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**Common core document forming part  
of the reports of States parties**

**Canada<sup>\*, \*\*</sup>**

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## I. Introduction

1. Canada is pleased to present its Common Core Document. The document was prepared based on the harmonised guidelines on reporting issued by the Office of the High Commissioner for Human Rights.
2. The document, including statistical data, is based on the most up-to-date information as of August 2018. Only available data are reported in this document.
3. The Core Document should be read in conjunction with Canada's periodic reports under the seven main United Nations (UN) human rights treaties. Together, these documents outline the legislative, judicial, administrative and other measures that implement Canada's international human rights treaty obligations.

## II. General Information

4. Canada is a federation of ten provinces (Ontario, Québec, New Brunswick, Nova Scotia, Manitoba, British Columbia, Prince Edward Island, Alberta, Saskatchewan, Newfoundland and Labrador) and three territories (Northwest Territories, Yukon, Nunavut).
5. Canada occupies most of the northern part of North America, sharing land borders with the United States to the south and northwest. Canada is the world's second largest country by total area, extending from the Atlantic Ocean to the Pacific Ocean and northward into the Arctic Ocean.
6. Canada's climate varies from temperate in the south to subarctic and arctic in the north. Most of the population is settled on about 10 percent of the country's territory on a permanent basis. Most of the settled region is a relatively narrow belt stretching along Canada's entire southern edge.
7. Canadian society is characterized by a deep respect for shared values of freedom, democracy, diversity and inclusion, respect for human rights and the rule of law.

### A. Demographic, economic, social, cultural and political characteristics

#### Demographic characteristics

Population size <sup>1</sup>	Canada's population was estimated at 35,151,728 in 2016.
Population growth rate <sup>2</sup>	Between 2011 and 2016, Canada's population grew by 5%.
Population density <sup>3</sup>	The population density was approximately 3.9 persons per square kilometre in 2016.
Language Official language <sup>4</sup>	Canada has two official languages – English and French. In 2016, English was the first official language of 74.8% of the Canadian population, while French was the first official language of 22.2% of Canadians. 3% of Canadians had both English and French or neither English nor French as their First Official Language.

<sup>1</sup> Statistics Canada. Census Profile, 2016 Census. Canada. Catalogue No. 98-316-X2016001. February 27, 2018.

<sup>2</sup> Ibid.

<sup>3</sup> Census Profile, 2016 Census, *op. cit.*

<sup>4</sup> Ibid. Language statistics for total population excluding institutional residents.

	<i>Population (first language)</i>	<i>% of Population</i>
English	26,007,500	74.8%
French	7,705,755	22.2%
English and French	417,485	1.2%
Neither English nor French	636,515	1.8%
Language - Mother tongue <sup>5</sup>	More than 200 mother tongue languages were reported in the 2016 Census. 76.6% of the population reported English or French as their mother tongue. The allophone population – individuals whose mother tongue is neither English nor French – represented 21% of the population. 2.4% of the population reported multiple mother tongues.	
	<i>Population (Mother tongue)</i>	<i>% of Population</i>
English	19,460,850	56%
French	7,166,705	20.6%
Neither English or French	7,321,065	21%
Multiple mother tongues	818,635	2.4%
Religion <sup>6</sup>	In 2011, Christians accounted for 67.3% of the population, while other religious groups represented 8.8% of the population. 23.9% of Canadians reported no religious affiliation.	
	<i>Population<sup>7</sup></i>	<i>% of Population</i>
Christian	22,102,745	67.3%
Catholic	12,810,705	39%
United Church	2,007,610	6.1%
Anglican	1,631,845	5%
Baptist	635,840	1.9%
Christian Orthodox	550,690	1.7%
Other	4,466,055	13.6%
Muslim	1,053,945	3.2%
Hindu	497,965	1.5%
Sikh	454,965	1.4%
Buddhist	366,830	1.1%
Jewish	329,495	1%

<sup>5</sup> Ibid.

<sup>6</sup> Statistics Canada. National Household Survey Profile. 2011 National Household Survey. Catalogue No. 99-004-XWE. September 11 2013.

<sup>7</sup> Based on 2011 National Household Survey Profile, total population in private households by religion: 32,852,320.

Traditional Spirituality (Indigenous)	64,935	0.2%
Other religions	130,835	0.4%
No religious affiliation	7,850,605	23.9%

**Ethnicity<sup>8</sup>** In 2016, over 250 ethnic origins or ancestries were reported and 41.1% of the Canadian population recorded more than one origin. Canadian was the top origin, with 11.1 million people reporting this ancestry alone or in combination with other origins, representing approximately one third (32.3%) of Canada's population.

English (6.3 million), Scottish (4.8 million), French (4.7 million) and Irish (4.6 million) origins were still among the 20 most common ancestries reported by the Canadian population, either as a single response or in combination with other ancestries (multiple response). Three Asian origins were also among the 20 most commonly reported origins: Chinese (close to 1.8 million people), East Indian (approximately 1.4 million) and Filipino (837,130).

**Indigenous identity<sup>9</sup>** In 2016, 1.7 million people, or 4.9% of the total Canadian population, reported an Aboriginal identity, which includes those who are First Nations (North American Indian), Métis or Inuk (Inuit) and/or those who are Registered or Treaty Indians (that is, registered under the Indian Act), and/or those who have membership in a First Nation or Indian band.

The term "Indigenous" came into common usage by the Government of Canada in 2015. Section 35 of Canada's Constitution Act, 1982 recognizes and affirms aboriginal and treaty rights of the "aboriginal peoples of Canada", which include the "Indian (referred to as First Nation), Inuit and Métis peoples of Canada". Canada's Core document will generally use the term "Indigenous", but will use the term "Aboriginal" and "Indian" in accordance with the related constitutionally protected right, legislation or administrative measure.

**Age composition<sup>10</sup>** As of 2016, the average age of the Canadian population was 41 years.

	<i>Population</i>	<i>% of Population</i>
Under 15 years	5,839,565	16.6%
15 to 24 years	4,268,850	12.1%
25 to 54 years	14,196,925	40.4%

<sup>8</sup> Statistics Canada. Census in Brief – Ethnic and cultural origins of Canadians: Portrait of a rich heritage. October 25, 2017.

<sup>9</sup> Statistics Canada. Aboriginal peoples in Canada: Key results from the 2016 Census. See paragraphs 102 to 106 for more information.

<sup>10</sup> Census Profile, 2016 Census, *op. cit.*

55 to 64 years	4,910,750	14%
65 years and over	5,935,630	16.9%
Dependency ratio <sup>11</sup>	In 2017, the dependency ratio in Canada was 62.6 (which represents the percentage of the combined population aged between 0 to 19 years old and the population aged of 65 years and over to the population aged between 20 to 64 years old).	
Statistics on births <sup>12</sup>	In 2016, 383,102 children were born in Canada, an increase of 5,889 persons from 2010.	
Statistics on deaths <sup>13</sup>	In 2016, 267,213 persons died in Canada, an increase of 20,617 from 2012, continuing a long-term upward trend resulting from a growing and aging population.	
Life expectancy <sup>14</sup>	Life expectancy at birth reached 82.0 years for the 2014-2016 period an increase from the average of 80.8 years for 2007-2009 and 78.3 for 1995-1997. In 2014-2016, women's life expectancy was 84.0 years while men's life expectancy was 79.9 years.	
Fertility rate <sup>15</sup>	In 2016, the fertility rate was 1.54 children per women on average down from 1.63 children per woman on average in 2010.	
Average household size <sup>16</sup>	In 2016, the average household size was 2.4 persons.	
Single-parent households <sup>17</sup>	Single-parent families, 78.3% of which were headed by women and 21.7% by a man, represented 16.4% of all families in 2016.	
Rural/urban areas <sup>18</sup>	In 2016, 81% of the population lived in an urban area while 19% lived in a rural area.	

<sup>11</sup> Statistics Canada. Dependency ratio (2011 Census and administrative data), by age group for July 1st, Canada, provinces, territories, health regions (2017 boundaries) and peer groups. Table 17-10-0120-01.

<sup>12</sup> Statistics Canada. Live births, by age of mother. Table 13-10-0416-01.

<sup>13</sup> Statistics Canada. Estimates of deaths, by sex and age group, annual. Table 17-10-0006-01.

<sup>14</sup> Statistics Canada. Report on the Demographic Situation of Canada. Life expectancy and other elements of the life table. Table 13-10-0114-01.

<sup>15</sup> Statistics Canada. Crude birth rate, age-specific and total fertility rates (live births). Table 13-10-0418-01.

<sup>16</sup> Census Profile, 2016 Census, *op. cit.*

<sup>17</sup> *Ibid.*

<sup>18</sup> Statistics Canada. Population and Dwelling Count Highlight Tables. 2016 Census. Catalogue No. 98-402-X2016001. February 8, 2017. These statistics are based on the population centre concept, which is an area with a population of at least 1,000 and no fewer than 400 persons per square kilometre. The term 'population centre' replaces the term 'urban area'. Population centres are classified into three groups, depending on the size of their population: small population centres, with a population between 1,000 and 29,999; medium population centres, with a population between 30,000 and 99,999; and large urban population centres, with a population of 100,000 or more.

## Economic, social and cultural characteristics

### Share of (household) consumption expenditures on food, housing, health and education

8. In 2016, of the average household spending on goods and services, the share of household spending for food, shelter (principal accommodation), health and education represented respectively 14.1%, 26.2%, 4.1% and 2.7%.<sup>19</sup>

### Proportion of population below the national poverty line

9. With the release of the Government of Canada's first Poverty Reduction Strategy in August 2018, Canada announced its first-ever Official Poverty Line, based on the Market Basket Measure (MBM). This measure is based on the cost of a basket of goods and services that individuals and families require to meet their basic needs and achieve a modest standard of living in communities across the country. More specifically, Canada's Official Poverty Line reflects poverty thresholds for 50 different regions across the country, including 19 specific communities. The cost of the basket of goods and services is adjusted to reflect the cost of living for these regions across Canada. In 2016, it is estimated that 10.6% of the population did not have sufficient income to afford these goods and services and, as such, were living in poverty based on Canada's Official Poverty Line.<sup>20</sup>

10. Canada continues to use a suite of low-income measures to provide information on the low-income population. This suite of measures includes the MBM as well as the Low-Income Cut-offs (LICOs) and the Low Income Measure (LIM). However, the new Official Poverty Line, based on the MBM, is considered to be the official measurement of poverty in Canada. The LIM continues to be a valuable measure of low-income that tells us how those in low-income are doing relative to other Canadians. Since many countries and international organizations report on low income using an approach identical or similar to that of the LIM, it will continue to be used for international comparisons. LICOs will also continue to be estimated, and data on the incidence of low income based on this measure can be useful for historical comparisons.

### Household food insecurity<sup>21</sup>

11. The 2017 Canadian Community Health Survey (CCHS) compiled data on household food insecurity, with a focus on whether members of a given household could afford to buy the food they need.<sup>22</sup>

12. In 2017, 7.8% of households, or almost 1.1 million households, experienced food insecurity. Of that amount, 4.4% was reported as moderate and 3.4% was severe.<sup>23</sup> Overall, males (6.7%) were less likely than females (8.4%) to live in households with food insecurity. Across age groups, the prevalence of severe food insecurity was similar (2.9% to 3.5%) except for the 65 or older group, which was lower at 1.2%. The level of moderate food insecurity was highest for those aged 12 to 17 (9.9%) and lowest in the 65 or older group (1.4%).

13. Although lone parents with children made up the smallest group, at 5.6% of all households, they accounted for 17.3% of all food insecure households. Unattached individuals was the largest group, at 32.1% of all households, and also made up the largest

<sup>19</sup> Statistics Canada. Household spending, by household type. Table 11-10-0224-01. Canada-level statistics include the provinces only.

<sup>20</sup> Canadian Income Survey, 2016.

<sup>21</sup> Statistics Canada. Household food insecurity, 2011-2012; and Household food insecurity, by presence of children in the household and food security status. Table 13-10-0462-01.

<sup>22</sup> Statistics Canada. Canadian Community Health Survey, 2017. Custom tabulation. Note that food insecurity data excludes the territories.

<sup>23</sup> L'insécurité alimentaire « modérée » survient lorsque certains signes montrent que la qualité ou la quantité des aliments consommés est compromise. L'insécurité alimentaire « grave » se traduit par des signes d'une consommation alimentaire réduite et d'habitudes alimentaires perturbées.

share of food insecure households, at 40.4%. For all living arrangements with children, the child food insecurity rate (6.4%) was lower than the adult rate (11.1%).

14. While most Canadian households are considered to be food secure, the Government of Canada recognizes that food security is a critical issue that has a significant impact on the health outcomes of vulnerable populations within Canada. Given the complexity of food security and how it links to a variety of factors, federal, provincial and territorial governments are committed to continue working with their various partners to help address the issue.

15. The Government of Canada funds activities and services through community-based programs including the Canada Prenatal Nutrition Program (including a First Nations and Inuit component); Aboriginal Head Start (including an on-reserve component and an urban and northern component); the Aboriginal Diabetes Initiative; and Nutrition North Canada, which among other objectives, promotes nutrition, food skills, and improved access to healthy traditional/country food and store-bought food. The Government also invests in surveillance and monitoring of food security to help inform policy, programming and services.

#### **Gini coefficient (relating to distribution of income or household consumption expenditure)**

16. The 2016 after-tax Gini for all persons, where each individual is represented by their adjusted household after-tax income, was 0.306. The 2016 market-income Gini for all persons, where each individual is represented by their adjusted household market income, was 0.432.<sup>24</sup>

#### **Health Data**

Prevalence of underweight children <sup>25</sup>	In 2015, 2.5% of children ages 5 to 18 were underweight.
Infant mortality rate <sup>26</sup>	In 2016, the infant mortality rate per 1,000 live births was 4.5.
Maternal mortality ratio <sup>27</sup>	In 2016, the maternal deaths per 100,000 live births was 6.3.
Medical terminations of pregnancy <sup>28</sup>	In 2016, there were 97,764 medical terminations of pregnancy reported.

<sup>24</sup> Statistics Canada. Gini coefficients of adjusted market, total and after-tax income. Table: 11-10-0134-01. The Gini coefficient measures the degree of inequality in the income distribution. Gini coefficients are published for market income, total income and after-tax income, and are used to compare the uniformity of income allocation between different income concepts, across different populations or within the same population over time. Values of the Gini coefficient can range from 0 to 1. A value of zero indicates income is equally divided among the population with all units receiving exactly the same amount of income. At the opposite extreme, a Gini coefficient of 1 denotes a perfectly unequal distribution where one unit possesses all of the income in the economy.

<sup>25</sup> Statistic Canada. Children's body mass index – World Health Organization classification system. Table 13-10-0322-01.

<sup>26</sup> Statistics Canada. Infant mortality, by sex and birth weight, Canada, provinces and territories. Table 13-10-0368-01.

<sup>27</sup> Statistics Canada. Deaths, by cause, Chapter XV: Pregnancy, childbirth and the puerperium (O00 to O99). Table 13-10-0152-01. Live births, by place of residence of mother. Table 13-10-0414-01.

<sup>28</sup> Canadian Institute for Health Information. Induced abortion reported in 2015 (Excel spreadsheet, see table 1).

### Prevalence of major communicable diseases

Rates of infection of HIV/AIDS <sup>29</sup>	<p>A total of 2,344 new diagnoses of HIV were reported in 2016, with a cumulative total of 84,409 cases since 1985. The national diagnosis rate increased from 5.8 per 100,000 population in 2015 to 6.4 per 100,000 population in 2016.</p> <p>A total of 114 AIDS cases were reported in 2016, with a cumulative total of 24,179 since 1979. These numbers represent a steady decline in the number of reported AIDS cases per year of diagnosis in Canada since 1993.</p>
Rates of Tuberculosis <sup>30</sup>	<p>The number of active TB disease cases increased from 1,642 in 2015 to 1,737 in 2016, corresponding to an increase in incidence rate from 4.6 to 4.8 per 100,000 population. Foreign born individuals continued to make up the majority of cases reported (70%) and the incidence rate remained highest among Canadian-born Indigenous people (23.5 per 100,000 population) and was particularly high within the Inuit population (170.1 per 100,000 population).</p> <p>Over the past decade, there was a slight decrease in the number of cases among children and the proportion of re-treatment cases declined from 8.3% of cases in 2006 to 5.4% of cases in 2016.</p>

### Prevalence of major non-communicable diseases

<i>Chronic Disease</i>	<i>Approximate Total Cases</i>	<i>Rate or Percentage of population</i>	<i>Year</i>
<b>Cancer</b>			
Incidence rate of Cancer (estimated) <sup>31</sup>	206,200	515.9 (per 100,000)	2017
Cancer diagnosis (lifetime) <sup>32</sup> , age 12+	2.1 million	7.1%	2015
<b>Circulatory</b>			
Hypertension <sup>33</sup> , age 20+	7.0 million	25%	2012-2013
Ischemic Heart Disease <sup>33</sup> , age 20+	2.4 million	8.5%	2012-2013
Stroke <sup>33</sup> , age 20+	741,800	2.7%	2012-2013

<sup>29</sup> Public Health Agency of Canada. HIV and AIDS in Canada – Surveillance Reports, 2016. CCDR: Volume 43-12, December 7, 2017: Can we eliminate HIV?

<sup>30</sup> Public Health Agency of Canada. Tuberculosis in Canada, 2016. CCDR: Volume 44-3/4, March 1, 2018: Can we eliminate tuberculosis?

<sup>31</sup> Canadian Cancer Society. Canadian Cancer Statistics publication, 2018.

<sup>32</sup> Public Health Agency of Canada. Canadian Chronic Disease Indicators.

<sup>33</sup> Public Health Agency of Canada. Public Health Infobase. Canadian Chronic Disease Surveillance System.

