manitoba, the MHRC and the Canadian Human Rights Commission to advance awareness and realization of human and treaty rights.

## **Article 7: Education, culture and information**

288. The Government of Manitoba's Multiculturalism Secretariat has been the lead organizer on the Canadian Multiculturalism Day committee, which organizes an annual public event to promote multiculturalism and celebrate cultural diversity.
289. For 2009-2010, the government's Welcoming Communities Manitoba initiative gave priority to projects that promote awareness of multiculturalism and the benefits of diversity among youth.
290. The province has provided funding to five projects which specifically promote multiculturalism and diversity among youth. Project activities include the participation of inner-city youth of diverse cultural backgrounds in leadership building activities; capacity building to improve the quality of life in schools and the community at large; storytelling between newcomer and Canadian-born youth that acts as a vehicle for healing and for forging bonds of understanding; and, trust building, transformation dialogue, perspective sharing, conflict resolution training and other forms of interaction.

## Saskatchewan

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

291. In 2007-2008, a third domestic violence court opened in Saskatchewan. For more information about these courts, see paragraph 247 of Canada's Seventeenth and Eighteenth Reports on the *International Convention on the Elimination of All Forms of Racial Discrimination*.
292. There were 18 police-based victims services programs in the province in 2007-2008, following the merger of two programs and the addition of two new programs in northern communities with predominantly Aboriginal populations. These programs provide intensive support to victims, and six have specific Aboriginal Resource Officer components. Additionally, funding is provided through an Aboriginal Family Violence Initiative to Aboriginal organizations that provide comprehensive and holistic family violence services to urban Aboriginal families.
293. In 2007-2008, the Government of Saskatchewan provided new funding to support the expansion and enhancement of the Children Exposed to Violence Programs. Aboriginal people account for a high proportion of the total number of clients served by these programs.
294. In 2008-2009, additional funding was provided to strengthen services to women who are victims of sexual assault and domestic violence. The funding was allocated to 29 community-based organizations in 14 communities that provided services, including transition houses for women and their children, support for survivors of sexual assault and family violence outreach. While services are available for all residents regardless of cultural background, 75 percent of residents in the 10 family violence crisis residential services funded by the Government of Saskatchewan were of Aboriginal ancestry.

#### Employment

295. With respect to the employment of Aboriginal people, formal partnership agreements among employers, unions, the Federation of Saskatchewan Indian Nations (FSIN), the Government of Saskatchewan and the Saskatchewan Association of Health Organizations have produced significant inroads in the recruitment of First Nation and Métis people in the health sector. All 12 regional health authorities in Saskatchewan are signatories to shared partnership agreements. A key component of these agreements is the preparation of the work place through Aboriginal Awareness Training that focuses on myths and misconceptions relating to First Nations and Métis people. Over 32,000 employees within the Regional Health Authorities have received this training. Further, in 2008, the FSIN, the Government of Canada and the Government of Saskatchewan signed a Memorandum of Understanding to begin addressing disparities in health. One area

identified as a priority is to improve the recruitment, retention and participation of First Nations people in the health system.

296. Under an Aboriginal Employment Development (AED) Program, private and public sector employers, labour groups, First Nations and Métis communities and organizations, education and training institutes and all levels of government worked collaboratively, through multilateral partnerships, to address systemic barriers to employment. Over the life of the program (12 years), over 4,460 Aboriginal people were hired by AED employer partners, over 36,840 employees at all levels received Aboriginal awareness training, and over 1,995 Aboriginal employees received work-based skills training.
297. As of March 31, 2009, representation within Executive Government for all job types was 11.6 percent for Aboriginal persons and 3.5 percent for visible minority persons. This was an increase from the figures reported in paragraph 253 of Canada's Seventeenth and Eighteenth Reports on the *International Convention on the Elimination of All Forms of Racial Discrimination*, which were 10.7 percent for Aboriginal persons and 2.5 percent for visible minority persons. On March 31, 2009, Aboriginal persons made up 4.3 percent of senior managers and 4.5 percent of middle and other managers (compared to 0.7 percent and 3.2 percent respectively, in the 17<sup>th</sup> and 18<sup>th</sup> reports). Visible minority persons made up 2.1 percent of senior managers and 2.1 percent of middle and other managers (compared to 2.0 percent and 1.7 percent respectively, in the 17<sup>th</sup> and 18<sup>th</sup> reports).

## **Article 5: Equality before the law**

298. The Government of Saskatchewan is working with the Government of Canada, the FSIN, and the Royal Canadian Mounted Police (RCMP) to develop a broad policy framework for First Nations policing. This includes exploring a peacekeeping or community-based conflict resolution model or models that will meet community needs.
299. There are 34 Community Tripartite Agreements among First Nations, the Government of Canada and the Government of Saskatchewan, which establish a form of self-administered policing on First Nations and involve 131.5 RCMP officers. There is also one self-administered First Nations police service with a complement of seven police officers. Combined, they serve 52 First Nations. The other First Nations are policed under the Provincial Police Service Agreement.
300. A Saskatchewan Police Aboriginal Recruiting Committee is creating a comprehensive recruitment model that recognizes that retention is critical if recruitment efforts directed at Aboriginal people in police service are to be successful.
301. Two Aboriginal court circuits in Saskatchewan make justice more accessible to Aboriginal people and increase the transparency of justice in Aboriginal communities. Court services are provided in the Cree language at certain northern circuit points. Saskatchewan courts also hold sentencing circles where they are considered appropriate. There were 15 sentencing circles in Saskatchewan in 2008, greater than the nine-year



average of 13 per year. There are also active alternative measures and extra-judicial sanctions programs.

302. Saskatchewan offers a variety of offender reintegration programs, including the use of Elders and cultural coordinators, as well as the use of Aboriginal organizations to deliver services. A joint Corrections-FSIN Reintegration Working Group was established in 2007, with representatives from the Government of Saskatchewan and Tribal Councils, to develop a reintegration strategy for First Nations offenders that will use community supports to ensure continuous supervision and rehabilitation of offenders as they are released into the community. Correctional Centres will work with First Nation Justice Committees, Police Management Boards and the local RCMP to develop reintegration plans for individual offenders as they are released.

## **Article 7: Education, culture and information**

303. The Government of Saskatchewan has established an informal communication and consultation protocol that ensures comments and advice for policy issues with substantial impacts on Aboriginal children are obtained from individual First Nations and the FSIN. Ongoing quarterly tripartite fora involving the Government of Saskatchewan, First Nations Child and Family Service Agencies, and the FSIN, facilitate discussion and review of key initiatives and policies in child welfare. A less frequent, but equally valuable, forum includes the Government of Canada's Department of Indian and Northern Affairs.

### **Education**

304. Renewed French language curriculum documents for health and social studies address the issue of racial discrimination. This is a priority in social studies curriculum documents, where the promotion of diversity and the vitality of all cultures have a role to play in eliminating racism and discrimination. Health curriculum documents make the link between discrimination and the *Canadian Charter of Rights and Freedoms*.
305. Through the Government of Saskatchewan's *Play and Exploration: Early Learning and Program Guide*, early childhood educators in child care facilities, pre-kindergarten classrooms and preschools are encouraged to foster children's positive attitudes toward the acceptance and celebration of differences. Educators include all children in activities, stories, discussions and experiences that expose new ways of co-operating, new information about cultural understandings, practices or languages and additional ways of supporting each other. Children are encouraged to value diverse viewpoints, cultures and abilities.



## Alberta

### Article 2: Legislative, administrative, judicial and other measures

#### Gender-based violence

306. The Government of Alberta has co-funded, with the Government of Canada, organizations in Edmonton and Calgary that specialize in serving immigrant women and focus on family violence, recognizing the additional cultural, linguistic, social, and economic challenges immigrant women face, including:
- Changing Together, a centre for immigrant women in Edmonton, which developed a Web site and in-house information for guidance on women's rights in Canada. The agency provides information on family violence and assistance to newcomer women.
  - The Calgary Immigrant Women's Association (CIWA) that has a Family Conflict program and serves holistically whole families in addressing gender-based violence. Certified counselors work with women and their families to make shelter arrangements, navigate the justice system and liaise with Alberta Children and Youth Services. CIWA works closely with shelter staff regarding language, translation and cultural sensitivities. CIWA receives funding to dispense monies for families facing immediate homelessness and to cover costs like damage deposits. Assistance and referral is also provided enabling women to transition to the next stage like employment or school.
307. The government, through its Alberta Works Income Support program, continues to offer support to Albertans in or leaving abusive situations. Benefits are available for transportation to a place of safety and emergency accommodations; emergency health and personal care needs; establishing a new accommodation; and accessing supports while they stabilize. Supports are available 24 hours a day, seven days a week.
308. Further, income support is provided to victims of human trafficking with a Temporary Resident Permit. Undocumented migrants and stateless persons may also find assistance through new shelters in the province that are addressing the needs of trafficked women and immigrant women leaving abuse.
309. In 2009-2010, the Government of Alberta provided \$25.9 million in funding for women's shelters in Alberta. The province provides funding for women's shelters through contracts with 29 women's emergency and second stage shelters, fee-for-services agreements with three on-reserve women's emergency shelters, and outreach family violence service agreements with three providers that do not have residential facilities. Each shelter has an individual contract that addresses training for shelter workers and the province requires each shelter to have a Board of Directors and facility policy/personnel procedures and each is monitored periodically by the province.