<i>Chronic Disease</i>	<i>Approximate Total Cases</i>	<i>Rate or Percentage of population</i>	<i>Year</i>
<b>Diabetes</b>			
Diabetes <sup>33</sup> , age 1+	2.8 million	8.0%	2012-2013
<b>Mental Health<sup>34</sup></b>			
Mood Disorder, age 12+	2.6 million	8.6%	2017
<b>Musculoskeletal<sup>35</sup></b>			
Arthritis, age 15+	5.7 million	19.3%	2017
<b>Respiratory<sup>36</sup></b>			
Asthma, age 1+	3.9 million	10.9%	2012-2013
Chronic Obstructive Pulmonary Disease, age 35+	2.0 million	9.8%	2012-013

### Ten Leading Causes of deaths

<i>Leading causes of death (2016)<sup>37</sup></i>	<i>Number per year</i>	<i>Percentage</i>
Cancer (malignant neoplasms)	79,084	29.6
Diseases of the heart	51,396	19.2
Cerebrovascular diseases	13,551	5.1
Accidents (unintentional injuries)	12,524	4.7
Chronic lower respiratory diseases	12,293	4.6
Diabetes mellitus	6,838	2.6
Alzheimer's Disease	6,521	2.4
Influenza and pneumonia	6,235	2.3
Intentional self-harm (suicide)	3,978	1.5
Chronic liver disease and cirrhosis	3,385	1.3

### Prevalence of disability

17. In 2012, an estimated 3.8 million adult Canadians aged 15 years or older reported being limited in their daily activities due to a disability, representing 13.7% of the population. Women (14.9%) were generally more likely than men (12.5%) to report disabilities<sup>38</sup>.

<i>Prevalence of disability, by sex and age (%)</i>	<i>Both sexes</i>	<i>Men</i>	<i>Women</i>
15 to 24	4,4	4,5	4,3
25 to 44	6,5	6,0	7,1
45 to 64	16,1	15,2	17,1
65 to 74	26,3	25,0	27,5
75 and over	42,5	39,8	44,5

<i>Prevalence of disability, by type<sup>39</sup></i>	<i>Population</i>	<i>Percentage</i>
Pain	2 664 200	9,7
Flexibility	2 078 000	7,6
Mobility	1 971 800	7,2

<sup>34</sup> Statistics Canada. Canadian health characteristics, annual estimates. Table 13-10-0096-01.

<sup>35</sup> Ibid.

<sup>36</sup> Public Health Infobase. Canadian Chronic Disease Surveillance System, *op. cit.*

<sup>37</sup> Statistics Canada. Leading causes of death, total population, by age group. Table 13-10-0394-01.

<sup>38</sup> Statistics Canada. Disability in Canada: Initial findings from the Canadian Survey on Disability.

<sup>39</sup> Statistique Canada. Enquête canadienne sur l'incapacité 2012 : tableaux de données.

<i>Prevalence of disability, by type<sup>39</sup></i>	<i>Population</i>	<i>Percentage</i>
Mental/psychological	1 059 600	3,9
Dexterity	953 100	3,5
Hearing	874 600	3,2
Seeing	756 300	2,7
Memory	628 200	2,3
Learning	622 300	2,3
Developmental	160 500	0,6
Unknown	79 500	0,3

### Education

	<i>Both sexes</i>	<i>Males</i>	<i>Females</i>
Number of students in regular programs for youth, public elementary and secondary education, by sex (2015-2016) <sup>40</sup>	4 753 194	2 441 316	2 311 878
Number of full-time and part-time educators in public elementary and secondary schools, by work status (2015-2016) <sup>41</sup>	<i>All educators</i> 403 281	<i>Full time</i> 315 765	<i>Part-time</i> 87 513

### Unemployment

Unemployment/participation rates <sup>42</sup> - General	In 2017, the Canadian unemployment rate for those 15 years of age and over was 6.3%, while the participation rate stood at 65.8%.
Unemployment/participation rates <sup>43</sup> - By sex	In 2017, the unemployment rate for men was 6.8% with a participation rate of 70.2%. The unemployment rate for women was 5.8% with a participation rate of 61.5%.
Unemployment/participation rates <sup>44</sup> - By age	In 2017, the unemployment rate for youth aged 15 to 24 years was 11.6% with a participation rate of 63.9%. The unemployment rate of women aged 15 to 24 years was 9.9% with a participation rate of 64% while the unemployment rate of men aged 15 to 24 years was 13.3% with a participation rate of 63.9%.  The unemployment rate for Canadians 25 years and older was 5.5% with a participation rate of 66.1%. The unemployment rate of women 25 years and older was 5.2% with a participation rate of 61.1% while the unemployment rate of men 25 years and older was 5.7% with a participation rate of 71.3%.

<sup>40</sup> Statistique Canada. Tableau 37-10-0007-01. Nombre d'élèves dans les programmes réguliers pour les jeunes, écoles publiques primaires et secondaires, selon l'année d'études et le sexe.

<sup>41</sup> Statistique Canada. Tableau 37-10-0010-01. Nombre d'éducateurs à temps plein et à temps partiel dans les écoles primaires et secondaires publiques, selon le groupe d'âge et le sexe.

<sup>42</sup> Statistics Canada. Labour force characteristics by sex and detailed age group, annual. Table 14-10-0018-01.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

**Labour force participation, by major sectors of economic activity**

<i>Employment, by industry, in thousands (2017)<sup>45</sup></i>	<i>Age group: 15 years and older</i>		
	<i>Both sexes</i>	<i>Male</i>	<i>Female</i>
Total, all industries	18,416.4	9,635.5	8,780.9
Goods-producing sector	3,875.9	3,044.0	831.9
Agriculture	279.5	194.8	84.7
Forestry, fishing, mining, quarrying, oil and gas	329.6	270.7	58.9
Utilities	132.6	95.1	37.5
Construction	1,409.3	1,234.6	174.8
Manufacturing	1,724.8	1,248.8	476.0
Services-producing sector	14,540.5	6,591.5	7,949.0
Wholesale and retail trade	2,809.6	1,462.5	1,347.2
Transportation and warehousing	943.7	730.7	213.0
Finance, insurance, real estate, rental and leasing	1,171.3	535.4	635.9
Professional, scientific and technical services	1,448.8	811.8	637.0
Business, building and other support services	756.6	429.3	327.3
Educational services	1,285.0	405.1	879.9
Health care and social assistance	2,383.2	433.4	1,949.7
Information, culture and recreation	789.3	432.0	357.3
Accommodation and food services	1,210.8	519.7	691.0
Other services (except public administration)	781.3	363.4	417.9
Public administration	961.0	468.2	492.8
Trade union density <sup>46</sup> (2017)			26.3%

**Economic and Financial Data**

Per capita income (GDP per capita)<sup>47</sup> In 2017, GDP per capita was US\$45,119.<sup>48</sup>

Gross Domestic Product GDP<sup>49</sup> In 2017 (4<sup>th</sup> quarter), nominal GDP at market prices was \$2,181 billion.

Annual GDP growth rate<sup>50</sup> Canada's real GDP at market prices grew by 3% in 2017.

Gross National Income (GNI)<sup>51</sup> In 2017 (4<sup>th</sup> quarter), GNI at market prices was \$2,153.2 billion.

Consumer Price Index<sup>52</sup> From July 2017 to July 2018, consumer prices rose 3.0%.

<sup>45</sup> Statistics Canada. Labour Force Survey estimates, by North American Industry Classification System, sex and age group. Table: 14-10-0023-01.

<sup>46</sup> Organisation for Economic Co-operation and Development.

<sup>47</sup> Statistics Canada. Economic and Financial Data. Tables: 36-10-0104-01, 36-10-0122-01 and 17-10-0009-01.

<sup>48</sup> The significant drop in the 2017 per-capita income figure compared to that of 2011 may be explained by the lower exchange rate with the USD. Please refer to following link for the current CAD to USD exchange rate: [www.ofx.com/en-ca/forex-news/historical-exchange-rates/yearly-average-rates/](http://www.ofx.com/en-ca/forex-news/historical-exchange-rates/yearly-average-rates/).

<sup>49</sup> Economic and Financial Data, *op. cit.*

<sup>50</sup> Ibid.

<sup>51</sup> Statistics Canada. Gross domestic income, gross national income and net national income, Canada, quarterly (x 1,000,000). Table 36-10-0122-01.

<sup>52</sup> Statistics Canada. Consumer Price Index, monthly, not seasonally adjusted. Table 18-10-0004-02.

Social expenditures <sup>53</sup>	In 2016-2017, the value of consolidated government expenditures in Canada totaled \$746,725M. Social protection expenditures represented 22.5% (\$167,805 millions) of the total, public order and safety represented 4.7% (\$34,808 millions), health represented 23.3% (\$173,723 millions), education represented 15.0% (\$111,882 millions), housing and community amenities represented 1.5% (\$10,895 millions) and, recreation, culture and religion represented 2.3% (\$17,100 millions).
Domestic public debt <sup>54</sup>	For the fiscal year ending March 31, 2017, the federal debt (the difference between total liabilities and total assets for the federal government) was \$631.9 billion, or 31.0% of GDP. Canada has the lowest general government net debt among the G7 countries (this measure includes federal, provincial and local governments, as well as social security funds), which according to the International Monetary Fund recorded an average of 87.5% of GDP for 2017.
Proportion of international assistance <sup>55</sup>	In 2017, Canada's Official Development Assistance represented 0.26% of the GNI.

## Political characteristics

### Political parties at the national level

18. The number of registered political parties at the last three federal general elections is as follows: 23 in 2015; 18 in 2011; and 19 in 2008.<sup>56</sup>

### Distribution of legislative seats in Parliament, by party<sup>57</sup>

<i>Party name</i>	<i>2015</i>	<i>2011</i>	<i>2008</i>
Liberal Party of Canada	184	34	77
Conservative Party of Canada	99	166	143
New Democratic Party	44	103	37
Bloc Québécois	10	4	49
Green Party	1	1	0
Independent	0	0	2
<b>Total</b>	<b>338</b>	<b>308</b>	<b>308</b>

<sup>53</sup> Statistics Canada. Canadian Government Finance Statistics. Consumption of fixed capital included in total expenditures could not be fully allocated across expenditure functions. Consumption of fixed capital made by school boards, colleges and universities were allocated to education, and health and social service institutes to health. Amounts for consumption of fixed capital made by federal, provincial-territorial, and municipal governments have not been allocated across expenditure functions. As a result, expenditures for each function may be underestimated.

<sup>54</sup> Department of Finance Canada. Budget 2018; IMF. Fiscal Monitor April 2018, [www.imf.org/en/Publications/FM/Issues/2018/04/06/fiscal-monitor-april-2018](http://www.imf.org/en/Publications/FM/Issues/2018/04/06/fiscal-monitor-april-2018).

<sup>55</sup> Department of Global Affairs Canada.

<sup>56</sup> Elections Canada. Registered Political Parties and Parties Eligible for Registration, [www.elections.ca/content.aspx?dir=par&document=index&lang=e&section=pol](http://www.elections.ca/content.aspx?dir=par&document=index&lang=e&section=pol).

<sup>57</sup> Parliament of Canada. Party Standings in the House of Commons. Parlinfo, [https://lop.parl.ca/sites/ParlInfo/default/en\\_CA/Parliament/HouseOfCommons/partyStandings](https://lop.parl.ca/sites/ParlInfo/default/en_CA/Parliament/HouseOfCommons/partyStandings).

**Proportion of population eligible and registered to vote<sup>58</sup>**

19. In Canada, every citizen over the age of 18 has the right to vote. They are therefore eligible and can register to vote. In 2015, 97% of eligible voters were registered to vote in the federal election.

**Proportion of the population eligible to vote in last three federal elections<sup>59</sup>**

<i>Federal election year</i>	<i>Population (millions)</i>	<i>Number of eligible voters (millions)</i>	<i>Eligible voters: proportion of population (percentage)</i>	<i>Voter turnout based on eligible electors (percentage)</i>
2015	35.8	26.8	74.9%	66.1%
2011	34.5	25.3	73.3%	58.5%
2008	33.2	24.6	74.1%	56.5%

**Proportion of the population registered to vote in last three federal elections<sup>59</sup>**

<i>Federal election year</i>	<i>Population (millions)</i>	<i>Eligible voters registered to vote (millions)</i>	<i>Eligible voters registered to vote: proportion of population (percentage)</i>	<i>Voter turnout based on eligible voters registered to vote<sup>60</sup> (percentage)</i>
2015	35.8	26	72.6%	68.3%
2011	34.5	24.3	70.4%	61.1%
2008	33.2	23,7	71.4%	58.8%

**Complaints on the conduct of elections**

20. Elections are conducted in Canada by agencies that are non-partisan and independent of government. There are various avenues for voters and candidates to challenge the fairness of elections, including complaints to elections agencies, human rights commissions and tribunals, police authorities, and the courts. In the 2015 federal general election, approximately 70 complaints were made during or immediately following the election.<sup>61</sup>

**Women candidates in federal general elections<sup>62</sup>**

	2015	2011	2008
Number of women candidates	535	451	445
<b>(Total candidates)</b>	<b>(1,792)</b>	<b>(1,587)</b>	<b>(1,601)</b>
Percentage of total candidates	29.9%	28.4%	27.8%
Number of women elected	88	76	69
Percentage of women candidates elected	16.44%	16.85%	15.50%

<sup>58</sup> Elections Canada.

<sup>59</sup> Elections Canada.

<sup>60</sup> For Canadian federal elections, official voter turnout is calculated as the number of votes cast divided by the number of electors registered to vote.

<sup>61</sup> Elections Canada. Report on the 42<sup>nd</sup> General Election of October 19, 2015.

<sup>62</sup> Parliament of Canada. History of federal ridings since 1867: Women Candidates in General Elections – 1921 to Date, <https://lop.parl.ca/About/Parliament/FederalRidingsHistory/hfer.asp?Language=E&Search=WomenElection>; Elections Canada. Forty-Second General Election 2015: Official Voting Results, Summary tables; Forty-First General Election 2011: Official Voting Results (raw data); Fortieth General Election 2008: Official Voting Results (raw data).

**Women in Parliament**<sup>63</sup>

	2015		2011		2008	
	<i>House of Commons</i>	<i>Sénate</i> <sup>64</sup>	<i>House of Commons</i>	<i>Sénate</i> <sup>65</sup>	<i>House of Commons</i>	<i>Sénate</i> <sup>66</sup>
Number of women (Total members)	88(338)	31(83)	76(308)	36(104)	69(308)	31(90)
Percentage	26 %	37,4 %	24,7 %	34,6 %	22,4 %	34,4 %

**National and sub-national elections held within the schedule laid out by law**

21. Section 4 of the constitutional Canadian Charter of Rights and Freedoms (the Charter) provides that no House of Commons and no legislative assembly of a province shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members. Exceptions are provided in time of real or apprehended war, invasion or insurrection if the continuation of the House or of a legislative assembly, as the case may be, is not opposed by the votes of more than one-third of its members.

22. Since 2007, however, the Canada Elections Act provides that a general election, at the federal level, must be held on the third Monday in October in the fourth calendar year following polling day for the previous general election, unless there is an earlier dissolution of Parliament.

23. Each province and territory is responsible for holding elections of members to their respective legislative assembly, which are all subject to the five-year maximum limit imposed by section 4 of the Charter. That said, all provinces and territories have adopted legislation providing a fixed date for elections to be held every four years except Nova Scotia and Yukon.

**Voter turnouts in in the national and sub-national elections by administrative unit (provinces and territories)****Federal general election (2015)**<sup>67</sup>

<i>Canada or Province or Territory</i>	<i>Voter turnout based on eligible voters</i>		
	<i>Men</i>	<i>Women</i>	<i>Total</i>
Canada	64.1%	68%	<b>66.1%</b>
Newfoundland and Labrador	57.4%	62.3%	<b>59.9%</b>
Prince Edward Island	76.5%	83.1%	<b>80%</b>
Nova Scotia	67.8%	73.2%	<b>70.6%</b>
New Brunswick	69.8%	76.6%	<b>73.3%</b>
Québec	65%	69.5%	<b>67.3%</b>
Ontario	63.3%	65.4%	<b>64.4%</b>
Manitoba	63%	68.4%	<b>65.8%</b>
Saskatchewan	64.3%	70.9%	<b>67.6%</b>
Alberta	61.8%	67.2%	<b>64.5%</b>

<sup>63</sup> History of federal ridings since 1867, op. cit.

<sup>64</sup> En date d'octobre 2015. Bibliothèque du Parlement. Les femmes au Parlement du Canada, <https://notesdelacolline.ca/2015/11/04/les-femmes-au-parlement-du-canada-sur-le-chemin-du-progres-2/>.

<sup>65</sup> Actif le 26 mars 2011. Parlement du Canada. Parlinfo. Les parlementaires, [https://lop.parl.ca/sites/ParlInfo/default/fr\\_CA/Personnes/parlementaires](https://lop.parl.ca/sites/ParlInfo/default/fr_CA/Personnes/parlementaires).

<sup>66</sup> Ibid. Actif le 7 septembre 2008.

<sup>67</sup> Elections Canada, Estimation of Voter Turnout by Age Group and Gender at the 2015 General Election.

Canada or Province or Territory	Voter turnout based on eligible voters		
	Men	Women	Total
British Columbia	66%	70.3%	<b>68.2%</b>
Yukon	70%	78.5%	<b>74.2%</b>
Northwest Territories	58%	64%	<b>60.9%</b>
Nunavut	48.7%	57.8%	<b>53.1%</b>

### Provincial and territorial general elections voter turnout

Province/Territory	Voter turnout	Election year
Newfoundland and Labrador <sup>68</sup>	55.3%	2015
Prince Edward Island <sup>69</sup>	82.10%	2015
Nova Scotia <sup>70</sup>	53.88%	2017
New Brunswick <sup>71</sup>	67.13%	2018
Québec <sup>72</sup>	66.45%	2018
Ontario <sup>73</sup>	58%	2018
Manitoba <sup>74</sup>	57.43%	2016
Saskatchewan <sup>75</sup>	53.5%	2016
Alberta <sup>76</sup>	57.02%	2015
British Columbia <sup>77</sup>	61.5%	2017
Yukon <sup>78</sup>	76.4%	2016
Northwest Territories <sup>79</sup>	44%	2015
Nunavut <sup>80</sup>	63.3%	2017

### Crime and the administration of justice

Incidence of violent death and life threatening crimes reported per 100,000 population <sup>81</sup>	The homicide rate in 2017 per 100,000 people was 1.80. The 2017 homicide rate was higher than the average rate for the previous decade (average of 1.67 per 100,000 population).  The attempted murder rate in 2017 per 100,000 population was 2.25.
Rate of violent <i>Criminal Code</i> violations per 100,000 population <sup>82</sup>	The rate of violent <i>Criminal Code</i> violations in 2017 was 1,098.40 per 100,000 population.

<sup>68</sup> Elections Newfoundland and Labrador. Provincial General Election Report. November 30, 2015.

<sup>69</sup> Elections Prince Edward Island. Provincial Voter Turnout.

<sup>70</sup> Elections Nova Scotia. Provincial General Election 2017 - Official Results.

<sup>71</sup> Elections NB. Results by Electoral District.

<sup>72</sup> Elections Québec. 2018 Official results after the counting of votes.

<sup>73</sup> Elections Ontario. General Election 2018.

<sup>74</sup> Elections Manitoba. Results of 41st General Election.

<sup>75</sup> Elections Saskatchewan. Voter turnout figures for 28th Saskatchewan election release, 2016.

<sup>76</sup> Elections Alberta. Overall Summary of Ballots Cast and Voter Turnout 1975-2015.

<sup>77</sup> Elections BC. Voter turnout in British Columbia.

<sup>78</sup> Elections Yukon. The Report of the Chief Electoral Officer of Yukon on the 2016 General Election.

<sup>79</sup> Elections NWT. 2015 Official Voting Results, 2015.

<sup>80</sup> Nunatsiq News. 63.3 per cent of Nunavut voters cast ballots in 2017 election. November 8, 2017.

<sup>81</sup> Statistics Canada. Incident-based crime statistics, by detailed violations. Table: 35-10-0177-01.

<sup>82</sup> Ibid.

Number of reported cases of sexually motivated violence <sup>83</sup>	<p>In 2017, there were 24,672 reported sexual assault crimes in Canada (67.21 per 100,000 population).</p> <p>The number of sexual assaults is likely underestimated as sexual assault is an underreported crime. For example, in 2014, there were 20,735 police-reported victims of sexual assaults, however, there were approximately 636,000 self-reported sexual assaults that same year<sup>84</sup>.</p>
Completed charges <sup>85</sup>	<p>In 2015-2016, there were 1,107,554 charges completed in adult provincial courts in Canada, a 4% increase in the number of completed charges from the previous year.</p> <p>There were 13,105 charges completed in superior court in 2015-2016 in provinces/territories where superior court data were available, a 7.6% increase from the previous year.</p> <p>In 2015-2016, youth courts in Canada completed 120,094 charges, which was a 4% decrease in charges from the previous year, and a 35% decrease from a decade prior.</p>
Completed cases <sup>86</sup>	<p>There were 339,175 completed cases in adult criminal provincial court in 2015-2016, which was a 2.8% decrease from the previous year.</p> <p>There were 3,099 completed cases in adult criminal superior court in 2015-2016, which was a 3.7% decrease from the previous year.</p> <p>There were 31,363 completed cases in youth courts, which was a decrease of 6.9% from the previous year.</p>
Average backlog of cases at different levels of the judicial system <sup>85</sup>	<p>In 2015-2016, the majority of charges completed in adult criminal courts in Canada were heard in provincial courts. The median amount of time it took to complete a charge in provincial court (from first appearance to final decision) was 112 days. This median did not vary much throughout the last ten years.</p> <p>Superior court charges in 2015-2016 took a median of 419 days to reach a final decision in court, which was 18 days longer than 2014/2015.</p>

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<sup>83</sup> Ibid.

<sup>84</sup> Shana Conroy and Adam Cotter. Statistics Canada. Juristat. Self-reported sexual assault in Canada, 2014.

<sup>85</sup> Maxwell, Ashley. Statistics Canada. Juristat. Adult criminal court processing times, Canada, 2015/2016. A charge refers to a formal accusation against an accused person or company involving a federal statute offence that has been processed by the courts and received a final decision. A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision.

<sup>86</sup> Ibid. Statistics Canada. Youth courts, number of cases and charges by type of decision. Table 35-10-0038-01.

	It took a median of 99 days to complete a youth court charge in 2015-2016. This was a 4% increase from the median elapsed time in 2014-2015.
Average time in remand <sup>87</sup>	On a typical day, in 2015-2016, there were 14,899 adults held in remand, awaiting trial or sentencing.  In 2015-2016, more than half (51%) of adult offenders released from remand in reporting provinces and territories were held for one week or less and more than three-quarters (76%) were held for one month or less.
Prison population with breakdown by offence and length of sentence	On an average day in 2015-2016, there were 40,147 adults in custody; 25,405 in provincial and territorial custody and 14,712 in federal custody. 30% of adult offenders released from provincial and territorial sentenced custody were there for one week or less, and about six in ten adult offenders (59%) spent one month or less in custody. <sup>88</sup>  In 2015-2016, 69% of federal offenders were serving a sentence for a violent offence. About half (50.2%) of the total federal offender population was serving a sentence of less than 5 years with 23.3% serving a sentence between two years and less than three years. <sup>89</sup>
Incidence of death in custody <sup>90</sup>	In 2015-2016, there were 65 deaths in federal custody. The majority (42 deaths) were from natural causes.
# of persons executed under the death penalty per year	No death penalty in Canada.
Police Officers per 100,000 population <sup>91</sup>	There were 69,027 police officers in Canada in 2017 corresponding to a rate of 188.0 per 100,000 population.
Prosecutors <sup>92</sup>	In 2017-2018, there were approximately 3,593 crown prosecutors in Canada.
Judges <sup>93</sup>	In 2017-2018, there were approximately 1,950 judges in Canada.

<sup>87</sup> Reitano, Julie. Statistics Canada, Juristat. Adult correctional statistics in Canada, 2015/2016.

<sup>88</sup> Ibid.

<sup>89</sup> Public Safety Canada. The total offender population – under the responsibility of Correctional Service of Canada (CSC) – includes all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days. Violent offences include first and second degree murder, sexual offences and other violent crimes. Offence data for all provinces and territories are not available.

<sup>90</sup> Correctional Services Canada. Annual Report on Deaths in Custody 2015-2016.

<sup>91</sup> Statistics Canada. Data on police numbers pertain to the snapshot date of May 15, 2017. This also includes police officers in the Royal Canadian Mounted Police Headquarters and Training Academy. Table 35-10-0076-01.

<sup>92</sup> This total does not include provincial or territorial government lawyers working for child protection.

<sup>93</sup> The total number does not include part-time judges (including, per diem, part-time or supernumerary). The total does not include justices of the peace or municipal court judges.

Share of public expenditure on policy/security and judiciary <sup>94</sup>	In 2016-2017, the value of consolidated government expenditures in Canada totaled \$746,725M and public order and safety represented 4.7% (\$34,808 millions) of the total.
Of the accused and detained persons who apply for free legal aid, the proportion of those who receive it <sup>95</sup>	In 2014-2015, 262,998 applications for criminal legal aid were approved.

## B. Constitutional, Political and Legal Structure

### Historical context

24. Indigenous peoples were the first inhabitants of present-day Canada. Centuries before Europeans began to settle in North America, explorers found thriving First Nations and Inuit societies with their own languages, cultures and systems of government. The Métis Nation emerged with its own collective identity, language, culture, way of life and self-government in the historic Northwest prior to Canada's westward expansion following Confederation.

25. France established permanent settlements in what is now Canada starting in the early 17th century. By the Treaty of Paris of 1763, France ceded Canada to Great Britain following the Seven Years War. Through the Royal Proclamation of 1763, the Quebec Act of 1774, and the Constitutional Act of 1791, the governance of Canada under the British Crown was established.

26. British colonies in Canada were governed by appointed British officials. Beginning in the 19th century, the British model of parliamentary democracy and responsible government was introduced gradually, with powers being devolved to colonial legislatures.

27. In 1867, with the enactment, by the Parliament of the United Kingdom, of the British North America Act, 1867, the British North American colonies (Nova Scotia, New Brunswick and the Province of Canada, consisting of present-day Ontario and Québec) were federally united into a self-governing Dominion named Canada, with a constitutional division of powers between provincial legislatures and a federal Parliament. Additional provinces joined the federation over a number of years, with the last one being Newfoundland and Labrador in 1949.

28. In 1931, by the Statute of Westminster, the British Parliament relinquished the power to pass laws for Canada unless Canada so consented, while maintaining the ability to amend the Constitution of Canada. In 1982, Canada gained the full power to amend its own Constitution and also attained complete legislative independence from Britain. By the Canada Act, 1982, no law passed by the United Kingdom Parliament after the coming into force of the Constitution Act, 1982 would extend to Canada as part of its law.

### Constitution

29. The Constitution of Canada contains a series of Acts and instruments, including two main laws (the Constitution Act, 1867 and the Constitution Act, 1982) and a set of unwritten principles and conventions. Constitutional amendments enacted in the Constitution Act, 1982 included protections of individual rights and freedoms in the Canadian Charter of Rights and Freedoms. The Constitution also prescribes which powers – legislative, executive and judicial – may be exercised by which organs of the state and how the legislative powers are distributed between the Parliament of Canada and the provincial legislatures. The Constitution's 30 Acts and orders include, for example, those that created provinces or altered boundaries.

<sup>94</sup> Statistics Canada, Canadian Government Finance Statistics. Consumption of fixed capital included in total expenditures could not be allocated to this function. As a result, expenditures for this function may be understated.

<sup>95</sup> Statistics Canada. Approved legal aid applications, by staff and private lawyers and type of matter. Table 35-10-0095-01.

30. The Constitution is silent as to certain essential rules concerning the relationship among the organs of the State. This may be explained by the fact that the Constitution of Canada is based on the same principles as the Constitution of the United Kingdom, where the manner in which political institutions function is governed largely by domestic unwritten rules that are called “Constitutional conventions.” The oldest conventions relate to responsible government. These conventions ensure that the legal framework of the Constitution operates in accordance with the prevailing Constitutional values or principles of the period. They relate to ministerial responsibility, the selection of Ministers and Prime Minister, the dissolution of Parliament and the giving of royal assent to legislation adopted by Parliament.

31. Finally, the courts play an important role in interpreting the meaning of the Constitution in the context of changing times and new circumstances.

### **Division of powers**

32. Like all federations, the division of legislative powers is a significant aspect of the system of government in Canada. Generally, the Constitution gives the Parliament of Canada jurisdiction over matters that are national in character, and gives the provincial legislatures jurisdiction in matters of a local nature. The territorial legislatures are similarly responsible for matters of a local nature. This multi-governance system serves as a vehicle for partnership wherein all governments can work cooperatively to address common challenges in accordance with their respective areas of jurisdiction. Canada’s federal system, including the laws, policies and programs of its various governments, is a complex yet coordinated whole.

33. Parliament has the power to raise revenues by both direct and indirect taxation, and the Government of Canada has the authority to allocate its financial resources as it deems appropriate. The Government of Canada can, for example, make grants to individuals with a view to promoting research and development. It also creates shared-cost programs with interested provinces and territories in areas under their jurisdiction, such as health, education and welfare. Finally, the Government of Canada provides equalization payments to provinces to address fiscal disparities among provinces. Equalization payments are unconditional, meaning that receiving provinces are free to spend the funds according to their own priorities. The purpose of the transfer program is set out in subsection 36(2) of the Constitution Act, 1982: “Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.”

34. Parliament has jurisdiction over international and interprovincial trade. It also has exclusive jurisdiction over customs duties, the standardization of products intended for international or interprovincial trade, export quotas and general foreign investment policy.

35. Parliament also has jurisdiction over national defence, relations with other states and the authority to enter into international treaties.

36. Other matters within Parliament’s jurisdiction include navigation and shipping, fisheries, bankruptcy regulations, Indians and lands reserved for Indians, as set out in the Constitution Act, 1867, naturalization, citizenship, criminal law, patents and copyrights, the postal service and employment insurance. Some matters such as interprovincial grain transportation and the uranium mining industry have been declared to be for the general benefit of Canada and are under federal jurisdiction.

37. Any matter that is not within the jurisdiction of the provincial/territorial legislatures is automatically assigned to Parliament. In interpreting federal and provincial powers, the courts have held that certain matters that were not originally provided for in the Constitution Act, 1867, such as air transportation, are under the jurisdiction of Parliament by virtue of its general power to make laws for the peace, order and good government of Canada in relation to all matters not assigned exclusively to the legislatures of the provinces. The courts view the general federal power as including a power to legislate in emergencies such as war or a natural disaster.

38. The provincial governments have extensive legislative powers under Canada's Constitution, including authority over property and civil rights (primarily proprietary, contractual or tortious rights), non-renewable natural resources, forest resources and electrical energy, land use planning and all matters that are local and/or private in nature. The courts have interpreted the provincial powers, especially the "property and civil rights" clause, as covering a very wide field. The Constitution does not mention labour relations specifically, but the courts have placed that subject under provincial jurisdiction, except for certain industries that are under federal jurisdiction for other purposes, such as navigation and shipping industries.

39. Provincial jurisdiction also includes education, health and social services, the establishment, maintenance and administration of hospitals and public prisons and reformatories, municipal institutions, the administration of justice in certain areas, the development and organization of provincial courts of both civil and criminal jurisdiction.

40. The provincial legislatures have the power to levy direct taxes (e.g. income taxes) within the province, to raise revenue for provincial purposes. In addition, provincial governments are given the power to levy direct and indirect taxes in relation to natural resources. They also have the power to issue licences to raise revenue for provincial or municipal purposes.

41. The Constitution assigns concurrent jurisdiction over agriculture and immigration to the provincial legislatures and Parliament. Federal legislation will generally prevail in the event of inconsistencies with provincial legislation. The provinces also share jurisdiction with the Government of Canada in relation to old age pensions.

42. The powers of the provincial legislatures are limited to those given to them by the Constitution. This means that no provincial legislature can take over powers that belong exclusively to Parliament. Similarly, Parliament cannot take over powers that belong exclusively to the provinces. Although Parliament or a provincial legislature cannot abandon its legislative powers in a given field in favour of the other level of government, Parliament can delegate powers to a provincial executive and a provincial legislature can likewise delegate powers to the federal executive.

### **Political framework and type of government**

43. Canada's political system embodies four characteristics: it is a Constitutional monarchy; a federal system; a parliamentary system based on the British model; and a representative democracy.

44. As a Constitutional monarchy, Canada's head of State is a monarch, the Queen of Canada, who is also the Queen of the United Kingdom and fourteen other realms and territories. The Crown is represented in Canada by the Governor General, appointed by Her Majesty on the recommendation of the Prime Minister, who exercises powers on her behalf. Acting generally on the advice of the Prime Minister and Cabinet, the Governor General convenes, prorogues and dissolves Parliament, appoints Ministers of the Crown, assents to federal legislation, and performs certain executive, ceremonial and military duties.

45. As a federation, Canada has two constitutionally recognized and autonomous levels of government: federal and provincial. There is a federal government for all of Canada, and a provincial government for each province. The legislative, executive and judicial powers of each level of government are defined in Canada's constitution. Each order of government is independent from the others in its realm of legislative authority. In each, there is a parliament elected by the citizens, an executive responsible to that parliament and an independent judiciary.

46. The three territorial governments exercise powers delegated by the federal Parliament, and municipalities exercise powers delegated by the provincial or territorial government.

47. In addition, Indigenous peoples have an inherent right to self-government. Self-government means that Indigenous peoples control their own affairs through Indigenous governments. Frameworks for intergovernmental relationships between Indigenous, federal and, where applicable, provincial and territorial governments, are often articulated through modern treaty or self-government agreements.

48. Canada has a parliamentary system wherein Canadian citizens elect their representatives at both levels of governments: federal and provincial/territorial. The political party that obtains the most seats is usually called upon to form the government. Proposed legislation cannot become law without the approval of the Houses of Parliament or the provincial/territorial legislature and the assent of the Governor General or the Lieutenant Governor, as the case may be.

49. The executive branch is responsible to the citizens' representatives for all of its actions and decisions. The government may be defeated in the House of Commons or the legislative assembly by a vote of non-confidence, and, in that case, the Governor General or the Lieutenant Governor may appoint another leader who can maintain the confidence of the House or Assembly, or else dissolve the House or Assembly by issuing the writs for an election. The democratic character of the political system is also assured by the separation of the judicial and executive branches.

### **Organization of the legislative, executive and judicial branches**

#### *Legislative branch*

50. Parliament is the legislative branch of the federal government. It consists of the Queen (represented by the Governor General), and two legislative chambers, the Senate and the House of Commons. Bills are debated and passed by the Senate and the House of Commons. The Governor General must also give royal assent to a bill in order for it to become a law. By constitutional convention, royal assent is always given to bills passed by the Senate and the House of Commons.

51. The composition of the House of Commons is based on the principle of representation by population: the people of each province and territory elect a number of members of Parliament that is more or less proportional to the population of the province/territory. All members are chosen by being elected in single-member constituencies on the basis of receiving the largest number of votes among candidates for election in the constituency.

52. The total number of members and the distribution of seats among the provinces and territories are revised following every decennial Census.

53. At present, there are 338 members of the House of Commons, one representative for each electoral district. Ontario has 121, Québec 78, British Columbia 42, Alberta 34, Saskatchewan 14, Manitoba 14, Nova Scotia 11, New Brunswick 10, Newfoundland and Labrador 7 and Prince Edward Island 4. The Northwest Territories, Nunavut and the Yukon have one each.

54. The Senate is a body whose members are appointed by the Governor General on the advice of the Prime Minister. The Senate has 105 members: 24 representatives from the Maritime provinces (10 from Nova Scotia, 10 from New Brunswick and 4 from Prince Edward Island), 24 from Québec, 24 from Ontario, 24 from the western provinces (6 each from Manitoba, Saskatchewan, Alberta and British Columbia), 6 from Newfoundland and Labrador, and one each from Yukon, the Northwest Territories and Nunavut. Senators hold office until they reach the age of 75.

55. The Houses of Parliament must sit at least once every 12 months. The term of a Parliament may consist of several sessions. Each session begins with a Speech from the Throne, in which the government outlines its most important policies.