310. Subject to availability, provincially-funded shelters are required to provide residential services to women and children in the following order of priority:
- 1) Abused women with children
  - 2) Abused women without children
  - 3) Other women in crisis
  - 4) Other women in need of emergency accommodation
311. One of the mandated priorities of the Government of Alberta's Children and Youth Services is to improve access to existing programs for high-risk youth and Albertans affected by family violence, maintaining an emphasis on expanding supports for Aboriginal people and immigrants. The Government of Alberta addressed this priority by:
- Enhancing support for women's shelters, including:
    - Allocating \$1 million to implement the Women's Shelter Child Care Program, thereby creating more than 300 child care spaces for families accessing emergency and second-stage shelter services.
    - Investing \$1.76 million to fund 79 more beds in women's emergency shelters across the province, increasing capacity by 15 percent.
    - Allocating additional funding in 2008-2009 to address staff recruitment and retention for women's shelters.
  - Providing an additional \$2 million as of 2007-2008 to Alberta communities for victim supports and to support community agencies working together to address family violence and bullying.
  - Allocating \$6 million in 2008-2009 and 2009-2010 from its Community Incentive Fund to support 184 projects to address family violence and bullying.
  - Committing \$2.6 million, through Alberta's Safe Communities Initiative, over two fiscal years (2008-2009 and 2009-2010) to directly address the family violence prevention needs of Aboriginals and immigrants, including:
    - Translating family violence resources, such as information sheets, into six different languages - Arabic, Chinese, Farsi, Punjabi, Spanish and French. The translated information sheets are also available on read aloud audio CDs.
    - Developing a publication about family violence for English as a Second Language students.
    - Developing training for front-line responders (social workers, police, and treatment providers) about the impacts of family violence and how to help children exposed to family violence.

- Introducing culturally sensitive radio and print advertising to promote Alberta's Family Violence Information line, which offers help in over 170 languages.
- Allocating \$450,000 to implement six outreach pilot sites specifically targeted for Aboriginal and immigrant communities - four urban sites (Edmonton/Calgary) and two rural sites (Brooks/Slave Lake).
- Including family violence and bullying information in the Welcome to Alberta publication for newcomers.

### **Training for law enforcement**

312. Through the Victims of Crime Fund, the Alberta Solicitor General and Ministry of Public Security funds and provides support to a network of 117 police-based programs that provide support, information and services to victims of crime in Alberta. Police-based Victim Services Units are staffed by victim advocates who receive training in the areas of domestic violence, sexual assault, gender, and cultural diversity, including Aboriginal Awareness training. For example, the Lesser Slave Lake Indian Regional Council Victim Services, Maskawacis Victim Services and the Siksika Crisis Response Team provide culturally responsive services to their clients.
313. The Ministry has been delivering family violence police training to the RCMP, Municipal and First Nations Police Services since 1990. Training is presented with the recognition that family violence can be perpetrated by males and females and the core components of training are complimented with topics including cultural diversity, addictions and mental health issues.

### **Employment**

314. Although the Alberta Public Service does not have any specific employment programs to address minorities, the Government of Alberta is an equal opportunity employer. The government's staffing principles ensure that the public has reasonable access to public service job opportunities and that staffing decisions are based on merit, consistent and fair processes.

## **Article 5: Equality before the law**

### **Migrant and stateless persons**

315. Income Support eligibility in the province is based on a person's immigration status; the Government of Alberta follows the Government of Canada's lead in determining Canadian residency. Only immigrants with permanent status and/or those with a Temporary Resident permit for medical reasons are eligible for income support.
316. Undocumented migrants and stateless persons are currently not considered to be residents of Canada and therefore are not eligible for support under the Alberta Works Income Support program. Income support may be provided to person's who make a claim for

permanent status (i.e., refugee claimant) or have been brought to Canada against their will or under false pretenses for criminal activity (i.e., a victim of human trafficking) and are awaiting a decision of Citizenship and Immigration Canada. Temporary Resident Permit Holders who have been approved by the Alberta Immigration Review Panel may also be eligible for income support. All other temporary residents (e.g., temporary foreign workers) are ineligible based on their immigration status.

317. Medically required health care services are available to any individual, regardless of residency status. Non-residents may be required to pay because health care services are only insured and paid for by the Alberta Health Care Insurance Plan if residency requirements are met. Under the *Alberta Health Care Insurance Act*, a “resident of Alberta” is defined as a person lawfully entitled to be or to remain in Canada, who makes his or her home in Alberta, and who is ordinarily present in the province. The definition does not include a tourist, transient or visitor to Alberta. Temporary residents such as international students or temporary workers may also be eligible for coverage, provided they intend to reside in Alberta for at least 12 months and have the appropriate Canada entry documents.
318. The *School Act* extends the right of access to education to children who are Canadian citizens, permanent residents, or the child of a Canadian citizen or “an individual who is lawfully admitted to Canada for permanent or temporary residence.” “Temporary residents” are individuals who have (1) been issued a study permit and have registered and paid tuition for a full-time provincially recognized diploma or degree program that is a minimum of two years in duration or a full-time graduate or post-doctoral program of study that is a minimum of one year in duration; (2) been issued an employment authorization to work temporarily in Canada (e.g. temporary foreign workers); (3) filed a refugee claim; (4) been issued a federal Temporary Resident Permit; or (5) persons with diplomatic status in Canada. Individual school jurisdictions determine international student fees for the children of those who do not fall within one of the categories listed above.

## **Article 7: Education, culture and information**

### **Education**

#### *Children and youth*

319. As of September 2009, the Government of Alberta has fully implemented a revised Social Studies curriculum. The Social Studies (K–12) Program of Study develops the key values and attitudes, knowledge and understanding and skills and processes necessary for students to become active and responsible citizens engaged in the democratic process and aware of their capacity to effect change in their communities, society and world. It provides learning opportunities for students to value the diversity, respect the dignity, and support the equality of all human beings, as well as, demonstrate social compassion, fairness and justice. It also provides learning opportunities for students to understand how social cohesion can be achieved in a pluralistic society. The

Core Concepts of Citizenship and Identity are the basis for skills and learning outcomes in the program of studies and its goal is to provide learning opportunities for students to validate and accept differences that contribute to the pluralistic nature of Canada and to respect the dignity and support the equality of all human beings. Further, it recognizes the importance of the individual's sense of identity and provides learning opportunities to understand how identity and self-esteem are shaped by multiple personal, social, linguistic and cultural factors

(<http://education.alberta.ca/teachers/program/socialstudies/programs.aspx>).

320. The philosophy of Alberta's programs of study is to promote respect and understanding for all groups and individuals. In support of and alignment with this philosophy, the learning and teaching resources that are authorized present fair and just depictions of various matters, including religion, gender, belief systems, and controversial issues—with a focus on people's contributions to society as individuals or groups and not on their differences.
321. For example, the *Heart of the Matter: Character and Citizenship Education in Alberta Schools* (2005) is a resource written for teachers and administrators that provides information and strategies that schools and jurisdictions can use to enhance and support character and citizenship education initiatives. The resource provides strategies for involving parents, building partnerships, choosing learning resources and assessing initiatives. It also offers sample ideas for how to infuse character and citizenship education across subject areas and throughout extracurricular activities  
(<http://education.alberta.ca/teachers/resources/cross/heart-of-the-matter.aspx>).

#### *Government employees*

322. The Government of Alberta's Children and Youth Services has a Delegation Training Program that generally addresses cultural diversity with specific social work practice considerations related to working with clients from a variety of backgrounds and cultural perspectives. It also has a specialized module of training for new staff working with Aboriginal communities.

## British Columbia

### Article 1: Definition, interpretation and general

#### Use of the term visible minority

323. The Government of British Columbia uses the term visible minority as used by Statistics Canada for demographic purposes and encourages the use of the term “self-identified” in front of “visible minority” to indicate those who choose to identify as a “visible minority”.