56. A member who intends to present legislation (a bill) for adoption by the House of Commons asks, by motion, that the bill be introduced, receive a first reading and be printed. Normally, the bill passes this stage automatically. At a later sitting, the bill's sponsor moves second reading, which leads to debate on the basic principles of the bill only. If the vote at the end of the debate is favourable, the bill is usually sent to a legislative committee of the House to be studied clause by clause. At that stage, experts and persons or groups with an interest in the bill may be invited to address the committee. Once the committee has completed its work, it reports to the House and submits the bill to it with the amendments passed, if any. At this stage, any member has the right to present further amendments, which are debated and put to a vote. The bill's sponsor then moves third reading and passage of the

bill. If the vote is favourable, the bill is sent to the Senate, where it follows the same steps. Once it has been passed by both Houses, the bill is submitted to the Governor General for royal assent. Federal legislation comes into force at the time it receives royal assent, or later, at a date fixed in the statute or delegated by Parliament to be proclaimed in force by the government.

57. In the provinces, legislative power resides in a legislature composed of the Lieutenant Governor and the legislative assembly. There is no upper chamber. The legislative assembly bears a substantial resemblance to the House of Commons and operates in a very similar manner. The members are elected in ridings that are delineated by the legislature more or less in proportion to the population. The candidate who receives the most votes is elected. All bills must go through the various stages of the process for passage by the legislative assembly and must receive royal assent from the Lieutenant Governor before they can become law.

#### *Executive branch*

58. At the federal level, the executive power is exercised by a Governor General and, at the provincial and territorial level, by a Lieutenant Governor or Territorial Commissioner, both representing the Crown, and acting on the advice of the Prime Minister of Canada and provincial/territorial Premiers, respectively.

59. By convention, the Governor General appoints as Prime Minister the leader of the party that has secured the support of a majority of the members of the House of Commons. If no party holds a majority of seats, the leader of the party with the largest number of seats in the house will normally be offered the first chance to secure the confidence of the House. The Prime Minister is a member of the House of Commons; otherwise, by convention, he or she must be elected to the House as soon as possible.

60. After being appointed, the Prime Minister normally chooses the other members of the Cabinet from among the members of the House of Commons. Ministers can also be chosen from the Senate. A Minister who is appointed to the Cabinet and who is not a Member of Parliament will seek to become a Member at the earliest opportunity, usually by getting elected to the House of Commons in a by-election. The federal Cabinet is composed of about thirty Ministers. Most Ministers are appointed to a “portfolio”, that is, they are responsible for a specific government department such as Finance, Treasury Board, Health, Justice, National Defence, Environment, and so on. Departments may also comprise more than one portfolio, thereby having more than one Minister.

61. The Cabinet is collectively responsible to the House of Commons for its policies. This means that it may continue to govern only so long as it enjoys the confidence of a majority of the members of the House. The consequence of this principle of collective responsibility is Cabinet solidarity: each member of Cabinet must support the decisions made by the Cabinet, even if he or she personally disapproves of them, or must resign. Each Minister with a portfolio is also responsible to the House of Commons for the operations of his or her department.

62. If the government is defeated in the House of Commons on a confidence motion, the Prime Minister, in most cases, will ask the Governor General to dissolve the House of Commons and thus trigger an election. However, if no political party holds an absolute majority of the seats in the House of Commons, the Governor General has the discretionary power to ask the leader of the party that appears to be able to govern with the support of a majority of the members of the House to form a minority government.

63. Executive power in the provinces and territories is exercised by the Lieutenant Governor and Cabinet Ministers who govern as long as they have the confidence of a majority of the members of the legislative assembly. Within the provincial or territorial Cabinet, the Premier occupies the same predominant position as the federal Prime Minister. Cabinet is accountable for its policies to the legislative assembly, and, if it loses the support of a majority of the members, the Premier will ask the Lieutenant Governor to dissolve the assembly and call an election.

64. In Canada, following the British tradition, the executive branch is subject to the legislative and judicial branches. According to the principle of the rule of law, any action taken by the government and its administrative organs in relation to the individual must be authorized by law. The rule of law also means that the courts determine the legality of the actions of the administrative arm of the government.

#### *Judicial branch*

65. The basic role of courts in Canada is to resolve disputes fairly and in accordance with the law, whether the matter is between individuals or between individuals and the state. In the process, courts interpret, apply and develop laws. The courts also have an important role in interpreting and applying the Constitution.

66. Canada's court system forms the judicial branch of government.

67. The Supreme Court of Canada, which was established in 1875 by the federal Parliament and now enjoys constitutional status, is the final court of appeal for all other Canadian courts. It has jurisdiction over disputes in all areas of the law, which includes constitutional law, administrative law, criminal law and civil law. As the highest court, its decisions may determine the constitutionality of legislation or government action, including in relation to human rights and fundamental freedoms. Its jurisdiction embraces both the civil law of the province of Québec and the common law of other provinces and territories.

68. The federal court system includes the Federal Court, the Federal Court of Appeal and two specialized federally-constituted courts, the Tax Court of Canada and the Court Martial Appeal Court of Canada. The federal courts deal with certain matters specified in federal statutes, such as immigration and refugee law, national security, intellectual property, tax and maritime law. They can also deal with matters of national defence, security and international relations. Depending on the court and the issue, the federal courts have the power to hear appeals and/or review decisions, orders and other administrative actions of most federal boards, commissions and tribunals.

69. With one exception, provinces and territories have both superior and lower courts. Nunavut has unified all trial jurisdiction in the Nunavut Court of Justice, which is a superior court. Superior courts have general inherent jurisdiction, which means that they can adjudicate any matter that is not specifically assigned to another court. The superior courts are the courts of first instance for divorce petitions, civil lawsuits involving claims greater than small claims, and criminal prosecutions for indictable offences. Superior courts also have appeal jurisdiction over judgements of lower courts, and the power to judicially review administrative decisions by provincial or territorial government bodies, such as labour boards, human rights tribunals and licensing authorities.

70. The jurisdiction of lower courts is limited to those matters which are permitted by provincial or territorial statute. Both provincial superior and lower courts have the power to rule on the constitutionality of legislation.

71. Each province and territory has a superior trial court and a court of appeal. These courts are constituted by the provincial or territorial legislature, but their members are appointed and paid by the Government of Canada. Lower provincial and territorial courts, including municipal courts, are also created by the provincial and territorial legislatures but the members are appointed and paid by the provincial and territorial governments.

72. The provincial and territorial courts can determine matters of both federal and provincial/territorial law, other than matters specifically assigned to a federal court, and there is no distinction at the superior court level between constitutional, administrative, criminal and civil jurisdiction. The integration is further reflected in the fact that all cases, whether arising under federal or provincial law, may end up in the same final appeal court, the Supreme Court of Canada.

73. The independence of the judiciary and its separation from the legislative and executive branches of government is a cornerstone of the Canadian judicial system and guarantees that judges act independently of government in interpreting and applying the law. The courts operate independently of the federal and provincial legislative bodies and governments. The *Constitution Act, 1867* adopted the judicial independence features that had been inherited

from the United Kingdom. The Charter has also been interpreted so as to protect judicial independence.

74. Financial security and security of tenure are crucial aspects of judicial independence. Judges' salaries are established by law and are not subject to arbitrary interference by the executive. According to the Constitution, judges of the superior courts have security of tenure until the age of 75 years. Retirement age for provincial and territorial court judges varies across the country. Administrative independence is the third component of judicial independence in Canada. It ensures judicial control over matters that go to the core of the judicial function, such as the assignment of judges and the scheduling of hearings.

75. The Commissioner for Federal Judicial Affairs Canada (CFJA) is responsible for the administration of the judicial appointments process on behalf of the Minister of Justice. The Commissioner is expected to carry out these responsibilities in such a way as to ensure that the system treats all candidates for judicial office fairly and equally. The CFJA's appointments secretariat administers 17 advisory committees across Canada, which are responsible for evaluating candidates for federal judicial appointments. There are similar committees established at the provincial level for provincial/territorial appointments.

76. Each jurisdiction in Canada has a judicial council which has general responsibility for promoting professional standards and conduct, investigating complaints against judges received from the public, and may recommend that a judge be removed from the bench if necessary. At the federal level, the recommendation is received by the Minister of Justice. The procedure for removing a superior court judge in Canada is on address to the Governor General by the Senate and House of Commons. Provincially and territorially appointed judges can, in most provinces and territories, be removed by the relevant Cabinet or legislature following recommendations made by the provincially- or territorially-created judicial council.

77. The Canadian Judicial Council's mandate is to promote efficiency, uniformity, and accountability, and to improve the quality of judicial service in superior courts of Canada. As part of its mandate, the Council, reviews complaints or allegations of misconduct against federally-appointed judges. It consists of the chief and associate chief justices of all of the federal courts and provincial/territorial superior courts. The Council has developed a set of Ethical Principles for Judges, designed to assist judges in maintaining their independence, integrity and impartiality.

### **Territorial governments**

78. The legislative, executive and judicial powers exercised in Canada's three territories, the Northwest Territories, the Yukon and Nunavut, are contained in the Northwest Territories Act, the Yukon Act and the Nunavut Act, respectively, which are federal statutes. The increasing devolution of powers from the federal government to the territorial governments is incrementally transforming their status within Confederation to one that approaches the status of the provinces.

### **Indigenous governments**

79. In Canada, certain services and administration for on-reserve First Nations communities are executed by Indian Bands, which operate pursuant to the Indian Act and related legislation. Additionally, there are Indigenous groups (First Nations, Métis and Inuit) that have self-governing authority articulated through a modern agreement negotiated with the federal and provincial or territorial governments. These agreements establish Indigenous governments that are primarily responsible to their citizens, as well as establish a framework for intergovernmental relationships between Indigenous, federal and, where applicable, provincial and territorial governments. These governments exercise control and law-making authority over a comprehensive range of areas, including governance, social and economic development, education, health and lands. The federal government and Indigenous groups, together with the relevant province or territory, are continuing to negotiate self-government arrangements with interested Indigenous groups.

### **Municipalities**

80. Canada's approximately 5,000 municipalities (cities, towns, villages and metropolitan regions) are created by provincial or territorial laws and have such powers as the legislatures deem are required for local governance. Mayors and municipal councillors are elected in accordance with provincial or territorial electoral laws. Municipalities are responsible for a variety of local matters and services such as water supply, sewage and garbage disposal, roads, sidewalks, street lighting, building codes, parks and playgrounds.

### **Non-governmental organizations**

81. Canada benefits from a vibrant, active and independent civil society, Non-governmental organizations (NGOs) operate freely in Canada and play an important role in the protection and promotion of human rights. Among other things, they monitor governmental activities, help individuals obtain redress in cases of violations of human rights and carry out educational programs.

82. Federal, provincial and territorial governments support and regulate NGOs in a variety of ways. NGOs may receive funding from all levels of government and provide services on their behalf.

83. Some NGOs in Canada operate as charities. The Canada Revenue Agency (CRA), the federal agency that regulates tax laws, registers charities in Canada under the Income Tax Act. Registered charities are tax exempt and may issue official donation receipts to reduce their tax liability.

84. To be registered as a charity with the CRA, applicants must reside in Canada, have exclusively charitable purposes, engage in activities that further their purposes, operate without purpose of gain for their members, and only incidentally provide a private benefit to any other individual or group. The CRA also monitors Canada's registered charities to ensure they continue to comply with Income Tax Act, which contains provisions and reporting requirements concerning registered charities' business, political, fundraising, and other activities.

85. Under the *Income Tax Act*, non-profit organizations are associations, clubs, or societies that are not charities. They must be organized and operated exclusively for social welfare, civic improvement, pleasure, recreation, or any other purpose except profit. While non-profit organizations are tax exempt, the CRA does not register them and they do not have receipting privileges.

## **III. General Framework for the Protection and Promotion of Human Rights**

### **C. Acceptance of International Human Rights Norms**

86. Canada has adhered to seven UN human rights treaties and five Optional Protocols, set out below with reservations and interpretative declarations listed. Details on these treaties, including the full text of reservations and declarations as well as additional information on Canada's acceptance of international human rights norms, are contained in Annex A. At present, all of the reservations are considered necessary to ensure Canada's compliance with the relevant treaty.

- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified in 1970;
- International Covenant on Civil and Political Rights (ICCPR), acceded to in 1976;
- Optional Protocol to the International Covenant on Civil and Political Rights (OP-ICCPR), acceded to in 1976;
- International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to in 1976;

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified in 1981;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified in 1987;
- Convention on the Rights of the Child (CRC), ratified in 1991. Reservation: Article 12(2) and Article 37(c); Statement of understanding: Article 30;
- Optional Protocol on the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OP-CRC-AC), ratified in 2000;
- Optional Protocol on the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW), acceded to in 2002;
- Optional Protocol on the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OP-CRC-SC), ratified in 2005;
- Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty (OP2-ICCPR), acceded to in 2005;
- Convention on the Rights of Persons with Disabilities (CRPD), ratified in 2010. Reservation: Article 12 (2), (3) and (4); Declarations: Articles 12 and 33(2);
- Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD), acceded to in 2018.

#### **D. Legal Framework for the Protection of Human Rights**

87. The protection of human rights in Canada is founded on a system of representative and responsible government, constitutional guarantees, statute law, including specialised human rights legislation, the common law and an independent judiciary.

88. The legislative, executive and judicial branches of government, at all levels of government in Canada, share responsibility for the protection of human rights and implementing international human rights treaty obligations. Relevant legislation is enacted by Parliament and the provincial and territorial legislatures. Numerous departments and agencies work within the executive branch to formulate policies and programs and take into account Canada's human rights obligations in their work.

##### **Responsible government**

89. Under Canada's system of responsible government, the government must be responsive to its citizens. Cabinet Ministers are both individually and collectively accountable to Parliament for all of Cabinet's decisions and for carrying out the policies established by it. Individually, Ministers are accountable for the exercise of their powers, including for the running of their departments. The Government derives its authority from the Canadian people. Individuals and civil society may bring to notice areas in which human rights and fundamental freedoms are in need of further protection.

90. Parliamentary Standing Committees review proposed legislation and, where mandated, scrutinise departmental operations and expenditures and the effectiveness of the policies and programs of the department. A number of committees have permanent orders of reference that give rise to subject matter studies. The Standing Committee on Justice and Human Rights has the power to review proposed amendments to federal legislation relating to human rights law, criminal law, family law and the administration of justice. The Committee may also undertake studies on subjects related to its mandate. In the course of a study, the Committee holds public meetings, considers evidence from witnesses, and reviews written submissions and other authoritative documents.

91. The Senate Standing Committee on Human Rights was established in 2001 to examine and monitor issues of human rights, including Canada's domestic and international human rights obligations, and ensure that federal legislation and policies are properly applied and adhere to the Charter and the Canadian Human Rights Act.

92. The Standing Joint Committee for the Scrutiny of Regulations is mandated to examine whether delegated or subordinate legislation is in conformity, among other things, with the Charter and the Canadian Bill of Rights for the purpose of alerting the House of Commons and the Senate to matters of legality and procedural aspects of regulations.

## **Constitutional guarantees and Bill of Rights**

### **Canadian Charter of Rights and Freedoms**

93. The Charter guarantees the following rights and freedoms:

- Fundamental freedoms of conscience and religion, of thought, belief, opinion and expression (including freedom of the press and other media), of peaceful assembly and of association (section 2);
- Democratic rights (right to vote and to qualify for election to the federal house of commons or provincial legislative assembly; there must be elections to the house of commons and provincial legislatures at least every five years, and parliament and the legislatures must sit each year) (sections 3-5);
- Mobility rights (right to enter, remain in and leave Canada (section 6 (1)), and to take up residence and earn a living in any province (section 6 (2) and (3));
- Right to life, liberty and security of the person, and the right not be deprived thereof except in accordance with the principles of fundamental justice (section 7);
- Various rights relating to the legal process, including the right to be secure against unreasonable search and seizure, rights on arrest or on being charged with an offence, the right not to be subjected to cruel and unusual treatment or punishment, the right against self-incrimination and the right to an interpreter (sections 8-14);
- The right to equality before and under the law, and the right to the equal benefit and protection of the law without discrimination, and in particular without discrimination on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability (the courts have interpreted this article to include other analogous grounds) (section 15); and
- Recognition of French and English as the two official languages of Canada (sections 16-22); and minority-language educational rights (section 23).

### *Interpretation*

94. The Charter also contains the following interpretive provisions:

- The guarantee of Charter rights and freedoms should not be construed so as to abrogate or derogate from any Aboriginal, treaty or other rights or freedoms pertaining to the Aboriginal peoples of Canada (section 25);
- The guarantee in the Charter of certain rights and freedoms shall not be construed as denying the existence of other rights and freedoms existing in Canada (section 26);
- The Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians (section 27);
- Charter rights and freedoms are guaranteed equally to male and female persons (section 28); and
- The Charter does not abrogate or derogate from Constitutional rights or privileges pertaining to denominational, separate or dissentient schools (section 29).

95. Furthermore, in its reasons for judgment in cases involving the Charter, the Supreme Court of Canada has developed rules of interpretation that have shaped the development of Charter jurisprudence. According to the purposive approach, the courts consider the purpose of guaranteeing a right or freedom in determining its scope. According to the contextual approach, they consider the particular social, political and legal context in which the Charter question arises in deciding whether and how the Charter applies in the circumstances.

*Scope of application*

96. Some rights guaranteed in the Charter (electoral rights in section 3, mobility rights in section 6 (1) and minority-language educational rights in section 23) are guaranteed only to Canadian citizens. Mobility rights in section 6 (2) and (3) are also extended to permanent residents. For the most part, however, rights are guaranteed to “everyone”, “every individual” or “anyone”, so that they pertain to all persons within Canada.

97. As per section 32, the Charter applies to federal, provincial and territorial legislatures and governments ensuring the protection of individuals from violations of their human rights and fundamental freedoms by government. Section 32 has been interpreted by the courts to apply to the full range of governmental activities, including administrative practices of officials and the acts of the executive branch of government, as well as to enactments of Parliament or the legislatures. The Charter also applies to the exercise of delegated legislative authority (for example, by municipalities) and to non-governmental actors where, in view of factors such as the degree of governmental control, they may be regarded as engaged in government action.

*Limitations and derogations*

98. Some provisions of the Charter contain their own express or implied limitations. For example, section 8 protects everyone from “unreasonable” search and seizure, and the guarantee of freedom of expression in section 2(b) has been interpreted as not to extend to violent expression. No one may be deprived of the rights to life, liberty and security of the person guaranteed by article 7, except in accordance with principles of fundamental justice.