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

324. In 2007-2008, the Government of British Columbia put in place various measures to help victims of gender-based violence, including Aboriginal women and women belonging to racial/ethnic minority groups.
325. The government opened the Office to Combat Trafficking in Persons in July 2007. This office coordinates services for trafficked persons and facilitates access to legal services, translation, interpretation, housing and shelter, dental and medical care, counselling and support.
326. The province contributed \$190,000 to the Mobile Access Project Van initiative, which is a partnership in safety, harm reduction and violence prevention and serves women who are vulnerable to violence and sexual exploitation. The initiative trains and employs former sex trade workers to deliver services to women working in the sex trade and operates from 10:30 p.m. to 5:30 a.m. across Vancouver. It also serves a high proportion of Aboriginal women and women belonging to racial/ethnic minority groups.
327. The province also increased funding by \$2.7 million to victim service programs, which expanded accessibility of services, including community-based victim service programs that are specifically for victims of gender-based (including sexual) violence.
328. The Government of British Columbia provided funding to a domestic violence unit in Richmond and in Vancouver. The units pair a dedicated police officer with a victim service worker to address high-risk victims of domestic violence. The Richmond unit has a Mandarin-speaking victim service worker and serves a high proportion of racial/ethnic minority women, particularly Asian women. It also funded a new full-time victim service worker position with the Provincial Protective Measures Unit, which provides an integrated response to extremely high-risk domestic violence cases.
329. In order to enhance the accessibility to services for Aboriginal women, the government also launched the three-year project Meeting the Victim Support Needs of BC's Remote

Aboriginal Communities, which focuses on outreach to under-served Aboriginal victims of crime throughout British Columbia.

330. Further, in April 2008, the province announced the Domestic Violence Response Fund totalling \$150,000, which aims to enhance local responses to victims of domestic violence and improve victim safety.
331. The Government of British Columbia also announced a three-year Newcomers Project that enhances victim services for new immigrants in the province and seeks, among other things, to improve awareness and understanding of power-based crimes and domestic violence issues, and to conduct outreach and public education to community agencies and groups in order to increase the accessibility of information available to new immigrants.<sup>9</sup>

### **Training for law enforcement**

332. The government's BC Corrections provides seven hours of culturally-sensitive training to new correctional officers prior to commencement of duties. Staff also receive training in managing female offenders. This includes the publication of cross-gender staffing guidelines. Recognition that a large percentage of the female inmate population has endured physical and emotional abuse is enshrined in Adult Custody Policy, as is recognition that incarcerated women need to be protected from situations that could lead to continued victimization and abuse. Policies are in place relating to duties to be performed by correctional officers of the same gender as the inmate.

### **Employment**

333. There are several initiatives aimed at removing barriers to employment for minority groups in the employment programming funded under Part II of the *Employment Insurance Act*. These programs and services were transferred from the Government of Canada to the Government of British Columbia under the Canada-British Columbia Labour Market Development Agreement in 2009.
334. Employment Assistance Services (EAS) are available throughout the province to support any unemployed job seeker, including members of minority groups, legally entitled to work in Canada. These services are available at no cost to job seekers to help them prepare for, find and retain employment. Services provided by an EAS may include employment tools, supports and resources such as: supported employment resource centres; current labour market information; job search assistance; support with career decision making; job maintenance supports; employment counselling and group sessions; and case management services.
335. Further, EAS services have been enhanced in response to the global economic downturn to include:

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<sup>9</sup> Victims of "Power-based Crimes" refer to all victims of violence in relationships (adult, youth, or child), victims of sexual assault, victims of criminal harassment, victims of child abuse/assault (both physical and sexual), adult survivors of childhood abuse (both physical and sexual), and child witnesses of family violence ([www.pssg.gov.bc.ca/victim\\_services/publications/policy/ReferralPolicy.pdf](http://www.pssg.gov.bc.ca/victim_services/publications/policy/ReferralPolicy.pdf)).



- increased funding for expanded supports for job search and job placement, including personal supports for work clothes, 'tools of the trade', etc.,
  - provision of participant supports such as food for full time based programming based on client need to encourage participation, and
  - more opportunities for clients to participate in short orientation and training courses to increase employability.
336. Throughout British Columbia, there are 35 EAS funding agreements with immigrant serving organizations that provide specialized employment services to immigrant and minority group clients to support their integration to the province's labour market.
337. The province also funds specialized EAS and self-employment programs for both immigrants and Aboriginal job seekers. The Self-Employment Program provides eligible job seekers who are having difficulty finding work, and who are suited to self employment. Business counselling and financial assistance for up to one year is provided to develop and implement a business plan to become self sufficient through self employment.
338. Due to the transfer of programming from the Government of Canada, measurement results are not yet available. Historical data suggests that employment results are traditionally at least as good for immigrant and minority workers as the rest of the population.

#### *Employment in the public service*

339. In 2008, the Office to Combat Trafficking in Persons designated a Research and Policy Analyst position for an Aboriginal person to address the issue of the domestic trafficking of Aboriginal girls and woman, and subsequently hired an Aboriginal social worker with an indigenous specialization into this position.

#### **Access to justice for vulnerable groups**

340. The Office to Combat Trafficking in Persons has worked to educate police and Crown in the province about the vulnerability of trafficked persons and to inform and to educate service providers about the provisions of the *Criminal Code* and the *Immigration and Refugee Protection Act* that deal with trafficked persons.
341. The province has increased access to justice for vulnerable groups through the creation of the Court Support Unit to coordinate and strengthen court support for victims of crime in British Columbia. The two initial Court Support Programs are the Port Coquitlam Court Support Program and the Downtown Community Court in Vancouver's Downtown Eastside. These programs provide court located victim service workers who provide support to victims of serious violent crime and other vulnerable victims.
342. Many of the programs' clients are victims of gender-based violence. For example, data from the evaluation of the Port Coquitlam Court Support Pilot Project (2007-2009) shows

that 58 percent of clients served were victims of domestic violence. Thirteen percent of clients served faced a sexual victimization – youth sexual assault (four percent), adult sexual assault (four percent), child sexual assault (three percent), or sexual assault survivor (one percent).

## **Article 4: Prohibition against promotion of racism**

- 343. The Government of British Columbia provides funding to support anti-racism and multiculturalism to address and prevent racism and hate.
- 344. The province developed the Critical Incident Response Model (CIRM), which is a three-step, three-year process for communities to build capacity and formalize community protocols to address racism and hate activity. Each year, approximately three to four communities enter the CIRM and up to 30 communities have engaged in it ([www.llbc.leg.bc.ca/public/pubdocs/bcdocs/372162/community\\_kit.pdf](http://www.llbc.leg.bc.ca/public/pubdocs/bcdocs/372162/community_kit.pdf)).
- 345. The government also supports the BC Hate Crime Team that involves Crown counsel, government, municipal police, and the Royal Canadian Mounted Police to combine expertise to combat hate crime. The Team also supports police investigations and provides law enforcement training.

## **Article 5: Equality before the law**

### **Aboriginal people**

- 346. In 2008, the Government of British Columbia's BC Corrections developed and implemented initiatives to address over-representation of Aboriginal people in correctional facilities, and engage communities and organizations in the management of offenders and 40 cross cultural training events in 28 communities were arranged and facilitated. The response from the community and justice partners was universally positive.
- 347. Further, locally-based Aboriginal Justice Strategy programs jointly funded with the Government of Canada provide community-based services that range from court diversion to the re-integration of offenders returning from custody centres.
- 348. To encourage the use of restorative justice approaches in communities, alternative measures training has been provided to Aboriginal Justice Strategy workers, with participation of Crown prosecutors and police resulting in strengthened relationships. The training has been very well received by Aboriginal communities and has been oversubscribed.
- 349. BC Corrections continues to contract with Aboriginal service providers at each of the custody centres to provide spiritual leadership, counselling and cultural programming to Aboriginal offenders. These contracts are currently being reviewed with the goal of providing recommendations to enhance program effectiveness.

350. The Government of British Columbia, in partnership with the Government of Canada, increased the commitment to community-based Aboriginal Justice programs funded under the Aboriginal Justice Strategy and contributed to programs funded under the strategy in 25 communities, with new or enhanced funding to 15 of these communities commencing in 2008.

### **Migrant and stateless persons**

351. Established in 1999, the Government of British Columbia continued the Migrant Services Program for unaccompanied, trafficked and refugee children under 19 years arriving at one of the province's ports of entry. Children deemed to be traveling without a legal guardian come into care through the program and benefit from the same programs and services as other children and youth in care. When the Migrant Services Team assumes a guardianship role, it is responsible for meeting the child's physical, emotional, educational, health and developmental needs.
352. The Government of Canada introduced the Temporary Resident Permit for trafficked persons in 2006 and the Government of British Columbia has granted two to date. The permit allows trafficked persons access to income security benefits, a work permit, and access to the Federal Interim Health Program. Health care clinics in Vancouver have agreed informally to provide health care services to any potentially trafficked person without a provincial health care card.

### **Article 7: Education, culture and information**

353. The Government of British Columbia annually supports projects throughout the province related to youth, community engagement activities, diversity training, peer mentoring in schools, teaching resources and theatre projects through its multiculturalism and anti-racism program. Some examples are:
- The Dialogues on Multiculturalism Initiative, which supports communities to host dialogues to bring together diverse voices, ideas, perceptions and understandings of what it means to live in harmony in a culturally diverse society.
  - The Make A Case Against Racism project, which promotes anti-racism work among young people. In 2008, 16 young artists submitted their artwork in a contest and the winner's artwork was chosen to create the CD cover. Students in grades four to seven then selected their favourite songs on multiculturalism and anti-racism by British Columbia musicians for inclusion in the CD. The project also developed a teacher's resource guide.
  - Provincial Nesika Awards, which recognize the contributions of individuals, communities and organizations in the areas of cultural diversity and anti-racism.

## **Part V**

### **Measures Adopted by the Governments of the Territories**

## Nunavut

### Article 1: Definition, interpretation and general

#### Use of the term visible minority

354. Nunavut's population is 85 percent Inuit. As such, the term "visible minorities" is not used in Nunavut.

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

355. The Government of Nunavut introduced legislation specifically focused on violence in the family. The *Family Abuse Intervention Act* (FAIA) created Community Justice Outreach Worker (CJOW) positions in each community in Nunavut. These specially trained individuals are tasked with implementing FAIA by way of linking individuals with culturally appropriate resources, such as traditional counseling. CJOWs also help individuals obtain emergency protection orders, community intervention orders, assistance orders and/or compensation orders when necessary. FAIA allows the abused individual to stay in the familial dwelling and removes the alleged abuser in order to prevent further victimization. The FAIA is available at ([www.justice.gov.nu.ca/apps/authoring/dspPage.aspx?page=STATUTES+AND+REGULATIONS+PAGE](http://www.justice.gov.nu.ca/apps/authoring/dspPage.aspx?page=STATUTES+AND+REGULATIONS+PAGE)).

#### Employment

356. Under Article 23 of the *Nunavut Land Claims Agreement*, the Government of Nunavut has an obligation to take steps and to design measures to increase Inuit representation within the territorial public service ([www.gov.nu.ca/hr/site/doc/NLCA.pdf](http://www.gov.nu.ca/hr/site/doc/NLCA.pdf)). To this end, the Government of Nunavut has introduced various measures designed to promote a higher rate of Inuit employment within the public service, including internship and other training programs, as well as a priority hiring policy. For example, the Government of Nunavut introduced the *Inuit Language Protection Act* and *Official Languages Act* ([www.justice.gov.nu.ca/apps/authoring/dspPage.aspx?page=STATUTES+AND+REGULATIONS+PAGE](http://www.justice.gov.nu.ca/apps/authoring/dspPage.aspx?page=STATUTES+AND+REGULATIONS+PAGE)). Aimed at protecting and promoting the Inuit language, including in the workplace, this legislation is considered to be an important step in removing barriers to Inuit employment.

### Article 5: Equality before the law

#### Aboriginal people

357. As the majority of Nunavut's population is Inuit, programming and alternatives to imprisonment for Aboriginal offenders are specifically designed to be culturally suitable.

358. Community Justice Committees provide support and counselling to individuals going through the justice system. Often utilized as alternatives to imprisonment, Community Justice Committees are comprised of community members, including respected elders, who work with Correctional staff to help reintegrate offenders into society. Anecdotal evidence suggests that these Committees have some degree of success.

## Northwest Territories

### Article 1: Definition, interpretation and general

#### Use of the term visible minority

359. The *Employment Equity Act* defines 'visible minority' as "persons; other than Aboriginal peoples; who are non-Caucasian in race or non-white in colour." Although the 2006 Census showed 2,270 persons reporting belonging to a visible minority group, accounting for 5.5 percent of the entire population, the term is still relatively unused in the Northwest Territories (NWT).

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

360. The Government of Northwest Territories is now in the second phase of the NWT Family Violence Action Plan, which acknowledges that "individuals and families from oppressed and marginalized groups such as Aboriginal women and children and families in remote communities, are more likely to experience negative social responses due in part to limited availability of safety, service and resources."
361. The plan is working to, among other things, provide increased support to the existing shelter system; improve consistency of accessibility; provide ongoing public education; develop baseline data on public attitudes regarding family violence; and, promote interagency collaboration between the community, regional, headquarters, and federal levels.

#### Training for law enforcement

362. Policing is provided by the Royal Canadian Mounted Police (RCMP). Members of the Force in the Northwest Territories are subject to ongoing training in human rights and cultural diversity, as are members across Canada.

#### Employment

363. On average, a total of 7,300 Aboriginal peoples in the Northwest Territories were employed during 2007, for a 55.3 percent employment rate. This statistic is considerably lower than the 86.9 percent employment rate observed among the 15,600 employed non-Aboriginals in the Northwest Territories. Nevertheless, the employment rate among Aboriginal peoples in the Northwest Territories has grown considerably since 1989, when just 41.8 percent of Aboriginal peoples in the territory were working.
364. In terms of education levels and employment, particular improvements are seen in the percentage of Aboriginal peoples with some high school education (32.6 percent), and



those with a trades or college certificate or diploma (25.8 percent). However, comparisons to 2007 Canadian labour force information indicate that Aboriginal peoples in the Northwest Territories continue to have education levels well below those seen nationally, where 77.8 percent of persons over the age of 15 have high school or greater while only 46.2 percent of Aboriginal peoples in the Northwest Territories have high school or greater.

365. The Government of Northwest Territories is committed to a public service that represents the population it serves. The Affirmative Action Policy was put into place in 1989 to address this issue, and it gives preference to indigenous Aboriginal peoples, indigenous non-Aboriginal persons, resident person with disabilities, and resident women in management and non-traditional occupations. At the end of 2008, there were 1,421 indigenous Aboriginal employees, representing 31 percent of the public service in the Northwest Territories. There were 29 indigenous Aboriginal senior managers, which represented 16 percent of employees in senior management.
366. In 2009-2010, the Government of Northwest Territories accessed the Strategic Training and Transition Fund through its Labour Market Agreement with the Government of Canada. For the first year of this Agreement, the government provides programs and services for all underrepresented groups and may redefine these based on identified needs in coming years. These groups include Aboriginal peoples, income security clients, low-skilled/low literacy, youth (ages 19-29), people in small remote communities, low-skilled employed, persons with disabilities, women, and immigrants.

## **Article 5: Equality before the law**

### **Measures to address possible discriminatory approaches to law enforcement**

367. The 2007 Northern Policing Review allowed for an assessment of the existing model of policing with input from communities. Although communities voiced a desire for more First Nations officers (as well as more in depth cross-cultural training) and increased referral by the RCMP of individuals to Community Justice Committees (CJCs), discrimination was not raised as a problem area. Use of excessive force was addressed by community members, but not in reference to discriminatory law enforcement practices.

### **Aboriginal people**

368. The Government of Northwest Territories supports restorative justice through alternative measures which are a diversion from the court system. The government contracts with communities to deliver and operate CJCs.
369. In 2008-2009, 31 communities (94 percent) participated in 1,980 community justice activities that involved 8,951 people. In 2006-2007, there were 30 communities involved in about 1,292 activities. From 2003-2004 to 2008-2009 there has been an overall increase in the number of activities by approximately 67 percent.

370. The diversion program continues to be important for many CJs. In 2008-2009, there were a total of 113 diversions. The number of diversions has dropped from a high level in 2003-2004, but has remained fairly consistent since then. This indicates continued support for extrajudicial measures consistent with the federal *Youth Criminal Justice Act*. CJs are finding innovative solutions to address justice issues at the local level in a manner that meets their needs.
371. The Government of Northwest Territories supports the reintegration of Aboriginal offenders through specific programs. Along with their use of secured and supervised wilderness camps (Alcantara near Fort Smith and an elder camp in the Sahtu), correctional facilities also employ programs such as Land Skills, Traditional Healing, On-the-land activities (rabbit snaring, trapping), and Traditional Counseling.

## Yukon

### Article 1: Definition, interpretation and general

#### Use of the term visible minority

372. Aside from the Yukon Workforce Census, the term “visible minority” is not widely used in the Yukon. Additionally, while the term is not explicitly mentioned in the Government of Yukon’s Employment Equity policy, section 1.3.3 states:

*“Women, aboriginal people and people with disabilities are the target groups for Employment Equity. This means that these three target groups will be considered for Employment Equity planning and programming. Data may be collected on other potential target groups to provide information to Cabinet regarding possible inclusion of additional target groups under this policy.”*

373. The only "potential" target group that data has been collected on has been "visible minorities." However, the numbers and representation rate for visible minorities in the Yukon have never been sufficient enough to warrant inclusion as a target group in the Yukon workforce.