99. Section 1 of the Charter defines the circumstances in which Charter rights and freedoms may be limited. It states that they are subject “...only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”. The Supreme Court of Canada has indicated that, for a limit to meet the requirements of section 1, it must serve an objective of sufficient importance and employ proportionate means to attain it. In particular, the means must be rationally connected with the objective, impair the Charter right or freedom as little as possible, and have an impact that is proportional to the objective in question. The Supreme Court has also stated that the onus is on the government defending a limit on Charter rights to establish compliance with section 1, after an applicant has established one or more rights or freedoms set out in the Charter have been limited.

100. Section 33 of the Charter permits Parliament or a provincial or territorial legislature to declare that a statute, or a provision of it, shall operate notwithstanding section 2 (fundamental freedoms), sections 7 to 14 (legal rights) or section 15 (equality rights) of the Charter. Such a declaration automatically ceases to have effect after five years, but it may be re-enacted. Section 33 has no application to the Charter’s democratic rights, mobility rights, official-language rights and minority-language educational rights, but otherwise preserves the tradition and essential supremacy of Parliament.

101. The federal *Emergencies Act*, which enables the Governor in Council to adopt extraordinary measures in emergency situations, does not authorize derogations from rights set under the Charter. The Preamble to the *Emergencies Act* states that, in adopting such measures, the Governor in Council is subject to the Charter and the *Canadian Bill of Rights*, and must have regard to the *International Covenant on Civil and Political Rights*, “particularly with respect to those fundamental rights that are not to be limited or abridged even in a national emergency”. Furthermore, article 4 (b) of the *Emergencies Act* provides that it confers no authority on the Governor in Council to make orders or regulations for the detention, imprisonment or internment of Canadian citizens or permanent residents on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.

*Section 4.1 of the Department of Justice Act*

102. The Minister of Justice and Attorney General of Canada plays a fundamental role in seeing that the administration of public affairs at the federal level is in accordance with the law. An aspect of the Minister’s general duty is the requirement imposed by subsection 4.1(1) of the Department of Justice Act, which obliges the Minister of Justice to examine every

government bill to ascertain whether any of its provisions are inconsistent with the Charter and to report any such inconsistency to the House of Commons at the first convenient opportunity. December 2018 amendments to the Department of Justice Act will require that the Minister of Justice cause to be tabled, for every government Bill introduced in either House of Parliament on or after December 13, 2019, a statement of the Bill's potential effects on the rights and freedoms guaranteed by the Charter. The purpose of the Charter Statement is to inform members of the Senate and the House of Commons as well as the public of those potential effects.

### **Bills of Rights**

103. In 1960, Parliament enacted the Canadian Bill of Rights. It applies to legislation and policies within federal jurisdiction, and guarantees rights and freedoms similar to those found in the Charter and the International Covenant on Civil and Political Rights. This includes some rights not explicitly found in the Charter, such as property rights and procedural fairness rights. Federal laws that infringe the Canadian Bill of Rights are to that extent inoperative, unless the law in question states that it operates notwithstanding the Canadian Bill of Rights. There are very few cases of laws having been declared inoperative because of inconsistency with the Canadian Bill of Rights, unlike the many successful actions brought on the basis of the Charter since its enactment in 1982.

104. The Alberta Bill of Rights was enacted in 1972 to ensure that the rights and freedoms protected at the federal level in the Canadian Bill of Rights receive similar protection in matters within the province of Alberta's jurisdiction. The Alberta Bill of Rights guarantees due process rights, equality rights and the fundamental freedoms (religion, speech, assembly and association, and freedom of the press). In 1975, Québec adopted a Charter of Human Rights and Freedoms, a quasi-constitutional law to protect fundamental rights and freedoms within its jurisdiction.

### **Constitutional and legal framework related to Indigenous peoples**

#### *Indigenous peoples*<sup>96</sup>

105. Section 35 of the Constitution Act, 1982 recognizes and affirms Aboriginal and treaty right of the "Aboriginal peoples of Canada", which include: First Nations, Métis and Inuit.<sup>97</sup> Indigenous peoples are diverse and possess unique histories, languages, cultural practices and spiritual beliefs. In 2016, according to the 2016 Census, there were 1,673,785 Indigenous people in Canada, accounting for 4.9% of the total population. This was up from 3.8% in 2006 and 2.8% in 1996.

106. First Nations people possess a rich cultural heritage of diverse languages, histories and homelands. There are more than 600 First Nations/Indian Bands in Canada. The First Nations population includes those who are members of a First Nation/Indian Band and those who are not, as well as those with and without registered or treaty Indian status under the *Indian Act*.

107. According to the 2016 Census, the number of First Nations people with registered or treaty Indian status under the *Indian Act* rose by 30.8% from 2006 to 2016. There were 744,855 First Nations people with registered or treaty Indian status in 2016, accounting for just over three-quarters (76.2%) of the First Nations population. The other 23.8%, which did not have registered or treaty Indian status, has grown by 75.1% since 2006 to 232,375 people in 2016. Among the 744,855 First Nations people with registered or treaty Indian status, 44.2% lived on reserve in 2016, while the rest of the population lived off reserve. There was growth for both on reserve (+12.8%) and off reserve (+49.1%) First Nations populations from 2006 to 2016.

108. Métis, who can trace their descendants to mixed First Nations and European heritage, hold a unique cultural and historic place among the Indigenous peoples, with distinct traditions and culture. According to the 2016 Census, there were 587,545 Métis in Canada in

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<sup>96</sup> Statistics Canada. Aboriginal peoples in Canada: Key results from the 2016 Census.

<sup>97</sup> Section 35 of the *Constitution Act, 1982*.

2016, accounting for 1.7% of the total population. The population that identifies as Métis is present across Canada.

109. Inuit are the original people of the North American Arctic. In Canada, Inuit have inhabited communities stretching from the westernmost Arctic to the eastern shores of Newfoundland and Labrador for uncounted generations. This area, known as Inuit Nunangat, refers not only to the land, but also to the surrounding water and ice, which Inuit consider to be integral to their culture and way of life. According to the 2016 Census, there were 65,025 Inuit in Canada in 2016, up 29.1% from 2006 and close to three-quarters (72.8%) of Inuit lived in Inuit Nunangat.

#### *Constitutional rights*

110. Section 35 of the Constitution Act, 1982 recognizes and affirms the Aboriginal and treaty rights of the “Aboriginal peoples of Canada”, which are collective in nature. All levels of government – federal, provincial, territorial, municipal and Indigenous – are obliged to respect Aboriginal and treaty rights and can be held accountable by the courts for failures to respect these rights. Canadian courts have determined that Aboriginal and treaty rights are group and site specific, meaning that different Indigenous groups may have different rights.

111. In limited circumstances, governments can infringe Aboriginal and treaty rights if it is justified according to a stringent legal test, and upholds the honour of the Crown.

112. The honour of the Crown is a constitutional principle that requires the Crown to hold itself to a high standard in all its dealings with Indigenous Peoples. It gives rise to different duties in different circumstances, including the common law duty to consult. The duty to consult is triggered when the Crown contemplates conduct that might adversely impact asserted or established Aboriginal or treaty rights recognized and affirmed under section 35 of the Constitution Act, 1982.

#### *Aboriginal rights*

113. Constitutionally-protected Aboriginal rights generally reflect practices, customs or traditions integral to the distinctive culture of the Indigenous group claiming the right and have a demonstrated connection with the practices, customs and traditions that existed prior to contact with European society; and are also of central significance to the Indigenous group in question (including activities as hunting, fishing, trapping).

114. Aboriginal title is a category of Aboriginal rights to the exclusive occupation and use of land. Aboriginal title is a right in the land itself, not just the right to carry out activities on it.

#### *Aboriginal treaty rights*

115. A section 35-protected treaty right is the result of negotiation and agreement between the Crown (government) and an Indigenous group. A treaty right may be found in a historic treaty or a modern treaty, which are solemn agreements between the Crown and Indigenous communities.

#### *Historic treaties*

116. Between 1700 and 1923, some 70 historic treaties were concluded between the Crown and Indigenous groups. These treaties cover approximately 50 percent of Canada and are situated in nine provinces and three territories. There are two main types of historic treaties: treaties for peace and friendly and land cession treaties. The content of historic treaties varies and may include provisions relating to the creation of Indian reserves, educational assistance, payments of annuities and guarantees of rights to hunt, fish and trap.

#### *Modern treaties*

117. The modern treaty making period began in the 1970s. Since then, Canada has negotiated and finalized 26 modern treaties that cover approximately 40 percent of Canada (in northern Québec, Labrador, British Columbia and the Territories). While the content of modern treaties varies, they usually address matters such as compensation, ownership of lands, fisheries and wildlife harvesting rights, participation in land and resource management,

resource revenue sharing as well as measures to promote economic development and preserve Indigenous culture. Many agreements also include provisions relating to Indigenous self-government.

*Additional elements of the legal framework*

118. Relationships built on colonial structures have contributed to the unacceptable socio-economic gap between Indigenous and non-Indigenous peoples in Canada. While day-to-day realities in Indigenous communities must continue to be addressed directly, there must also be a path to systematic change. The creation of two new departments [Crown-Indigenous Relations and Northern Affairs and Indigenous Services Canada], in cooperation with Indigenous peoples, is intended to guide the Government's forward-looking and transformative work to create a new relationship with Indigenous peoples. This work is part of the unfinished business of Confederation and is critical to the success of Canada as a whole. This ongoing work will also be informed by the United Nations Declaration on the Rights of Indigenous Peoples, for which Canada expressed full support without qualification in 2016.

119. In 2016, the Supreme Court of Canada determined that the term "Indians" for purposes of Canada's law-making powers under section 91(24) includes all Aboriginal peoples in Canada including Métis and non-status Indians.

120. Section 91(24) is the constitutional basis for the Indian Act, which remains the principal statute through which federal jurisdiction in relation to reserve lands and status Indians living on the reserve lands is exercised. Indian status is the legal status of an Indigenous person who is registered as an Indian under the Indian Act. Under the Indian Act, status Indians may be eligible for a range of benefits, rights, programs and services offered by the federal and provincial or territorial governments.

121. Over the past decade, recognizing the colonial and discriminatory history of the *Indian Act* and the need for ongoing reform in this area, the Government of Canada has been working collaboratively with First Nations governments and Indigenous organizations to bring about much-needed changes.

122. For example, the 2011 repeal of article 67 of the Canadian Human Rights Act, which prevented persons, often Indigenous women and persons living or working on Indian reserves, from making complaints of discrimination arising from actions taken or decisions made pursuant to the Indian Act. Also in 2011, Canada introduced the Family Homes on Reserves and Matrimonial Interests or Rights Act, the goal of which is to ensure that people living on reserve lands have similar rights and protections as other Canadians with regard to matrimonial property and interests. In 2012, Canada announced the introduction of the Safe Drinking Water for First Nations Act aimed at helping to protect drinking water on reserve lands.

123. In 2017, Bill S-3, An Act to amend the Indian Act in response to the Superior Court of Quebec decision in *Descheneaux c. Canada (Procureur général)* came into force. The legislative amendments eliminate sex-related historical inequities in the registration provisions of the Indian Act.

124. Additionally, the First Nations Land Management Act, a federal law enacted in 1999, provides eligible First Nations greater authority to make laws in relation to their reserve lands, resources and the environment.

**Protection in human rights codes and other legislation**

125. A comprehensive anti-discrimination legislative framework exists at all levels of government, each having a human rights commission and/or tribunal. Although the functions of these bodies vary, common functions include:

- The determination or conciliation of complaints of discrimination brought under legislation operating in the particular jurisdiction, and
- Developing and conducting human rights education and awareness initiatives.

126. The following chart lists the human rights legislation, tribunals and commissions of the federal, provincial and territorial governments.

<i>Jurisdiction</i>	<i>Human Rights Codes and Legislation</i>	<i>Human Rights Tribunals and Commissions</i>
Canada	Canadian Human Rights Act	Canadian Human Rights Commissions Canadian Human Rights Tribunal
British Columbia	Human Rights Code	B.C. Human Rights Tribunal
Alberta	Alberta Human Rights Act Alberta Bill of Rights	Alberta Human Rights Commission
Saskatchewan	The Saskatchewan Human Rights Code	Saskatchewan Human Rights Commission
Manitoba	The Human Rights Code	Manitoba Human Rights Commission
Ontario	Human Rights Code	Ontario Human Rights Commission Human Rights Tribunal of Ontario
Québec	Charte des droits et libertés de la personne	Commission des droits de la personne et des droits de la jeunesse Human Rights Tribunal
New Brunswick	Human Rights Act	New Brunswick Human Rights Commission
Nova Scotia	Human Rights Act	Nova Scotia Human Rights Commission
Prince Edward Island	Human Rights Act	Prince Edward Island Human Rights Commission
Newfoundland and Labrador	Human Rights Act, 2010	Newfoundland and Labrador Human Rights Commission
Yukon	Human Rights Act	Yukon Human Rights Commission
Northwest Territories	Human Rights Act	Northwest Territories Human Rights Commission
Nunavut	Human Rights Act	Nunavut Human Rights Tribunal

#### **Human rights codes and legislation**

127. All governments in Canada – federal, provincial and territorial – have adopted legislation prohibiting discrimination on various grounds in regard to employment matters, the provision of goods, services and facilities customarily available to the public, and accommodation. This legislation differs in its application from the right to equality in section 15 of the Canadian Charter of Rights and Freedoms in that it provides protection against discrimination by individuals in the private sector, as well as by governments.

128. Generally, human rights codes prohibit discrimination on the following grounds: race or colour; religion or creed; age; sex; sexual orientation; gender identity or expression; family or marital status; physical or mental handicap or disability; national or ethnic origin and ancestry or place of origin. Some codes include other prohibited grounds of discrimination such as political belief, association, pardoned conviction, record of criminal conviction, source of income, and others.

129. The Supreme Court of Canada has stated that anti-discrimination legislation is to be interpreted by Canadian courts and tribunals in a manner that will advance its broad purpose of ensuring equality of opportunity for individuals.

130. Thus, the Supreme Court has indicated that human rights codes normally take precedence over other legislation. In other words, discriminatory practices may be subject to challenge under such codes, even if they are apparently authorized by other legislation. Furthermore, the Supreme Court has held that human rights legislation precludes adverse-effect discrimination, as well as direct discrimination. If policies or practices have an adverse impact on groups protected by human rights codes, they may be found to be discriminatory, even if they do not involve intentional discrimination, or expressly draw distinctions on the basis of prohibited grounds. In regard to adverse-effect discrimination, employers, for example, have a duty to make reasonable accommodation for the needs of those protected by the law. The duty of reasonable accommodation requires that employers make a genuine effort, except where it would cause undue hardship, to accommodate the special needs of members of protected groups, even if doing so may cause minor inconvenience to other employees.

131. Human rights codes permit distinctions on the basis of prohibited grounds of discrimination in the employment area, if they are based on bona fide and reasonable occupational qualifications or requirements, and in the provision of services, facilities and accommodation, if the distinctions have a bona fide and reasonable justification. For example, in employment matters, the Supreme Court of Canada has defined the bona fide occupational requirement as one imposed in good faith and related, in an objective sense, to the performance of the work involved.

132. Some provincial and territorial human rights codes also protect a range of freedoms. For example, the Saskatchewan Human Rights Code guarantees the freedoms of conscience, expression and association, freedom from arbitrary imprisonment and the right to participate in elections. The Human Rights Act of the Yukon Territory guarantees freedoms of religion and conscience, expression, assembly and association, and the right to enjoyment and disposition of property, in accordance with the law. In Québec, the Charter of Human Rights and Freedoms guarantees fundamental freedoms and rights such as freedom of religion, the right to life and the right to respect of one's privacy. It also recognizes the right to equality in the recognition and application of freedoms and political, judicial, economic and social rights. Article 50.1 states that the rights and freedoms set out in the Charter are guaranteed equally to men and women. Article 9 (1) of the Québec Charter states that, in exercising fundamental rights and freedoms, a person shall maintain a proper regard for democratic values, public order and the general well-being of the citizens of the province, and that in this respect, the scope of the rights and freedoms, and limits on their exercise, may be set by law.

### **Freedom of information and privacy legislation**

133. Statutes on freedom of information and privacy exist at both the provincial/territorial and federal level. These help protect individuals' right to privacy (vis-à-vis both public- and private-sector entities), and provides a right of access to information that is in the custody or control of government.

### **Common law protections**

134. Certain common law protections, such as procedural fairness and property rights, have a long history in Canada. Common-law actions such as libel can also be used to obtain redress for violations of one's rights by other individuals or by the government.

## The domestic human rights system

### Human rights treaties and the domestic legal system

135. Treaties, including international human rights instruments, adhered to by Canada are not self-executing and require legislative implementation to be directly applicable in Canadian law. Therefore, the treaties are not subject to direct enforcement in Canadian courts. Accordingly, those alleging violations rely on the various domestic remedial avenues available for breaches of relevant domestic law, including domestic human rights laws.

136. Prior to becoming a party to an international human rights treaty, all levels of government in Canada review their laws, policies and practices to determine whether they meet the treaty obligations, or whether new measures may be required to ensure full and effective implementation of the treaty. Where existing legislation and policies fulfill the obligations under the treaty, no new measures are required. On occasion, legislation may be amended or new laws enacted to ensure compliance with the treaty. After ratification, these issues are taken into account in drafting future legislation where relevant.

### Federal-provincial/territorial coordinating mechanisms

137. All governments in Canada share a high level of engagement and similar priorities with respect to the promotion and protection of human rights. Governments work cooperatively within and between levels of government to find locally-appropriate solutions to human rights concerns.

138. In 1975, the Continuing Committee of Officials on Human Rights (CCOHR) was established at a federal-provincial ministerial conference on human rights, which was held to create a process for the ratification and implementation of certain treaties. Composed of representatives from the federal government and all provincial and territorial governments, the CCOHR continues its work as the principal intergovernmental body responsible for consultation and information sharing among governments in Canada with respect to the adherence to and domestic implementation of international human rights treaties.