### Article 2: Legislative, administrative, judicial or other measures

#### Gender-based violence

374. The Government of Yukon has launched a Victims of Crime Strategy, and conducted consultations with stakeholders on a draft *Victims of Crime Act* (the Act was passed in May 2010). This Strategy identifies initiatives to: address violence against women, particularly Aboriginal women; and support and develop cultural sensitivity in responding to victims of crime.
375. The local women’s shelter in Watson Lake, run by a non-governmental organization, is in the final stages of building second stage housing. Capital funding is coming from the Government of Canada and the Government of Yukon and Operating & Maintenance funds are being provided by the latter.
376. The Prevention of Violence Against Aboriginal Women Fund was doubled in the 2009-2010 budget to \$200,000 annually. The fund finances programs and events designed and developed by Aboriginal women for their communities ([www.womensdirectorates.gov.yk.ca/funding.html#prevention](http://www.womensdirectorates.gov.yk.ca/funding.html#prevention)).
377. The Government of Yukon’s Department of Justice administers the Domestic Violence Treatment Options Court in partnership with other territorial government departments, the Territorial Court, Legal Aid, and the Royal Canadian Mounted Police (RCMP).

Offenders may opt for this court if they plead guilty to charges and sentencing includes treatment.

### **Training for law enforcement**

378. The Government of Yukon sets the policing priorities for the RCMP each year within the authorities laid out in the territorial police services agreement between the Government of Canada and the Government of Yukon. One of the policing priorities is to ensure First Nations cultural awareness for all members of the RCMP in the Yukon with the intent, in part, of reducing any incidents of discrimination. The RCMP has been responsive to this priority and provides "Aboriginal Perceptions" training to members as well as a community orientation package for each specific community of the Yukon. The Government of Yukon and the RCMP engage in ongoing dialogue on how to ensure that this priority is being met.
379. The Government of Yukon has worked with the RCMP in the Yukon in preparing a training video on the *Family Violence Prevention Act* ([www.gov.yk.ca/legislation/acts/favipr.pdf](http://www.gov.yk.ca/legislation/acts/favipr.pdf)) and on responses to family violence.

### **Employment**

380. According to the Government of Yukon Corporate Workforce Profile 2008-2009 report, 21 percent of the working age population (25-64) self-identified as being Aboriginal and 14 percent Government of Yukon employees self-identified as being Aboriginal (consistent with 2007-2008 data).
381. There are a number of new and on-going initiatives in the Yukon aimed at removing barriers to employment among minority groups. For example:
- A public information session on applying for Government of Yukon jobs was designed and delivered specifically for First Nations individuals;
  - The Aboriginal Employees Forum (AEF) continues to work to accommodate First Nations culture throughout government and assists Yukon First Nations employees with their entrance into employment with the Government of Yukon;
  - To address retention issues, Respectful Workplace seminars have been delivered to the AEF and to individual First Nations. A successful pilot project in 2008-2009 focussed on building a "bridge of trust" between Aboriginal employees and the Government of Yukon's Harassment Prevention Office;
  - The criteria for the First Nation Training Corps program was restructured to restrict positions to persons of Yukon First Nations ancestry and to allow joint sponsorship between the Government of Yukon and a Yukon First Nation for training positions; and
  - Preferential hire positions continue to be identified and filled by Yukon First Nation individuals.

## **Article 5: Equality before the law**

### **Aboriginal people**

382. The Government of Yukon supports a number of community based justice projects that can assist offenders who receive alternative dispositions. The Government of Yukon is working with the Government of Canada and the RCMP to confirm protocols for both pre- and post-charge referrals to these projects.
383. As well, the Integrated Offender Management (pilot project) and the Community Wellness Court and Domestic Violence Treatment Option are two government programs aimed at facilitating reintegration of offenders into society. While these programs are not specifically directed at Aboriginal offenders, they do participate in them.

### **Migrant and stateless persons**

384. Income assistance and health care costs for refugees are covered by the Government of Canada through the Resettlement Assistance Program and Interim Federal Health Program. People who are lawfully entitled to remain in Canada are eligible to receive benefits from the Government of Yukon if they are otherwise eligible for the program.

## **Article 7: Education, culture and information**

385. From April to June 2008, the Yukon Human Rights Commission hosted a youth Web site/blog and conducted a youth survey to gather information on youth awareness of human rights. From fall 2007 to April 2008, the Commission held focus groups with Aboriginal women and conducted surveys with women and girls on their access to human rights in the Yukon.
386. In 2009, the Yukon Human Rights Commission partnered with the Tr'ondëk Hwëch'in Hän First Nation in Dawson City, Yukon, to display and hold discussions on the Känächá Scrapbook Project – a collection of stories and photos of members' residential school experiences. The Commission also organizes events on March 21 – the International Day for the Elimination of Racial Discrimination.

## **Appendices**

## Appendix 1: Review of Jurisprudence

### Article 1: Definition, interpretation and general

In *R. v. Kapp*, [2008] 2 S.C.R. 483, the Supreme Court of Canada reframed its approach to interpreting the right to equality in section 15(1) of the *Canadian Charter of Rights and Freedoms* (the Charter) as it had been established in *Law v. Canada*, [1999] 1 S.C.R. 497. The Court held that the underlying focus of section 15 analysis should not be on whether the impugned measure infringes human dignity, a concept many commentators had criticized as abstract and difficult to apply, but rather on whether it perpetuates disadvantage and stereotyping. In addition, the Court found that a program which granted an Aboriginal band a communal fishing license was protected under section 15(2) of the Charter. Section 15(2) allows a Canadian government to enact a measure designed to ameliorate the conditions of a disadvantaged group. The Court rejected the argument that the Aboriginal groups in question were not disadvantaged enough to warrant an ameliorative program. The Court stated that lack of disadvantage on the part of some of the members of the Aboriginal groups does not preclude the other members from taking advantage of the ameliorative program in question. The Court stated that what is required in this regard is a correlation between the program and the disadvantage it seeks to target. The fact that Aboriginal peoples were disadvantaged was said by the majority of the Court to be indisputable.

### Article 2: Legislative, administrative, judicial, and other measures

In *R. v. Batisse*, 2009 ONCA 114, the Ontario Court of Appeal considered an appeal from an accused Aboriginal person to reduce a sentence of five years' imprisonment following her guilty plea to abduction of a person under 14. In reducing the length of sentence, the Court found that the trial judge had erred by not applying the principle of restraint, as required by section 718.2(e) of the *Criminal Code*, which codified the principle of restraint to limit the use of incarceration as a sentencing alternative, particularly for Aboriginal offenders. Given the circumstances and background of an accused Aboriginal person, the sentencing judge should have considered the minimum sentence that was adequate to the circumstances. The trial judge had erred in using as a baseline a case in which the facts were materially different from this case, the offender was not Aboriginal and had not encountered the same systemic factors and mental illness.

Other cases referring to the racism experienced by Aboriginal persons and the unique considerations involved in sentencing Aboriginal offenders include:

- *R. v. W.J.M.*, 2008 NSSC 132
- *R. v. D.L.W.*, 2007 SKPC 151
- *R. v. Prevost*, [2008] O.J. No. 3609
- *R. v. Wells*, 2009 ABPC 108
- *R. v. Cody*, 2008 BCPC 428
- *R. v. Fineday*, 2007 SKPC 2
- *R. v. Niganobe*, [2008] O.J. No. 4181
- *R. v. Dantimo*, [2009] O.J. No. 655



In contrast to the cases above, *R. v. Cote*, 2007 SKPC 100, involved an Aboriginal person convicted of impaired driving causing death and impaired driving causing bodily harm. Although the Saskatchewan Provincial Court referred to the fact that Mr. Cote is an Aboriginal offender, the Court did not refer to section 718.2(e) of the *Criminal Code*.

In *Queen v. X*, 2009 QCCQ 4636, the Québec Court (Youth Division) found that the commission of a hate crime was an aggravating factor at the sentencing stage. The accused was found guilty of three counts of assault, and one count of possession of a weapon. The offences were unprovoked and the accused was heard making racist comments while committing the assaults. At the sentencing hearing, the Court took note of the young person's speech, clothing and tattoos and found they were evidence of the youth's racial supremacist beliefs. The Court reasoned that the crimes were racially-motivated hate crimes and imposed a 24-month sentence, with 16 months to be served in closed custody and the remaining eight to be served in the community.

In *R. v. Khawaja*, (2006), 214 C.C.C. (3d) 399, on October 24, 2006, Mr. Justice Rutherford of the Ontario Superior Court of Justice struck down the motive requirement in the autonomous definition of "terrorist activity." In his view, it infringed paragraphs 2(a) and (b) of the *Canadian Charter of Rights and Freedoms*, which guarantee the freedom of conscience and religion, and the freedom of thought, belief, opinion and expression respectively. Furthermore, he held that the motive requirement could not be justified under section 1 of the Charter because it was not "a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society." Accordingly, he severed the motive requirement from the remainder of the autonomous definition of "terrorist activity." He did not strike down the remainder of the definition of "terrorist activity." The result is that the prosecution in the Khawaja case was not required to prove such a motive beyond a reasonable doubt.

On October 29, 2008, following a five-week trial, Mohammad Momin Khawaja was found guilty in the Ontario Superior Court of Justice at Ottawa of five terrorism offence charges under the *Criminal Code*. He was also found guilty of two other *Criminal Code* offences relating to the making and possession of explosive substances. On March 12, 2009, he was sentenced to 10.5 years in jail, in addition to time served. Mr. Khawaja appealed the conviction and the sentence. On April 14, 2009, the Public Prosecution Service of Canada sought leave to appeal to the Ontario Court of Appeal regarding the sentence, which was granted. The Ontario Court of Appeal has not yet given its decision in the case. As well, the later cases of Nadarajah and Namouh concluded, unlike the decision in Khawaja, that the "motive" requirement in the definition of "terrorist activity" is constitutional.

*United States of America v. Nadarajah*, [2009] O.J. No. 946, involved two Canadian citizens of Sri Lankan origin who were alleged to have been members of the Tamil Tigers and involved in the export of automatic weapons from the United States to Sri Lanka. The United States sought extradition of the individuals so they could stand trial for the alleged offences in the United States. In 2006, the Federal Minister of Justice issued orders to proceed with the extradition on the basis that they were alleged to have committed terrorism offences, as laid out in the *Criminal Code* of Canada. Mr. Sriskandarajah and Mr. Nadarajah challenged the Minister's decision on the basis that the definition of "terrorist activity" in section 83.01(1)(b) of the *Criminal Code* was contrary to the right to freedom of religion, conscience and belief in section 2(a) and freedom of

expression in section 2(b) of the Charter. The applicants argued that the definition, which included a reference to the activity in question being committed in whole or in part for a “political, religious, or ideological purpose, objective or cause...,” was unconstitutional, as it could lead to racial or religious profiling. The Court found that the definition of terrorist activity was not vague or overbroad and did not violate sections 2(a) or 2(b) of the Charter, as the definition was confined to acts of violence which were not protected by the Charter.

Similarly, in *R. v. Namouh*, 2009 QCCQ 5833, the Québec Court rejected the accused’s argument that parts of the terrorism provisions in the *Criminal Code* of Canada violated the right to freedom of expression protected under section 2(b) of the Charter. The respondent sought a declaration of unconstitutionality of certain provisions that defined “terrorist activity” and created various terrorism offences to invalidate criminal charges against him arising out of his propagating political, religious or ideological documents on behalf of a terrorist group over the Internet. In refusing to declare the *Criminal Code* provisions unconstitutional, the Court rejected the accused’s argument that political, religious or ideological speech or activity should be granted constitutional protection where they intentionally cause the harms set out in the definition of “terrorist activity.”

#### **Article 4: Prohibition against promotion of racism**

In *R. v. Ahenakew*, 2009 SKPC 10, the accused, who was then a highly respected elder and retired leader in the Aboriginal community, was charged with willfully promoting hatred against an identifiable group (people of the Jewish faith) contrary to section 319(2) of the *Criminal Code*. After a trial, on appeal, a new trial before the Saskatchewan Provincial Court was ordered. The charge arose out of statements made in a public speech and to a journalist. In acquitting the accused, the trial judge found that although the statements made about people of the Jewish faith were “revolting, disgusting, and untrue,” the accused did not make them with the intent necessary to sustain a conviction for willfully promoting hatred.

In *Warman v. Lemire*, 2009 CHRT 26, the Canadian Human Rights Tribunal (CHRT) held that the combination of section 13 of the *Canadian Human Rights Act* and the remedial provisions in sections 54(1) and 54(1.1) (enacted in 1998), that allow for penalties of up to \$10,000 for a violation of section 13, violate the right to freedom of expression in section 2(b) of the *Canadian Charter of Rights and Freedoms*, and cannot be justified as reasonable limits under section 1 of the Charter. As a result, the CHRT refused to enforce section 13 in that case. The Attorney General of Canada had intervened in the case to support the authority of the Parliament of Canada to defend the constitutionality of the provision. A Federal Court review of the *Warman v. Lemire* decision is proceeding, in which the Attorney General has so far declined to participate. The Canadian Human Rights Commission has filed an application with the Federal Court for judicial review of the CHRT decision.

#### **Article 5: Equality before the law**

In *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, the Hutterian Brethren, a religious community, challenged new drivers’ licence regulations requiring photographs as contrary to their right to religious freedom in section 2(a) of the Charter and their section 15

Charter right to equality. The Supreme Court of Canada found the mandatory photo requirement did violate freedom of religion, but that the limit was justified under section 1 as it served the important purpose of protecting against identity theft associated with the licensing system. Moreover, the requirement was found to minimally impair the right to freedom of religion and its positive effects outweighed any negative ones. The Court found no section 15 Charter violation.

In *Ermineskin Indian Band and Nation v. Canada*, [2009] 1 S.C.R. 222, the applicants were Indian Bands under the *Indian Act*. The Supreme Court of Canada held that the Crown had not breached its fiduciary duty and that the treaty in question did not impose an obligation to invest monies held by the Crown on behalf of the Band. The requirement that Indian Bands cede their land to the Crown so that the latter may undertake financial transactions on the Bands' behalf was not found to be discriminatory within the meaning of section 15 of the Charter, because it takes into account the special nature of the relationship between the Indian bands and the Crown.

In *McIvor v. Canada*, 2009 BCCA 153, the British Columbia Court of Appeal held that section 6 of the *Indian Act* discriminates against Aboriginal women and children on the basis of sex where it operates to grant indeterminate Indian status to children who otherwise would have lost it pursuant to the "double mother rule" (DMR) prior to April 17, 1985. The DMR, in force from 1951 to 1985, provided that if a child's mother and paternal grandmother did not have a right to Indian status other than by virtue of having married Indian men, the child lost Indian status upon turning 21 years of age. By not treating the maternal grandmother in the same manner as the paternal grandmother, the Court found that the amendments to the DMR created new inequalities and were contrary to the right to equality in section 15 of the Charter and found not to be justifiable under section 1.

In *Libbus v. Libbus*, [2008] O.J. No. 4148, the Ontario Superior Court of Justice in a family law case considered the issue of whether the children's Jewish identity could best be preserved by attending one school over another. Both parents accepted that raising their children in the Jewish faith was in their best interests. If they remained at their current school there existed the probability that their stability might be adversely affected through either familial or peer conflict over the issue of their religious, cultural and ethnic identity. The Court found it was in the children's best interest to attend a new school as they were more likely to maintain their Jewish identity.

In *Pelletier v. Simard*, 2007 QCCQ 9847, the Québec Court (Civil Division) affirmed the Québec Human Rights Tribunal's finding that the police had engaged in racial profiling when they stopped the Respondent's car. The Court found that the police had known the car's occupants were black and had no legal reason for detaining the car. The police officers' written report documenting the incident did not justify the illegal detention and did not conceal the act of racial profiling.

The Québec Human Rights Tribunal rejected two bar owners' justifications for a discriminatory policy as to who could enter their respective commercial establishments. In the first case, *Commission des droits de la personne et des droits de la jeunesse v. 2314-4207 Québec Inc.*, 2007 QCTDP 9, two black men were refused entry to a bar in Longueuil, Québec; in another instance, four Inuit women were refused access to a bar in Sept-Îles, Québec (*Commission des*

*droits de la personne et des droits de la jeunesse v. Blais*, 2007 QCTDP 11). Both bar owners admitted to policies of refusing entrance to members of a particular racial minority, but justified their policies based on a history of fighting amongst bar patrons when members of the minority group were permitted access to the establishment. The Tribunal found the discriminatory policies unjustifiably violated the right to equality in the *Québec Charter of Human Rights and Freedoms* and held both the bar owners and their employees, who had implemented the policy, responsible. In both cases, the owners were ordered to implement a non-discrimination policy for the workplace and the bar owners and employees were jointly ordered to pay damages.

In *Commission des droits de la personne et des droits de la jeunesse v. Caumartin*, 2007 QCTDP 22, the Québec Human Rights Tribunal found a landlord made racist comments and left discriminatory messages on her tenant's work voicemail following a dispute over missing property. The landlord also accused her tenant's friends of stealing and made several derogatory remarks concerning their ethnic heritage. The landlord was ordered to pay \$9,000 in damages.