139. The mandate of the CCOHR is to:

- Serve as a consultation mechanism among governments on domestic or international human rights questions related to international human rights instruments, mechanisms and events;
- Encourage information exchange among governments with respect to the interpretation and implementation of international human rights instruments;
- Provide views with respect to the development of Canada's positions on the elaboration of new international human rights instruments and, where appropriate, on other international human rights issues or related events;
- Facilitate Canada's international human rights reporting on the domestic implementation of international human rights instruments, including its participation in appearances before UN human rights bodies and discussion within and between governments with respect to recommendations Canada receives;
- Engage with civil society and Indigenous organizations on matters related to international human rights reporting and instruments;
- Provide general information to the public about its work in relation to international human rights instruments; and
- Support and ensure follow-up to decisions of federal-provincial/territorial senior officials and ministers responsible for human rights.

140. There are also many federal-provincial/territorial committees and mechanisms with mandates relating to matters that impact Canada's implementation of its treaty obligations, including health, public safety, social development and persons with disabilities. For example:

- Through the Federal-Provincial/Territorial Forum of Ministers Responsible for the Status of Women, governments have a platform for sharing information on current initiatives, future priorities, best practices and challenges related to gender equality;
- The Federal-Provincial/Territorial Persons with Disabilities Advisory Committee provides evidence-based policy advice and options to federal, provincial and territorial deputy ministers on disability issues and collaborates on research, analysis and development of options for addressing issues impacting the disability community in Canada. Additionally, the Federal-Provincial/Territorial Network of Offices for Disability Issues and Premiers' Councils is an informal platform for sharing information, best practices and stakeholder views among governments and appointed bodies responsible for advising decision-makers on disability policy;
- The Family Law Committee of federal/provincial/territorial officials meets regularly to develop and co-ordinate family law policy and advise deputy ministers;
- A number of federal/provincial/territorial committees also meet regularly to discuss criminal justice issues, such as the Coordinating Committee of Senior Officials (Criminal Justice), the Working Group on Aboriginal Justice, the Working Group on Victims of Crime, and the Federal-Provincial-Territorial Permanent Working Group on Legal Aid.

### **Judicial consideration of Canada's international obligations**

141. International treaties that Canada has ratified can inform the interpretation of domestic law. This doctrine is of particular importance in the context of the Canadian Charter of Rights and Freedoms. Human rights treaties are relevant in determining the scope of rights protected by the Charter.

142. Through their relevance to the interpretation of human rights protections in the Charter and under domestic law, these international treaties are considered by the courts when the validity of legislation under the Constitution must be determined.

143. Canadian courts also refer to relevant provisions of treaties to which Canada has adhered to interpret ordinary (non-Constitutional) legislation, such as the Immigration and Refugee Protection Act or the Criminal Code, and administrative action. For example, courts will interpret ordinary legislation as though the legislature intended to comply with Canada's treaty obligations, absent a clear intention to the contrary.

### **Remedies for violations of human rights**

#### **Remedial avenues for human rights violations**

144. In Canada, various modes of redress for human rights violations are available, depending on the nature of the right infringed and the form of remedy sought. Relevant authorities include the courts, statutory bodies created to administer particular legislation (variously known as commissions, boards, committees or tribunals) and ombudspersons.

145. The courts in Canada have jurisdiction to determine whether there have been violations of the Charter. Violations of the Charter are frequently brought to the attention of the courts in the course of criminal trials, where they may lead to a stay of the charges if established. Individuals may also make a civil claim alleging a Charter violation. Many statutes relevant to the implementation of human rights involve recourse to the courts, e.g. child-protection legislation, and, in Québec, the Civil Code and the Charter of Human Rights and Freedoms. The courts also decide actions based on the common law and have an inherent jurisdiction over children and other persons unable to protect themselves, known as the *parens patriae* jurisdiction, which is of particular relevance in the context of the Convention on the Rights of the Child. The courts also play a role in reviewing decisions of boards and tribunals.

146. The primary means of enforcing human rights codes and legislation (dealing mainly with discrimination) is through the human rights commissions or tribunals established under them. Human rights commissions have a role to play in identifying human rights issues and

concerns. Many of them have been given various degrees of responsibility for overseeing implementation of equality rights, covered in their respective human rights acts. Individuals who allege a violation of their equality rights may file complaints with the appropriate commission. These complaints are investigated, and there may be a conciliation process. If necessary, a board of inquiry or human rights tribunal determines the legal merits of the complaint.

147. Other legislation, particularly in the social and economic areas, may establish statutory bodies to consider complaints relating to its administration. Administrative tribunals and boards deal with disputes over the interpretation and application of laws and regulations, such as entitlement to employment insurance or disability benefits, and refugee claims. Where the administrative boards or tribunals have jurisdiction to decide questions of law, they are presumed to have jurisdiction to decide the constitutional validity of a legislative provision and grant Charter remedies, as well as the power to decide discrimination matters under anti-discrimination legislation. Administrative tribunals are less formal than courts and are not part of the court system. However, they play an essential role in resolving disputes in Canadian society. Decisions of administrative tribunals may be reviewed in court to ensure that tribunals act fairly and according to the law. For example, at the federal level, the Veterans Review and Appeal Board hears complaints from veterans regarding determinations of entitlement to pensions, and, at the provincial level, in Manitoba, the Social Services Appeal Board considers complaints regarding entitlement to social assistance under The Manitoba Assistance Act.

148. In most provincial jurisdictions, police commissions or similar bodies have been established to review complaints against the police. Increasingly, these bodies operate independently of the police. The independent Civilian Review and Complaint Commission for the RCMP deals with complaints against the Royal Canadian Mounted Police (Canada's national police force) and the Office of the Correctional Investigator reviews complaints from detainees in federal penitentiaries.

149. Most provinces and territories have created the position of Ombudsperson. Although the duties of an ombudsperson vary from one jurisdiction to the next, generally the ombudsperson has the duty and power to investigate complaints against departments or agencies of the relevant government. The decisions of the ombudsperson are passed on to the government in the form of recommendations and are made public. Independence is an important attribute of this officer, who reports annually to the legislature.

150. The Government of Canada has established positions of a similar nature in certain areas within its jurisdiction. There is a Commissioner to review complaints under each of the following acts: the Official Languages Act, the Privacy Act, the Access to Information Act and the Public Servants Disclosure Protection Act. In Québec, the Commission d'accès à l'information has a similar role in applying the Act respecting Access to Documents Held by Public Bodies and the Protection of Personal Information.

### **Available remedies**

151. The following section outlines the nature of the remedies available, pursuant to the principal sources of legal protection of human rights in Canada: the Canadian Charter of Rights and Freedoms, human rights codes, penal and other legislation, the common law and, in Québec, the Civil Code.

#### *Canadian Charter of Rights and Freedoms*

152. Section 52 of the Constitution Act, 1982, provides that the Constitution of Canada is the supreme law of Canada, and that any law inconsistent with it is of no force and effect, unless Parliament or the legislature of a province invokes the constitutional provision set out in article 33 of the Charter in accordance with the terms of that provision. Thus, if a challenge based on the Charter is successful, the courts may declare a law of no force and effect. The Supreme Court of Canada has stated that in certain circumstances, it may temporarily suspend a declaration of invalidity to permit the legislature to amend the law, or the court may reformulate the provision, so as to render it consistent with the Charter. Depending on the proper interpretation of their empowering statutes, administrative boards and tribunals may

also have jurisdiction under section 52 to declare a law inoperative for purposes of the case at hand.

153. Section 24 of the Charter permits anyone whose Charter rights have been infringed or denied to apply to a court of competent jurisdiction for an appropriate and just remedy. This article has been interpreted liberally to include remedies for future Charter violations, such as injunctions, and further to include the range of remedies available in the court where the action is brought – for example, the granting of an order or declaration, damages (including compensation), costs, the quashing or staying of proceedings or the return of illegally seized goods. With respect to the question of whether administrative boards and tribunals, as well as the courts, have jurisdiction to grant Charter remedies, a Charter remedy will generally be available if the tribunal has jurisdiction over the parties, the subject matter of the dispute and the type of remedy sought.

#### *Anti-discrimination legislation*

154. The process for making a complaint under a human rights code is informal and accessible – a simple form is completed by a complainant who may be assisted by a human rights commission official in initiating the process. With some variations, the general model for processing complaints is as follows: the human rights commission inquires into the complaint and tries to obtain a settlement between the parties; if a settlement cannot be reached, the commission may dismiss the complaint or refer it to a human rights tribunal or board of inquiry, which holds a public hearing. Human rights commissions carry the complaint before a tribunal or board of inquiry at no cost to the complainant. In some provinces, individuals may apply to a human rights tribunal or court directly, without the assistance of a commission.

155. If the tribunal or board of inquiry concludes that a person has engaged in a discriminatory practice, it may make an order, which is enforceable through the court. The person who has engaged in the discriminatory practice may be ordered to cease such practice, to take measures to reverse the effects of discrimination, such as rehiring the victim, to pay compensation and/or to adopt an affirmative action program. Decisions of boards of inquiry or tribunals are subject to judicial review.

#### *Remedies for victims of crime*

156. The *Criminal Code* allows a sentencing court to order, at the request of the prosecutor or on its own motion that the offender pay restitution (i.e., readily ascertainable out of pocket losses) to the victim of the offence in addition to any other sentence imposed. Restitution may also be the outcome of adult alternative measures under the *Criminal Code* and youth extrajudicial sanction under the *Youth Criminal Justice Act*. The provinces and territories also provide services to victims of crime including, in some cases, financial compensation.

157. The Canadian Victims Bill of Rights was enacted in 2015. It establishes statutory rights at the federal level for victims of crime in relation to information, participation, protection and restitution, and provides a complaint process for breaches of these rights. In respect of the right to seek restitution, victims have the right to have the court consider making a restitution order against the offender for their financial losses and to have any unpaid amount enforced through a civil court.

#### *Other remedies*

158. As indicated above, other legislation relevant to the implementation of international human rights instruments, including in the economic and social areas, may contain specific complaint mechanisms. Furthermore, some statutory bodies have been created that provide compensation, for example, for injuries in the workplace. On occasion, Parliament or the provincial and territorial legislatures enact legislation to provide financial or other assistance to specific individuals or groups who allege that they have been subject to a miscarriage of justice or other violations of human rights.

159. The common law also contains remedies for violations of some human rights – for example, damages (including compensation) may be sought for wrongful dismissal from employment, defamation of character or infringement of property rights. In the case of

children and others unable to protect themselves, the *parens patriae* jurisdiction of the courts may be invoked to provide relief on such matters as custody, protection of property, health problems, and protection from harmful associations (in circumstances where there is no legislation in place governing these issues).

160. Non-litigious dispute resolution and restorative justice is rapidly evolving in Canada. Non-litigious dispute resolution involves both lawyers and non-lawyers practicing in a variety of subject areas. Processes such as negotiation, mediation and arbitration may be used either independently of or as complements to litigation. The range of remedies is broad and diversified, including compensation (financial or other), apologies, reinstatement to the workplace and compliance agreements. The use of these methods varies from one province or territory to another, and also within the federal sphere. There is a growing demand in Canada for these alternative approaches to conflict resolution, and governments increasingly rely upon them for the resolution of disputes.

161. Restorative justice is used in a wide range of situations where harm has been committed, including the criminal justice sector, schools, and neighbourhoods. Common restorative justice processes include victim-offender mediation, family group conferences, youth justice conferences and sentencing circles. Within the criminal justice sector, restorative justice can be used at all stages of the criminal justice process. Restorative justice programs that handle adult and youth criminal cases work within the framework of statutes and government policies, and referrals are usually made by the police, Crown prosecutors and judges. These processes often result in restitution, apologies and other forms of reparation to victims and communities. As with non-litigious dispute resolution, the use of restorative justice varies between jurisdictions.

#### **Rehabilitation for victims of violence**

162. Federal, provincial, territorial and municipal governments have undertaken wide-ranging initiatives to support victims of violence, particularly women and children. Initiatives include funding for social and other programs that help to support survivors subjected to violence, such as affordable housing and emergency shelters, and implementing criminal justice reform measures to help police, service providers and other professionals better protect and assist victims.

163. The federal government has been providing funding to support the development and enhancement of Child Advocacy Centres (CACs) since 2010-2011. CACs bring together multi-disciplinary teams to provide a coordinated and comprehensive response to address the needs of children, youth and their families in cases where abuse is suspected. CACs seek to minimize system-induced trauma and support longer-term well-being by providing a child-friendly facility for young victims and their families to seek services ideally under one roof. In 2018, the Government of Canada increased funding for CAC projects and activities that work to enhance or develop multi-disciplinary teams to address the specific needs of child and youth victims in rural, remote and Indigenous communities.

164. Provincial and territorial governments have jurisdiction over the delivery of health, educational and social services, such as shelter operations and victim services, as well as the administration of civil and criminal justice. This includes policing and prosecuting criminal offences (except in the territories) and the administration of the civil and criminal courts. Provincial and territorial health and social services systems provide services and facilities that may be of assistance in restoring the physical and mental well-being of individuals whose human rights have been violated.

165. At the federal level, *It's Time: Canada's Strategy to Prevent and Address Gender-Based Violence* is a comprehensive, whole-of-government approach that brings together the efforts of many federal departments and agencies to prevent and address gender-based violence. The Strategy includes a range of activities across three pillars: Prevention; Support for survivors and their families; and Promotion of responsive justice systems. For example:

- Enhances efforts to address online child sexual exploitation;
- Supports enhanced cultural and gender sensitive training for federal law enforcement officers;

- Enhances support for the National Child Exploitation Coordination Centre to increase investigative capacity of the Royal Canadian Mounted Police;
- Provides a leave of absence to protect the jobs of victims of family violence, or the parents of a child who is the victim of family violence, working in federally regulated workplaces;
- Provides support to sexual assault centres in close proximity to Canadian Forces bases so members of the Canadian Armed Forces have access to supports to address gender-based violence;
- Expands the Gender-Based Violence Program so more organizations, such as rape crisis centres, are better able to help population groups who are at the highest risk of experiencing violence.

166. In the private sector, in some cases with funding from government, centres for the recovery and reintegration of victims of torture have been established. At the federal level, assistance is provided to survivors of torture from other countries who have immigrated to Canada.

### **Legal aid**

167. A strong legal aid system for economically disadvantaged persons is an important pillar of Canada's justice system. Legal aid services, for criminal and civil matters, are funded by provincial and territorial governments, who determine which types of services are offered by their legal aid agencies. As part of its constitutional authority for criminal law making and procedure, the Government of Canada provides financial assistance to the provinces and territories for the delivery of criminal legal aid services. The Supreme Court of Canada has interpreted paragraph 10 (b) of the Charter as imposing a duty to inform a detained individual of the existence and availability of legal aid. Regarding civil legal aid, under the Canada Social Transfer, the Government of Canada provides financial support to the provinces and territories for the delivery of social programs, including legal aid. The Government of Canada also provides financial support to six provinces (British Columbia, Alberta, Manitoba, Ontario, Québec, and Newfoundland and Labrador) that deliver legal aid services to individuals involved in the immigration and refugee determination system under the provisions of the Immigration and Refugee Protection Act.

## **Human rights machinery to address situations of specific vulnerable groups**

### **Indigenous peoples**

168. Federal, provincial and territorial governments have appointed Ministers responsible for Aboriginal Affairs whose ministries or offices are working on improving outcomes for Indigenous peoples and promoting reconciliation in Canada.

169. The Government of Canada has committed to a renewed relationship with Indigenous peoples based on the recognition of rights, respect, co-operation, and partnership.

170. The Government of Canada has recently adopted a whole-of-government approach that addresses all Indigenous peoples. A Cabinet Committee on Reconciliation was formed to examine initiatives to strengthen the relationship with Indigenous Canadians. It builds on the work of the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples, established to examine relevant federal laws, policies, and operational practices to help ensure the Crown is meeting its constitutional obligations with respect to Aboriginal and treaty rights, adhering to international human rights standards, including the United Nations Declaration on the Rights of Indigenous Peoples, and supporting the implementation of the Truth and Reconciliation Commission's Calls to Action.<sup>98</sup> This review

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<sup>98</sup> The Truth and Reconciliation Commission (TRC) of Canada was established to document the history and impacts of the Indian residential school. In June 2015, the TRC released its findings with 94 "calls to action" regarding reconciliation between Canadians and Indigenous peoples.

of laws, policies and practices is guided by Principles respecting the Government of Canada's Relationship with Indigenous peoples.

171. In August 2017, the Government of Canada announced the planned dissolution of the federal Department of Indigenous and Northern Affairs Canada (INAC) and its intention to create two new departments in consultation with Indigenous peoples and others: Indigenous Services Canada and Crown-Indigenous Relations and Northern Affairs Canada. The creation of these departments is consistent with recommendations of the Royal Commission on Aboriginal Peoples.<sup>99</sup>

172. A first step in this transformation was taken in August 2017 with the creation of the position of Minister of Indigenous Services. The Minister of Indigenous Services was tasked with continuing the important work of improving the quality of services delivered to First Nations, Inuit and Métis peoples. The former Minister of Indigenous and Northern Affairs was styled the Minister of Crown-Indigenous Relations and Northern Affairs and is responsible for guiding the Government's forward-looking and transformative work to create a new relationship with Indigenous peoples.

173. In November 2017, another step in the transformation saw the formal creation of Indigenous Services Canada (ISC). ISC's role is to work collaboratively with partners to bring a holistic approach to delivering the social, healthcare, and infrastructure services essential to Indigenous children, individuals, families and communities; and, improve access to these high quality services for First Nations, Inuit and Métis. Its vision is to support and empower Indigenous peoples to independently deliver services and address the socio-economic conditions in their communities. It is expected that INAC will soon be dissolved and that a new Department of Crown-Indigenous Relations and Northern Affairs will be established (CIRNAC). CIRNAC's role is to work to renew the nation-to-nation, Inuit-Crown, government-to-government relationship between Canada and First Nations, Inuit and Métis; modernize Government of Canada structures to enable Indigenous peoples to build capacity and support their vision of self-determination; and lead the Government of Canada's work in the Canadian North.

174. Finally, in December 2016, the Government of Canada created new structures, including new permanent mechanisms with First Nations, Inuit and Métis Nation leaders to identify joint priorities, co-develop policy and monitor progress.

## **Women**

175. Federal, provincial and territorial governments have appointed Ministers responsible for the Status of Women and some provide funding for arms-length advisory committees on women. At the federal level, Status of Women Canada (SWC) is the government organization that promotes equality for women and their full participation in the country's economic, social and democratic life. SWC works to advance equality for women by focusing its efforts in three priority areas: increasing women's economic security and prosperity, encouraging women's leadership and democratic participation, and ending violence against women.

176. SWC plays a leadership role in the government-wide application of gender-based analysis plus (GBA+), an analytical tool used to assess how diverse groups of women, men, and gender-diverse people may experience policies, programs, and initiatives. Applying GBA+ allows federal officials to improve their work, ensuring it is inclusive of diverse perspectives so that the needs of all Canadians are met. The "plus" highlights that GBA goes beyond sex and gender to consider multiple identity factors that intersect to make people who they are, such as race, ethnicity, sexuality, religion, age and mental or physical disability. Organizations of the Government of Canada are required to demonstrate that gender and other identity considerations have been taken into account in the development of policies, programs, and legislation. GBA+ and similar processes have been adopted by the governments of Newfoundland and Labrador, Prince Edward Island, New Brunswick,

<sup>99</sup> The Royal Commission on Aboriginal Peoples was a Canadian Royal Commission established in 1991 to investigate and propose solutions to the challenges affecting the relationship between Aboriginal peoples (First Nations, Inuit, Métis), the Canadian government and Canadian society as a whole. The Commission culminated in a final report of 4000 pages, published in 1996.

Alberta, Manitoba, Ontario, British Columbia and Québec. For example, since 1997, in response to the commitments made at the Fourth United Nations World Conference on Women in Beijing in 1995, the Government of Québec has used Gender Differentiated Analysis for which the combination of different factors is considered.

### **Children and youth**

177. At the provincial/territorial level, established children's commissioners, advocates or ombudspersons serve as independent oversight mechanisms with the specific mandate to consider matters relevant to children. Each of these institutions monitors laws, policies, programs and services for children within their jurisdiction and advise the relevant government, legislature and other competent body on specific violations of children's rights.

178. The Canadian Council of Child and Youth Advocates is an association of children's advocates from across Canada with mandates to advance the rights of children and youth. Working as independent officers of the legislature in their respective jurisdictions, advocates work through the Council to identify areas of mutual concern and develop ways to address issues at a national level. Among the work of the Council is encouraging the fullest implementation of the Convention on the Rights of the Child; supporting collective advocacy for children's rights, including advocacy services to children and families moving between provinces/territories; working with governments and others with child and youth-serving roles; promoting the development of effective independent offices for children; and engaging and cooperating with child and youth-serving organizations to contribute to advancing the rights of children.

179. The Interdepartmental Working Group on Children's Rights (IWGCR) is comprised of officials from federal departments and agencies that have programs or policies affecting children. The IWGCR provides a forum for dialogue with a view to ensuring a whole of government approach to children's rights and to discuss linkages between priorities and policies affecting children and the Government of Canada's domestic and international human rights obligations. The group discusses recommendations on children's issues from the UN Committee on the Rights of the Child and other treaty bodies with a view to determining appropriate responses. The IWGCR also works to increase awareness and understanding of the obligations under the *Convention on the Rights of the Child* among federal officials.

180. Established in 2016, the Prime Minister's Youth Council is a group of young Canadians who provide non-partisan advice to the Prime Minister and the Government of Canada on issues of importance to them and to all Canadians. The Prime Minister's Youth Council is a mechanism to support a dialogue between young people and the Government of Canada. It is currently composed of 26 young Canadians from diverse communities from all regions of Canada, who possess a range of knowledge and experience. Through in-person meetings and teleconferences, Council members engage in discussions with the Prime Minister, Ministers, Members of Parliament, and senior government officials to offer advice on pressing challenges and issues. Council members also meet with other youth, youth-serving organizations and local representatives and community leaders to discuss key issues relevant to their communities. The federal Youth Secretariat supports the work of the Prime Minister's Youth Council, connects youth with engagement opportunities in key policy areas, and provides ongoing strategic leadership, policy advice and coordination for youth commitments across the Government of Canada.

### **Persons with disabilities**

181. All federal, provincial and territorial governments have a body (office, council or other) responsible for persons with disabilities. At the federal level, the Office for Disability Issues (ODI) is the focal point for matters relating to the Convention on the Rights of Persons with Disabilities (CRPD). In collaboration with federal departments and key partners, it provides advice and expertise to foster coherent disability-related policies and programs across the Government of Canada. ODI's role also includes promoting and facilitating the engagement of the disability community and raising awareness and capacity of federal public servants to include disability considerations in their work.

182. The Interdepartmental and Intradepartmental Committees on Disability Issues support ODI's work and provide fora for sharing information and best practices on disability-related laws, policies, programs and initiatives to promote coordination and collaboration across the federal government on disability issues, including the ongoing implementation of the CRPD.

### **Ethnic and religious minorities**

183. There is a wide range of legislation, policies, programs and services at the federal, provincial and territorial levels that aim to respond to the needs of ethnic minorities, prevent racial discrimination and promote inclusion and diversity.

184. The Multiculturalism Program is one tool through which the Government of Canada implements the Canadian Multiculturalism Act. The Program seeks to build an integrated, socially cohesive society; to improve the responsiveness of federal institutions to the needs of a diverse population; and to engage in discussions on multiculturalism, integration and diversity at the international level.

185. The Program provides funding to organizations for initiatives that enhance intercultural and interfaith understanding, civic memory and pride, respect for core democratic values, and social, cultural and economic participation in society. It also undertakes public outreach and promotion activities that are designed and delivered to engage Canadians on multiculturalism issues. The Program's international engagement supports Canada's participation in international agreements such as the International Convention on the Elimination of All Forms of Racial Discrimination and in institutions such as the International Holocaust Remembrance Alliance.

### **Immigrants and refugees**

186. Provincial and territorial governments offer a variety of supports for newcomers, including immigrants, permanent residents, refugees and refugee claimants. Initiatives support occupation training, language training and assessment, orientation, information and community settlement and integration, and foreign qualification recognition.

187. Immigration, Refugees and Citizenship Canada (IRCC) develops and implements policies, programs and services that facilitates the arrival of people and their integration into Canada; maintains Canada's humanitarian tradition by protecting refugees and people in need of protection; enhances the values and promotes the rights and responsibilities of Canadian citizenship; and fosters increased intercultural understanding and an integrated society with equal opportunity for all, regardless of race, ethnicity and religion. IRCC offers its programs either directly or through contract, grant or contribution agreement or in partnership with other government departments.

### **Lesbian, gay, bisexual, transgender, queer and two-spirit people**

188. To ensure that the Government of Canada continues to advance the rights of the lesbian, gay, bisexual, transgender, queer, and two-spirit (LGBTQ2) communities, a Secretariat has been established within the Privy Council Office. The Secretariat supports the Prime Minister's Special Advisor on LGBTQ2 issues as he works to deliver on his mandate to provide advice on the development and coordination of the government's LGBTQ2 framework. This work includes engaging with LGBTQ2 organizations from across the country to promote equality, protect the rights of LGBTQ2 Canadians and address discrimination against them, both historical and current.

189. All federal, provincial and territorial governments have either enacted or introduced amendments to protect gender identity and (in most jurisdictions) gender expression in their anti-discrimination legislation. Governments are also making changes to how they collect, use and display sex and gender information to reduce the risk of transgender and non-binary persons facing harassment or discrimination. Additionally, the Government of Québec has established an Office for the fight against homophobia to coordinate government action in this area; funded the creation of an international francophone LGBTQI network; and created an Envoy for Human Rights and Freedoms. One of the Envoy's mandate is to contribute to the promotion and protection of the rights of LGBT persons.

## **E. General Framework for the Promotion of Human Rights**

### **Parliament**

190. Parliament plays an important oversight role with respect to human rights. Several parliamentary committees exist that regularly consider domestic and international human rights issues. These committees may call witnesses, including officials and non-governmental organizations, and ministers sometimes appear before them.

### **Human rights institutions**

191. Human rights commissions in Canada develop and conduct information programs to foster public understanding of their respective human rights legislation and of the role and activities of the commissions, and to foster public recognition of the principle of equal opportunity set forth in legislation.

192. Human rights commissions have a role to play in identifying human rights issues and concerns. Many of them have been given various degrees of responsibility for overseeing implementation of human rights, as covered in their respective human rights acts.

193. Canada's national human rights institution, the Canadian Human Rights Commission, provides information and resources on its website, such as webinars, publications, guides and reports, on a wide range of human rights topics, including discrimination, the duty to accommodate, harassment and the evolution of human rights and their protection in Canada.

194. The Canadian Association of Statutory Human Rights Agencies (CASHRA) was established in 1972 as an umbrella organization for the federal, provincial and territorial human rights commissions. CASHRA provides opportunities for members to exchange information about human rights laws in Canada, as well as undertakes public education projects that promote and advocate for human rights in Canada and abroad.

### **Education and awareness-raising**

195. Governments in Canada continue to promote awareness of Canada's international human rights commitments, both within governments and among the general public. The Government of Canada has developed training for federal public servants on international human rights, as well as training tailored to specific departments. These training modules have also been shared with and delivered in provincial and territorial governments.

196. All governments in Canada carry out public education programs in the area of human rights through the provision of financial support to human rights organizations and other community groups and the publication of human rights material for distribution to the public free of charge.

197. Governments also engage in promotional campaigns, such as awareness events, to promote noteworthy events such as Human Rights Day, National Child Day, International Day for the Elimination of Racial Discrimination and International Women's Day. The Canadian Museum for Human Rights, which opened in September 2014, also plays an important role in raising awareness of human rights in Canada.

198. Human rights education also features in provincial and territorial school curriculums. For example, human rights is part of British Columbia's school curriculum as a stand-alone elective course offered to secondary school students focussing on a wide variety of social justice issues.

### **Role of civil society**

199. Civil society organizations (CSOs) are also involved in the promotion of human rights. By forming a critical link between Canadian citizens and their governments, CSOs are a vital component of Canada's democracy. CSOs advocate on behalf and represent the diverse interests of Canada's population; enhance governments' awareness and understanding of the needs of Canadians; strengthen the ability of citizens to participate in public life; hold governments accountable to their commitments; help individuals obtain redress in cases of violations of human rights; and carry out educational programs.

200. In addition to the consultations that are undertaken in relation to Canada's international human rights reporting, federal, provincial and territorial governments consult as appropriate with civil society and Indigenous groups on legislation, policies, and initiatives that relate to the implementation of international human rights treaties.

#### **Development cooperation and assistance**

201. The promotion and protection of human rights are fundamental elements of Canada's international assistance policy which places gender equality and the empowerment of women and girls at the centre of Canada's international assistance efforts. With a human rights-based and inclusive approach to international assistance, Canada is reinforcing the advancement of human rights as a principal feature of its international assistance programming, policy and advocacy. For example, the Government of Canada supports programming that seeks to empower individuals and groups to know and exercise their rights, on issues such as sexual and reproductive health and rights.

202. The Government of Canada's Peace and Stabilization Operations Program (PSOPs) promotes international peace, security, and stability through concrete actions that support the prevention of violent conflict, mediation and reconciliation efforts, and the advancement of human rights, freedoms and inclusion. A number of specialized human rights assistance programs developed through PSOPs have a global reach, target marginalized groups, and support human rights-focused civil society organizations and human rights defenders.

## **F. Reporting Process**

#### **Preparation of reports**

203. Federal, provincial and territorial governments share responsibility in the implementation of the international human rights treaties to which Canada is a party in accordance with their spheres of jurisdiction. As such, Canada's reports under UN treaties are prepared by the Government of Canada in collaboration with the provincial and territorial governments to best reflect the complementary role that each government plays in meeting Canada's human rights obligations. Canada's reports therefore include information on measures undertaken by all governments that serve to implement the treaties.

204. Canada consults with civil society and Indigenous groups as part of its international human rights reporting process. The views of a broad range of civil society and Indigenous groups are sought on a draft outline of the reports that Canada submits to UN human rights bodies. Canada also consults with them prior to appearances before UN human rights bodies.

205. The Government of Canada is responsible for presenting Canada's reports to the UN. Canadian delegations at appearances include representatives from federal departments with subject matter responsibility, as well as representatives from provincial and territorial governments.

#### **Follow-up to recommendations of human rights treaty bodies**

206. Responsibility for the issues raised in the recommendations received from human rights treaty bodies is shared across jurisdictions. Recommendations are distributed to all relevant federal, provincial and territorial departments following receipt from the UN. The issues raised in the recommendations are discussed by federal, provincial and territorial governments at their regular meetings on human rights. The CCOHR discusses the recommendations received from human rights treaty bodies at its meetings, following which federal, provincial and territorial representatives raise issues for further consideration as appropriate within their governments. It is the responsibility of each government and each department to take the action it deems appropriate in follow-up to the recommendations.

207. In partnership with provincial and territorial governments, the Government of Canada also consults with civil society and Indigenous groups on the recommendations when a treaty body publishes its concluding observations. The information collected informs discussions within governments as well as between federal, provincial and territorial partners.

208. A number of Parliamentary committees, such as the Senate Standing Committee on Human Rights, examine issues related to Canada's international human rights obligations and recommendations received from international human rights bodies. Government officials may be invited to appear before these committees.

## **IV. Non-Discrimination and Equality**

209. As discussed above, section 15 of the Canadian Charter of Rights and Freedoms guarantees the right to equality before and under the law, and the right to the equal benefit and protection of the law without discrimination, and in particular without discrimination on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability. The courts have chosen to extend this protection to other categories, including sexual orientation, marital status, non-citizenship and Aboriginality-residence.

210. Section 15(2) of the Charter specifies that the equality guarantee does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups. This provision allows governments to enact special measures to help accelerate progress towards equality.

211. As also discussed above, federal, provincial and territorial human rights legislation protects individuals against discrimination in the private sector. These human rights codes generally allow for employers to implement programs designed to improve the situation of specified groups, including through the policies that benefit them.

### **Measures to combat hatred**

212. Governments in Canada have enacted legislative protections as well as policies against racism and the promotion of hatred. For example, under the *Criminal Code*, it is a crime to advocate or promote genocide, to incite hatred in a public place likely to lead to a breach of the peace, and to wilfully promote hatred when directed against "an identifiable group", which is defined to mean a section of the public distinguished by race, colour, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability. As well, hate motivation in the commission of any offence based on a non-exhaustive list of criteria is an aggravating factor for sentencing purposes. Protection against hate speech is also dealt with in some human rights codes.

213. In addition, the Criminal Code authorizes courts to order the deletion of on-line hate propaganda made publicly available through a computer system that is within the court's jurisdiction. A specific offence of public mischief in relation to places primarily used for religious worship, including cemeteries, prohibits such mischief when motivated by hatred based on religion, race, colour, national or ethnic origin, age, sex, sexual orientation, gender identity or expression or mental or physical disability. This mischief offence also includes other kinds of properties, such as educational institutions, community centres, or seniors' residence that are primarily used by an "identifiable group."

### **Measures to reduce economic, social and geographical disparities**

#### **Employment equity**

214. The Government of Canada's *Employment Equity Act* applies to federally-regulated industries, Crown corporations and other federal organizations with 100 or more employees, as well as portions of the federal public administration, such as the Canadian Armed Forces and the Royal Canadian Mounted Police. The Act seeks to achieve equality in the workplace so that no person is denied employment opportunities or benefits for reasons unrelated to ability. The Act gives effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences. Employers covered by this Act must take certain steps to correct the conditions of disadvantage in employment experienced by four designated groups (women; Aboriginal peoples; persons with disabilities; and members of visible minorities) designated on the basis

of three characteristics (participation and unemployment rates; income levels; and occupational segregation).

215. Most provincial and territorial governments have employment equity policies, programs or legislation applicable to the public service. All governments have human rights legislation that prohibits discrimination in employment on the basis of prohibited grounds of discrimination in their jurisdictions as explained in the section on protection in human rights codes and other legislation.

### **Health care**

216. Section 3 of the Canada Health Act sets out the primary objective of Canada's health care policy which is "to protect, promote and restore the physical and mental well-being of residents of Canada and to facilitate reasonable access to health services without financial or other barriers."

217. All Canadian residents have reasonable access to insured hospital and physician services on a prepaid basis, and on uniform terms and conditions. Provincial and territorial governments are responsible for the delivery of health care services to their residents. The Government of Canada assists in the funding of these services through fiscal transfers, primarily through the Canada Health Transfer. It also provides or funds health care benefits and/or services to certain groups such as First Nations and Inuit, veterans, Canadian Armed Forces members, incarcerated individuals in federal institutions, and refugee claimants. The health care system in Canada is predominantly publicly funded with a mix of public and private delivery. The publicly funded system is composed of 13 interlocking provincial and territorial health insurance plans that share the principles of universality, accessibility, comprehensiveness, portability and public administration.

### **Education**

218. Provincial and territorial governments are responsible for most areas of education, while the Government of Canada is responsible for the instruction of children living on First Nations reserves or Crown lands. Education is generally governed by specific legislation and regulations in each province and territory, which establish the respective rights and responsibilities.

219. Public schools are generally administered by regional school boards whose officials are elected in accordance with provincial or territorial legislation. The vast majority of schools in Canada are public and are generally financed through property tax levies. Private schools, which are funded by private citizens but which may receive some public funding, must dispense a curriculum that conforms to provincial or territorial standards.

220. In 2017, the Government of Canada and the majority of provincial and territorial governments signed a Multilateral Early Learning and Childcare Framework. The new Framework sets the foundation for governments to work towards a shared long-term vision where all children can experience the enriching environment of quality early learning and child care. The guiding principles of the Framework are to increase quality, accessibility, affordability, flexibility and inclusivity in early learning and child care. A distinct Indigenous Early Learning and Child Care Framework has been co-developed with Indigenous partners, reflecting the unique cultures and needs of First Nation, Inuit and Métis children across Canada.

### **Housing**

221. Canada has an extensive framework of legislation, policy and practices that govern housing-related activities. Federal, provincial and territorial governments are primary partners and have a shared responsibility and complementary roles for housing. Municipal governments also have a role in housing.

222. The National Housing Act mandates the Canada Mortgage and Housing Corporation (CMHC) (a federal Crown corporation) to promote housing affordability and choice, the availability of competitive housing finance and the well-being of the housing sector.