In *Tazawa v. Canada (Citizenship and Immigration)*, 2007 FC 255, the applicant, Ms. Tazawa, was a Japanese citizen who had met and married a man from Somalia while living in the United States. The couple came to Canada with their children and Ms. Tazawa claimed refugee status on the grounds that they would suffer discrimination if they returned to Japan, because her husband was black and their children were of mixed heritage. The Immigration and Refugee Board denied Ms. Tazawa's application on the basis that the discrimination experienced by the family would not amount to persecution, as required by the *Immigration and Refugee Protection Act*. The Federal Court upheld the Board's decision.

In *United States of America v. Pannell*, 2007 ONCA 786, the Government of the United States sought to have Mr. Pannell extradited to the United States to stand trial for attempted murder. A Canadian judge ordered that Mr. Pannell be extradited to the United States in 2005, and the Federal Minister of Justice issued a surrender order in 2006. Mr. Pannell appealed the surrender order to the Ontario Court of Appeal, arguing that he could not receive a fair trial in Chicago because he was an African American man accused of shooting a police officer. The Minister's decision was challenged on the basis that the Minister did not take into account potential persecution on the basis of race as required by section 44(1) of the *Extradition Act*. The Court found that the Minister was correct in acknowledging that racism did exist in the Justice system in the United States. The Court then went on to state that the Minister had properly found that there was no evidence that Mr. Pannell would suffer persecution on the basis of race if he were returned to the U.S. There was also no evidence that Mr. Pannell would receive an unfair trial because of his race.

In *Butler-Lynch v. Dr. Roz's Healing Place*, [2007] O.J. No. 5336, an employee of a shelter was terminated from her employment for allegedly making racist comments to other employees. The terminated employee was Caucasian, and the majority of the other employees and the shelter's clients were of various ethnic origins. The Ontario Superior Court of Justice found that there were no grounds for terminating the employee on the basis that she had made racist comments, because the comments were ambiguous and could be construed as her reflections on being a minority in the particular work place in question.

In *R. v. Pigeon*, 2009 BCSC 516, an Aboriginal person was convicted of an unspecified crime. After conviction, she sought to challenge the manner in which the jury had been selected. She also argued that the jury was not representative, as none of the jurors were Aboriginal. The British Columbia Supreme Court considered the evidence and found that the sheriff did not try to influence the jury selection process in any way. The Court also found that a jury representative of one's peers did not necessarily have to include an individual that was the same race as the accused.

In *Barton v. Sobeys*, 2009 NSSC 75, the Nova Scotia Supreme Court allowed a plaintiff in a civil trial to challenge jurors for cause. The plaintiff proposed to ask all potential jurors whether their objectivity would be affected by the fact that she was of African descent. The Nova Scotia Supreme Court allowed the challenge based on the fact that judicial notice could be taken of the fact that African-Canadians are the subject of racial prejudice in Canadian society.

*Kayhan v. Greve*, [2008] O.J. No. 2699, involved an action for damages arising out of a traffic accident in which the defendant, Ms. Greve, allegedly caused serious injury to the plaintiff, Ms. Kayhan. The defendant sought to have a jury trial. The plaintiff attempted to strike the defendant's jury notice in order to have the matter tried by a judge alone on the grounds that as a Muslim-Canadian woman of Afghani descent, she would not receive a fair trial. The trial judge took judicial notice of the fact that there was a perceived bias by non-Muslims toward Muslims, which had been aggravated since the events of September 11, 2001. The defendant appealed the trial judge's decision to strike the jury notice. The Ontario Divisional Court found that the judge had erred in striking the jury notice and ordering a trial by judge alone because the judge had not considered whether potential civil jurors would be able to set aside their perceived bias and act in an impartial manner.

In *R. v. Teerhuis-Moar*, 2007 MBQB 165, the Manitoba Court of Queen's Bench considered the accused Aboriginal person's claim that the procedures used to select a jury resulted in under-representation of Aboriginals on the list of potential jurors. According to the court, the right to a fair jury trial included a jury that was impartial and representative of the broader community. However, an accused was not entitled to a trial by a jury selected on the basis of racial considerations, which would result in the elimination of the general population from the jury panel. The court emphasized the importance of a jury panel that was randomly selected from the community in accordance with the law.

In *Saskatchewan (Social Services) v. L.B.*, 2009 SKQB 46, a five-year-old girl of Aboriginal heritage had been placed in foster care and was living with a non-Aboriginal family. The Saskatchewan Ministry of Social Services sought to have the child placed in the permanent care of the Ministry, with a view of having her adopted by the foster parents. The child's mother had died and her maternal grandparents opposed the application by the Ministry. They contended that placing the child with a non-Aboriginal family would cause her to lose touch with her Aboriginal heritage, and lead her to question where she came from. The grandparents sought to adopt the child themselves. This was found to be problematic, as a number of family members abused drugs and alcohol. The Saskatchewan Court of Queen's Bench decided that notwithstanding the child's Aboriginal heritage, it would be in her best interest to place the child permanently with her foster parents, as she had developed a strong attachment to them.



## Article 6: Effective protection and remedies

In *Hill v. Hamilton-Wentworth Regional Police Services Board*, [2007] 3 S.C.R. 129, the Supreme Court of Canada recognized that the police have a duty of care towards persons suspected of committing a crime. The majority of the Court noted that minority groups and Aboriginal persons in particular have been victims of “institutional bias” when coming into contact with the criminal justice system. The Court acknowledged that this is a serious issue, but went on to state that in Mr. Hill’s case, the actions of the police officers in 1995, considered in light of police practices at the time, met the standard of a reasonable officer in similar circumstances.

In *Miguna v. Toronto Police Services Board*, 2008 ONCA 799, the appellant was a member of the Bar of Ontario and had immigrated to Canada from Kenya. In 2002 and 2003, he was charged with sexually assaulting two of his clients. He was arrested once in front of his office, and the second time in front of the courthouse in full public view. Mr. Miguna was later acquitted of all charges. As a result of these occurrences, Mr. Miguna sued the Toronto Police Board, the Police Chief, and the Crown prosecutor involved in this case for malicious prosecution. He alleged that he had been the victim of racism and racial profiling. The police sought to have the statement of claim in the case struck on the basis that the claim disclosed no cause of action or was frivolous or vexatious. The majority of the statement of claim was struck out by the Ontario Superior Court of Justice; Mr. Miguna appealed. The Ontario Court of Appeal found that, although portions of the statement of claim could be characterized as unnecessary, the statement of claim could be said to disclose facts which, if proven to be true, were the proper basis for a cause of action. The Court of Appeal found that the suit was able to proceed.

In *C.R. Falkenham Backhoe Services Ltd. v. Nova Scotia (Board of Inquiry)* 2008 NSCA 38, the Nova Scotia Court of Appeal heard an appeal by an employer from a decision of a Nova Scotia Board of Inquiry awarding damages to an employee who had filed a complaint with the Nova Scotia Human Rights Commission alleging that he had been subject to discrimination on the basis of race during his employment. The Board awarded the employee \$8,000 in general damages, plus interest, and \$15,300 in compensation for lost wages. On appeal, the employer alleged that the Board’s reasons were insufficient and sought a reduction in the amount of damages awarded. The Nova Scotia Court of Appeal ruled that the Board’s reasons were sufficiently supported by the facts of the case, and that the damage awards were appropriate, having regard to the “humiliation, stress and pain” the employee experienced because of the racist comments made by his co-workers.

In *Coward v. Alberta (Human Rights and Citizenship Commission, Chief Commissioner)*, 2008 ABQB 455, the Calgary Police Service was involved in a search for a black man who had allegedly purchased a knife illegally from another black man at a transit station. The description of the suspect was that he was a black man wearing a black coat and a Calgary Flames baseball cap. Mr. Coward, a black man, was stopped by a lone police officer, questioned about the knife and then arrested, handcuffed and searched. When no knife was found in his possession, he was released. As a result of this incident, Mr. Coward filed a complaint with the Alberta Human Rights and Citizenship Commission against the Calgary police service. The director of the

Commission dismissed Mr. Coward's complaint. Mr. Coward appealed to the Chief Commissioner who affirmed the director's decision. Mr. Coward appealed the Chief Commissioner's decision to the Alberta Court of the Queen's Bench, on the grounds that the Chief Commissioner had erred in finding that there was no discrimination. The Court found that the Chief Commissioner was entitled to deference in his decision as it was reasonable. The Court accepted the Chief Commissioner's finding that the use of race in this case was not discriminatory, but was simply used as a method of describing the suspect who the police were looking for.



## Appendix 2: Public Consultations

Federal, provincial and territorial governments routinely consult with civil society on policies and initiatives that relate to the provisions of the *International Convention on the Elimination of All Forms of Racial Discrimination*. The following are examples of consultations conducted during the period of the present report. This list is not exhaustive.