223. While most Canadian households are able to meet their housing needs through the housing market, those not served by the market are supported by community housing administered by provinces, territories and the federal government, through CMHC, as well as through other affordable housing initiatives.

224. The Government of Canada, through CMHC, designs and delivers housing programs and also enters into funding agreements with provincial and territorial governments who design and deliver programs to address local housing needs. Housing programs include provision of subsidized rental housing and rental support, support for new construction and renovation of affordable housing, support for programs to improve accessibility for persons with disabilities and seniors, assistance for shelters for victims of domestic violence, and affordable homeownership options.

225. The National Housing Strategy (NHS), launched in 2017, is a 10-year plan with the goal to ensure that Canadians access housing that meets their needs and they can afford. Consistent with a human rights based-approach to housing, the Strategy is grounded in the principles of inclusion, participation, accountability, and non-discrimination and prioritizes the most vulnerable Canadians, including women and children fleeing domestic violence, Indigenous peoples, seniors, people with disabilities, those dealing with mental health and addiction issues, veterans, racialized communities, and young adults. Through the NHS, the Government of Canada is taking definitive steps to progressively realize the right of every Canadian to access adequate housing as set in the International Covenant on Economic, Social and Cultural Rights.

226. The Government of Canada supports the housing needs of First Nations on reserve through programs, tools and training and is working with First Nations, Métis and Inuit to co-develop distinctions-based housing strategies and plans that will improve socio-economic outcomes over the long-term, and support Indigenous self-determination.

## **Economic and social security**

### **Labour market training and participation in the workforce**

227. The Government of Canada supports initiatives in the provinces and territories that promote skills development, labour force participation and labour market efficiency through a variety of agreements, targeted programs and initiatives.

- Each year, the Government of Canada provides provincial and territorial governments with ongoing funding through the Labour Market Development Agreements (LMDAs) and Workforce Development Agreements (WDAs) so they can offer a range of skills training and employment supports programming to help Canadians improve their skills to find and keep good jobs. Under these agreements, provincial and territorial governments have the flexibility to design and deliver employment programming that meets the needs of their local labour markets;
- Under the LMDAs, Employment Benefits enable eligible individuals – including current and former Employment Insurance (EI) claimants as well as individuals who have made minimum EI premium contributions in at least five of the last ten years – to gain skills and work experience with a combination of EI-funded interventions such as skills training and wage subsidies. LMDAs also support the provision of Employment Assistance Services (EAS) for all Canadians. EAS include activities such as employment counselling, job search assistance, needs assessments, information on government employment programs, and the development of return to work action plans;
- The WDAs consolidate and replace the Canada Job Fund Agreements, the Labour Market Agreements for Persons with Disabilities and the Targeted Initiative for Older Workers. Through these agreements, provincial and territorial governments are able to provide employment assistance and skills training with the flexibility to respond to the diverse needs of their respective clients. These include individuals (e.g., unemployed, employed, self-employed, underemployed, persons with disabilities, and

members of underrepresented groups) seeking to increase their labour market participation and employment, as well as employers.

228. Further, the Government of Canada's Opportunities Fund for Persons with Disabilities supports persons with disabilities to prepare for, obtain and maintain employment or become self-employed. Aiming to help persons with disabilities increase their labour market participation and independence, the projects delivered through this program offer a wide range of tools, including pre-employability services, job placements, hands-on work experience, access to assistive devices, wrap-around services. They also support to employers to recruit, hire and retain workers with disabilities. The Opportunities Fund is unique as it offers assistance to a specific component of the persons with disabilities population, namely those who have limited or no labour market attachment.

229. The Government of Canada also invests in the Youth Employment Strategy to provide training and employment services so that young people between 15 and 30 can gain the skills, abilities and work experience needed to get a strong start in their careers.

### **Income security and social benefits**

230. Federal, provincial and territorial governments recognize the importance of economic security and well-being for all Canadians, and have taken a number of joint and independent initiatives.

231. Employment Insurance (EI) fosters a skilled, adaptable and inclusive labour force and an efficient labour market by providing temporary income support for workers across Canada during employment transitions. Through regular and fishing benefits, the EI program provides temporary financial assistance to workers who have lost their jobs through no fault of their own while they look for new employment or upgrade their skills. EI benefits are delivered through a multi-channel service delivery model (online, by phone or in person) designed to meet the needs of clients.

232. Work-Sharing is an adjustment program designed to help employers and employees avoid layoffs due to temporary reductions in the normal level of business activity that are beyond the control of the employer. The measure provides income support to employees eligible for Employment Insurance benefits who work a temporarily reduced work week while their employer recovers.

233. Special benefits also provide temporary income support to workers who are absent from work due to specific life circumstances. These benefits include temporary financial assistance to those unable to work due to sickness or injury, maternity and parental benefits, compassionate care benefits to individuals who are off work temporarily to care or support an ill family member, and benefits paid to parents of critically ill or injured children. Worker's Compensation programs also protect employees from the financial hardships associated with work-related injuries and occupational diseases.

234. The Working Income Tax Benefit (WITB) is a refundable tax credit intended to provide tax relief for eligible working low-income individuals and families who are already in the workforce and to encourage other Canadians to enter the workforce. In 2019, it will be replaced by the Canada Workers Benefit, an enhanced, more accessible version of the WITB.

235. In Québec, the Government Action Plan to Foster Economic Inclusion and Social Participation 2017-2023 is aimed at improving living conditions for low-income families and individuals, as well as acknowledging the value of work and fostering the self-sufficiency of individuals.

### *Families and children*

236. Social assistance programs available across provincial and territorial governments provide income assistance to individuals and families to help them meet their basic living costs. For Indigenous persons living on reserve, the Government of Canada provides social assistance benefits.

237. The Employment Insurance Family Supplement provides additional help to low-income families claiming benefits.

238. The Canada Pension Plan (CPP) provides contributors and their families with partial replacement of earnings in the case of retirement, disability or death. The CPP operates throughout Canada, except in Québec, where the Québec Pension Plan (QPP) provides similar benefits. The CPP and QPP work together to ensure that all contributors are protected.

239. The tax-free Canada Child Benefit is an income-tested benefit that provides a maximum annual benefit of \$6,400 per child under the age of six and \$5,400 per child aged six through seventeen. Low income families earning less than \$30,000 in net income receive the maximum benefit. An additional amount for children with disabilities continues to be supplied through the federal Child Disability Benefit.

240. In Québec, the Child Assistance Payment is a refundable tax credit for all eligible families with children under 18 years of age. A Supplement for Handicapped Children is also provided, regardless of household income.

#### *Older persons*

241. In addition to the CPP, the Old Age Security program provides benefits to all persons age 65 and over who meet the residence requirements specified in the legislation. The benefits under the program include the basic pension, which is paid to virtually all seniors, the Guaranteed Income Supplement (GIS) for low-income seniors, and allowances for low-income Canadians aged 60 to 64 who are the spouses or common-law partners or survivors of GIS recipients. All benefits paid under the Old Age Security program are fully indexed to keep up with the cost of living.

#### *Persons with disabilities*

242. The Canada Pension Plan Disability benefit provides eligible contributors with partial income replacement in the event that they are unable to maintain regular employment due to a severe and prolonged disability.

243. The Registered Disability Savings Plan (RDSP) is a long-term savings plan that helps persons with severe and prolonged disabilities and their families save for the future. The Government of Canada will contribute up to \$70,000 in matching grants and \$20,000 in bonds into an RDSP over the beneficiary's lifetime.

## **Situations of specific vulnerable groups**

### **Indigenous peoples**

244. Inequalities persist in contemporary Canadian society between Indigenous peoples and other Canadians. Indigenous peoples in Canada are statistically more likely to be unemployed, incarcerated, live in poverty, and face increased health risks, including violence and suicide. A number of Indigenous communities have inadequate housing and live under long-term drinking water advisories. In partnership with Indigenous peoples, the Government of Canada is working to improve the quality of life for Indigenous peoples by closing the socioeconomic gap between Indigenous and non-Indigenous people; increasing self-determination for Indigenous communities; and improving relationships and reconciliation between Indigenous and non-Indigenous peoples in Canada. Measures undertaken include:

- Permanent processes with representatives of First Nations, Inuit and the Métis Nation to develop policy on shared priorities and monitor progress;
- Long-term investments in water, schools, housing, health facilities and health-related supports and social services for families and children;
- The National Inquiry into Missing and Murdered Indigenous Women and Girls;
- A Cabinet Committee on Reconciliation formed to examine initiatives to strengthen the relationship with Indigenous Canadians and built on the work of the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples;

- The Memorandum of Understanding with the Assembly of First Nations, and work with self-governing Indigenous governments, for a new fiscal relationship to create sufficient, predictable and sustained funding for First Nation communities and realize the full potential of self-government agreements;
- The co-development with Indigenous peoples of legislation to preserve, promote and revitalize Indigenous languages;
- The implementation of the Truth and Reconciliation Commission Calls to Action, which address socio-cultural rights related issues; and
- The co-development with Indigenous peoples of a Recognition and Implementation of Indigenous Rights Framework.

### **First Nations children**

245. First Nations children in Canada have encountered service delivery problems due to resource limitations, geographic location, and limitations inherent in existing programs. Jordan's Principle is a child-first principle requiring the federal government department of first contact to pay immediately for the requested service and later seek any reimbursement from other departments or governments. The intent of Jordan's Principle is to avoid potential delays in the provision of child welfare and health services to First Nations children due to jurisdictional disputes between Canada and a province, or territory, or between federal departments. Canada is committed to the full implementation of Jordan's Principle consistent with the third Call to Action made by the Truth and Reconciliation Commission.

### **Visible minorities<sup>100</sup>**

246. Several indicators, such as employment rates and earnings, suggest poorer outcomes for visible minorities. According to the 2016 Census, the unemployment rate of visible minority population aged 25 to 64 years was 7.6% compared with 6.1% for the non-visible minority population, while the average earnings for working-age (age 25–64) visible minorities in 2016 were \$43,427 compared to \$58,528 for those who are not visible minorities.<sup>101</sup>

247. Governments in Canada have put in place a number of targeted initiatives to help counter the challenges that make visible minorities more vulnerable to low income:

- In 2017, the Government of Ontario implemented a targeted, community-based approach to increase access to culturally-focused supports and opportunities for Black children, youth and their families to address disparities, including supporting access to higher education and skills development;
- The Government of Québec has a number of targeted employment programs, including Québec Pluriel, a mentoring program helping young members of cultural communities and visible minority groups find work. The Employment Integration Program for Immigrants and Visible Minorities aims to provide newcomers and visible minorities with first-hand work experience in Québec, thereby facilitating their socio-economic and linguistic integration and their job retention. It also aims to encourage businesses to hire immigrant and visible minority workers.

### **Women**

248. Over the past several decades, the growth in Canada's labour force participation rate has been principally driven by the increased participation of women in the labour market. The gap in the labour force participation rate between men and women aged 15 to 64 has

<sup>100</sup> "Visible minority" refers to whether a person belongs to a visible minority group as defined by the Employment Equity Act and, if so, the visible minority group to which the person belongs. The Employment Equity Act defines visible minorities as "persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour." The visible minority population consists mainly of the following groups: South Asian, Chinese, Black, Filipino, Latin American, Arab, Southeast Asian, West Asian, Korean and Japanese.

<sup>101</sup> Statistics Canada. Table 98-400-X2016276 and Table 98-400-X2016210.

significantly reduced over the past 40 years. In 1976, the gender gap in the male/female participation rate for the 15 to 64 age group was 33 percentage points. In 2017, the gap stood at 6.9 percentage points. The participation rate of women (75% in 2017) has been converging towards that of men (81.9%). The rising educational attainment among women, among other factors, has been a key driver of boosting women's labour force participation and improved labour market outcomes.

### Homeless persons

249. Although the nature of homelessness makes it difficult to measure its extent, it is estimated that on any given night, approximately 35,000 individuals experience some form of homelessness in Canada.<sup>102</sup> Homelessness affects various segments of the population, including individuals and families, women fleeing violence, Indigenous peoples, youth and seniors.

250. The Government of Canada's Homelessness Partnering Strategy (HPS) aims to prevent and reduce homelessness in Canada. The HPS is a community-based model that provides direct financial support to 61 urban communities, as well as Indigenous, and rural and remote communities across Canada to help them address their local homelessness needs. This direct financial support gives communities flexibility to invest in proven approaches that reduce homelessness at the local level. Funding is given to local priorities that communities identify through a comprehensive community planning process involving stakeholders, the private and voluntary sectors, and officials from all orders of government.

251. Provincial and territorial governments support a range of programs and services for homeless persons, including those geared towards funding emergency shelters where needed, as well as developing strategies and frameworks to help move people out of homelessness. Federal, provincial and territorial departments and agencies are increasing collaboration to coordinate efforts in preventing and reducing homelessness.

### Persons with disabilities

252. In 2012, 13.7% of Canadians aged 15 and over reported having a disability. Women in Canada report a higher prevalence of disability than men and women with disabilities are more likely to live in low-income situations than women without disabilities.<sup>103</sup> Women with disabilities also face multiple forms of discrimination and are disproportionately affected by violence and sexual assault. Of persons with disabilities, 14% have a university degree, compared to the 27% of Canadians without disabilities who have the same level of education. On the employment front, 47% of 15 to 64-year-olds with disabilities are employed versus 74% of those without disabilities. Persons with disabilities, overall, are earning less than their counterparts without disabilities.<sup>104</sup>

253. Evidence suggests that Indigenous peoples are more likely to have a disability than other Canadians. For instance, the prevalence of disability among the Indigenous population (excluding First Nations living on-reserve) is 18.6%, which is approximately 5 percentage points greater than the non-Indigenous population (13.6%). In addition, according to the Canadian Survey on Disability (2012), the prevalence of disability is more likely among Indigenous women than in the general female population. In 2012, 22% of Indigenous women aged 15 and older (excluding First Nations people living on reserve), reported having a disability that limited their daily activities compared with 15% of the non-Indigenous female population in Canada.<sup>105</sup> Areas of progress that are expected to impact Indigenous persons with disabilities include investments to better support the well-being of children and families on reserve, improve the quality of education for First Nations children, and address housing needs on reserve.

<sup>102</sup> Gaetz, S., Dej, E., Richter, T., and Redman, M. (2016). *The State of Homelessness in Canada 2016*. Toronto: Canadian Observatory on Homelessness Press.

<sup>103</sup> Statistics Canada. *Low income among persons with a disability in Canada (75-006-X)*.

<sup>104</sup> Statistics Canada. *A profile of persons with disabilities among Canadians aged 15 years or older, 2012 (89-654-X)*.

<sup>105</sup> Statistics Canada. *Women with disabilities (89-503-X)*.

254. In addition to the protection offered by the Canadian Constitution, and by federal, provincial and territorial human rights codes, governments have also implemented other legislation, policies and programs to ensure the full inclusion and equal participation of persons with disabilities in all aspects of society and community life, for example:

- The Enabling Accessibility Fund supports community-based projects across Canada that improve accessibility, remove barriers, and enable Canadians with disabilities to participate in and contribute to their community and the labour market through capital costs projects that include the construction, renovation or retrofit of community spaces and workplaces and the provision of information and communications technologies for work or community use;
- The Disability component of the Social Development Partnership Program supports initiatives that are designed to improve the participation and integration of persons with disabilities in all aspects of society;
- In Québec, the enactment of an Act to Secure Handicapped Persons in the Exercise of their Rights with a View to Achieving Social, School and Workplace Integration aims to promote the integration of persons with disabilities into society to the same extent as other citizens by providing for various measures pertaining to them as well as their families and their living environments, and by developing and organizing resources and services for them. The Act assigns responsibilities to the network of government departments, municipalities and various public agencies;
- Nova Scotia passed the Accessibility Act in 2017, which establishes an Accessibility Directorate and an Advisory Board to guide the work to reach full accessibility by 2030. Next steps include a program to help businesses to adapt to the law and establishing accessibility standards.

### **Lesbian, gay, bisexual, transgender, queer and two-spirit persons**

255. In addition to experiencing discrimination, harassment and violence, lesbian, gay, bisexual, transgender, queer and two-spirit (LGBTQ2) persons, particularly youth, also experience higher rates of mental health challenges, including emotional distress, thoughts of suicide, suicide attempts, and problematic substance use and sexual behaviours which puts them at greater risk of contracting HIV. LGBTQ2 persons are more vulnerable compared to heterosexual and cisgender (non-transgender) persons to violence across their lifespan and face discrimination in many areas, including health and social services.

256. LGBTQ2 persons, particularly gay and bisexual men, transgender persons, and youth within these groups, are disproportionately affected by sexually transmitted and blood-borne infections (STBBIs), such as HIV, hepatitis C and bacterial sexually transmitted infections. For example, gay and bisexual men and other men who have sex with men accounted for 44.1 % of all reported HIV cases in Canada in 2016. While there is no national estimate on the number of transgender individuals living in Canada or their rates of STBBI infections, it is believed that this population is also disproportionately affected. In 2016, youth aged (15-19) accounted for 2.0% of all reported HIV cases in Canada, and other youth (aged 20-24) accounted for 8.2% of all reported HIV cases in Canada, of which 65% are estimated to be young gay and bisexual men.

257. The Government of Canada is promoting LGBTQ2 equality, protecting LGBTQ2 rights, and addressing discrimination against LGBTQ2 communities, both past and current. The Government of Canada is funding and implementing LGBTQ2-related projects supporting violence prevention programs, awareness-raising campaigns and advocacy efforts to address homophobia and transphobia in education systems and to improve health outcomes of the LGBTQ2 communities across Canada. Further, the federal government is funding projects that work towards preventing HIV, hepatitis C and other sexually transmitted infections, in which LGBTQ2 communities are prioritized.

258. Provincial and territorial governments are also taking steps to improve equality for LGBTQ2 communities. For example, the Government of Québec has adopted the 2017-2022 Government Action Plan to Combat Homophobia and Transphobia: For a Québec Rich in Diversity. It aims to promote respect for the rights of sexual minorities and to raise awareness

of their realities. Particular attention is paid to the most vulnerable groups such as youth, seniors, transgender persons and Indigenous persons, as well as to clients in regions and settings with fewer resources.

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