Policy/initiative/issue	Date of Consultation	Method
<b>Government of Canada</b>		
National African Canadian Policy Conference and Community Forum on Anti-Black Hate	March 12-14, 2009.	The African Canadian Legal Clinic's event was held in Ottawa, Ontario. The conference was attended by community members and key justice stakeholders to: raise awareness of and develop strategies and partnerships to combat anti-Black hate crime; raise understanding of the role of the legal and justice system in responding to hate, including barriers in accessing justice; and to identify best practices.
Roles of integration and social engagement	March-July 2008	Consultations were held to discuss the roles of integration and social engagement. Participants included government, civil society, academics, and private citizens. Issues raised included the importance of anti-racism and anti-discrimination to overall integration efforts.
National Stakeholders Meeting on Combating Hate on the Internet	December 6-7, 2007	The Center for Research-Action on Race Relations held a meeting in Toronto, Ontario, to solicit community participants' reaction and input concerning the recommendations of Dr. Andrea Slane's report, "Combating Hate Crime on the Internet: Current Canadian Efforts and Recommendations of Non-Governmental Organizations to Improve upon Them." The meeting was attended by 43 selected participants.
Canada's Action Plan Against Racism consultations	Fall 2006	Public consultations were held in St. John's, Newfoundland and Labrador,

<b>Policy/initiative/issue</b>	<b>Date of Consultation</b>	<b>Method</b>
		Edmonton, Alberta, and Vancouver, British Columbia, with provincial, municipal, academic and civil society participants that informed them of the Action Plan and discussed ways to measure progress on the goal of contributing towards the elimination of racism.
Commissioner's Advisory Committee on Visible Minorities (CACVM)	Once or twice annually	Established in 1986, the CACVM is a group of 8-10 leaders from Canada's various diverse communities that has a mandate to advance and promote positive relations between the Royal Canadian Mounted Police (RCMP) and visible minorities and communities. The Committee exists to ensure there are fair and equitable recruiting, training, advancement and promotion policies; to encourage an effective RCMP response to cultural diversity and to reaching the goals of Canada's multicultural policy; and to create an open, equitable and culturally skilled organization.
<b>Government of Newfoundland and Labrador</b>		
Combating racism meetings and activities with school and community groups	Annually	Generally held in the fall of each school year, schools and school boards plan activities and meetings address topics such as racism in school and society and the measures that should be taken to combat such attitudes.
<b>Government of New Brunswick</b>		
Consultations with immigrant serving agencies	July 28, 2009 and on-going	Consultations were held to discuss ways of enhancing settlement services for newcomers, and creating more welcoming communities in New Brunswick. Several themes discussed during these consultations were related to addressing racial discrimination and facilitating newcomers' integration process.

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Consultations on barriers faced by immigrant newcomers to the province	2007	<p>The New Brunswick Human Rights Commission initiated consultations with multicultural associations in the province to keep abreast of the barriers faced by immigrant newcomers to the province and to ensure that they are aware of their rights as outlined in the New Brunswick <i>Human Rights Act</i>, as well as of the services provided by the Commission.</p> <p>These consultations have resulted in the publication of multilingual brochures, as well as an ongoing partnership with the New Brunswick Multicultural Council on the development of a human rights module for use in English language training programs offered to newcomers to the province.</p>
<b>Government of Québec</b>		
The National Assembly's Parliamentary Commission on the Elaboration of a Policy in Support of Ethno-cultural Diversity and Combating Racism and Racial Discrimination	Autumn 2007	Consultations were held with civil society organizations. Close to 124 briefs were heard by the Commission during these consultations.
<b>Government of Ontario</b>		
Inquiry into Assaults on Asian Canadian Anglers.	November 2007	The Ontario Human Rights Commission launched an inquiry into assaults on Asian Canadian anglers (i.e. recreational fishing). A telephone hotline and online survey operated for one month and 34 submissions were received. The Commission held consultations with organizations including the Metro Toronto Chinese and Southeast Asian Legal Clinic, municipalities, school boards, the Ontario Federation of Anglers and Hunters, and the Ontario Chinese Anglers Association.

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		On April 7, 2009, the Commission released its final report on the Inquiry entitled: <i>Fishing without Fear: Follow-up report on the Inquiry into Assaults on Asian Canadian Anglers</i> . This follow-up report highlights the progress 22 organizations have made in response to reports of harassment and assaults against Asian Canadian anglers. The report also identifies areas for improvement, and calls for communities to continue working on and responding to incidents of racism.
Consultation on rental housing and human rights	May 2007-July 2008	The Ontario Human Rights Commission held public and private meetings in four cities, including approximately 130 organizations and 120 individuals. Hundreds more participated in other events including sessions held by the Ontario Federation of Students, the Ontario Municipal Social Services Association, and the Ontario Non-Profit Housing Association. The Commission received written submissions from over 60 organizations representing a variety of perspectives including those of tenant advocates and housing providers, and almost 100 individuals.
<b>Government of Manitoba</b>		
Aboriginal women gatherings	November 13-14, 2009  March 28, 2009 (Opaskwayak Cree Nation)	These gatherings were held in various locations across the province. They provided an opportunity for grassroots women in Manitoba to speak on unique issues as they relate to the National Aboriginal Women's Summit recommendations (See ICERD Interim Report). Priorities identified at these gatherings inform the Government of Manitoba's priorities. Fighting racial discrimination is an underlying theme found in recommendations made.

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Racialized Communities and Police Services Project	October 2006 - August 2007	<p>In December 2007, the Manitoba Human Rights Commission and the University of Winnipeg released an interim report on research findings that involved four community consultation sessions on police services to members of racialized communities (<a href="http://www.gov.mb.ca/hrc/publications/rcaps.html">www.gov.mb.ca/hrc/publications/rcaps.html</a>).</p> <p>The Project continues: See <a href="http://www.gov.mb.ca/hrc/publications/reportsandsubmissions/mhrc-police.html">www.gov.mb.ca/hrc/publications/reportsandsubmissions/mhrc-police.html</a></p>
Inclusive and welcoming communities	October 24, 2009 and November 7, 2009	<p>The Inclusive and Sustainable Communities Standing Committee of the Manitoba Ethnocultural Advisory and Advocacy Council (MEAAC) consulted with the ethnocultural community to exchange ideas and concerns on developing and supporting inclusive and welcoming communities.</p> <p>MEAAC has also participated in activities and consultations to support anti-racism initiatives, including participating in the departmental International Day for the Elimination of Racial Discrimination; Canadian Multiculturalism Day in Manitoba; and a consultation with the Canadian Race Relations Foundation.</p>
<b>Government of Saskatchewan</b>		
Curriculum development	2008-2009	Consultations were held with educational partners for the renewal of education curriculum documents. Racial discrimination was discussed during the consultations, particularly with respect to Social Studies and Health curricula.
Roundtable on First Nations and Métis Consultation and Accommodation	May 2008	This consultation was an opportunity for First Nations, Métis, industry, government and others to improve relationships and

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		<p>contribute to developing an effective policy on the duty to consult and accommodate Aboriginal peoples. Approximately 450 people attended the event, offering valuable input to a draft consultation policy that was distributed to Roundtable participants in December 2008 for their review and further input. Feedback from these processes, legal rulings and government policy informed the final policy (Government of Saskatchewan First Nation and Métis Consultation Policy Framework) that was released in June 2010 (<a href="http://www.fnmr.gov.sk.ca/consultation">www.fnmr.gov.sk.ca/consultation</a>).</p>
<b>Government of Alberta</b>		
Foreign Credential Recognition	May 2007	<p>A series of roundtable discussions were held across the province with key stakeholder groups to discuss challenges related to the recognition of qualifications obtained outside of Canada.</p> <p>The feedback obtained formed the basis for the development of <i>A Foreign Qualification Recognition Plan for Alberta</i> (FQR Plan) that was launched in November 2008 to help achieve the desired outcome that immigrants have the opportunity to fully use their education, skills and work experience for the benefit of themselves and the Alberta economy.</p> <p>The FQR Plan supports other government-wide initiatives, including Alberta's 10-year labour force strategy – <i>Building and Educating Alberta's Workforce</i>.</p>
<b>Government of British Columbia</b>		
Critical Incident Response Model (CIRM) chairs/coordinator meeting	Annually	An informal consultation is held with provincial staff to discuss projects and any gaps and enhancements that are required.

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Multicultural Advisory Council.	3-4 times annually	Under the <i>Multiculturalism Act</i> of British Columbia, the Multicultural Advisory Council is used as an informal consultation group to provide advice on multiculturalism and anti-racism initiatives.
<b>Government of Yukon</b>		
Consultation on draft <i>Victims of Crime Act</i>	September 2009 – January 2010	Consultations were held with women's groups, First Nations, Aboriginal women's organizations, victim counseling services, RCMP, Office of the Director of Public Prosecutions, women's shelters and the Fetal Alcohol Syndrome Society of Yukon.