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**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)  
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1 \***

**Canada**

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\* The present document was not edited before being sent to the United Nations translation services.



## I. METHODOLOGY AND CONSULTATION PROCESS

1. The following report has been prepared in collaboration by the federal, provincial and territorial governments of Canada, based on the general guidelines for the preparation of information under the Universal Periodic Review (UPR).
2. The Government of Canada hosted a workshop with Canadian civil society in June 2008, to discuss the role of civil society in the UPR process. Information on the UPR, at both the international and domestic levels, was posted on Government of Canada websites and civil society was invited to submit questions and/or provide comments on the issues to be covered in Canada's report through a dedicated email address. In addition, regional engagement sessions with civil society and government officials will be organized across Canada to obtain their perspective on human rights in Canada.

## II. CANADA'S NORMATIVE AND INSTITUTIONAL FRAMEWORK

### A. Canadian federalism

3. Canada is a country marked and enriched by the many different backgrounds of its population. It is a multicultural and pluralistic society, with two official languages, English and French, some 50 Aboriginal<sup>1</sup> cultural groups and many ethno-cultural, religious, immigrant and linguistic groups.
4. Canada's vast territory is divided into ten provinces (Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan) and three northern territories (the Northwest Territories, Nunavut and the Yukon).
5. Canada is a democratic country with a Constitution based on the rule of law, a division of law-making authority between levels of government, an entrenched bill of rights (the *Canadian Charter of Rights and Freedoms*), and a legal system that draws from both the common law and the civil law traditions.
6. Canada's Constitution confers legislative and executive powers on two levels of government, each of them sovereign in their own sphere. The federation includes a central government and a government for each of the provinces and territories. The Government of Canada exercises authority over matters such as foreign relations, national defence, coastal waters, Indians and lands reserved for them, and the substance of the criminal law. Provinces exercise authority over matters such as the establishment and regulation of municipalities, health care, education, social well-being, property, civil rights and the administration of justice. The three northern territories are the creation of the Parliament of Canada, which has delegated to them responsibilities similar to those of the provinces. Canada's many municipalities exercise delegated authority from provincial and territorial governments. Canada also has many Aboriginal treaty governments and Indian Band councils, which exercise various aspects of local governance.
7. To facilitate the functioning of a multi-level system of governance, ad hoc and standing federal-provincial/territorial fora meet on a myriad of topics to promote co-operation on matters of over-lapping interest and jurisdiction. For example, the Continuing Committee of Officials on Human Rights is the principal intergovernmental forum for consultation on the elaboration, ratification and implementation of international human rights obligations. In addition,

consultations with Aboriginal governments and the involvement of civil society are increasingly expanding this model of co-operative governance.

### **B. Domestic framework for the promotion and protection of human rights and fundamental freedoms**

8. Human rights in Canada are protected by a combination of constitutional and legislative measures. The *Canadian Charter of Rights and Freedoms*, part of the *Canadian Constitution*, is largely a civil and political rights document. It also guarantees all individuals in Canada freedom of conscience and religion; freedom of thought, belief, opinion and expression<sup>2</sup>, including freedom of the press; freedom of peaceful assembly; and freedom of association.

9. The many human rights and freedoms enjoyed by Canadians are also protected by a large body of federal, provincial and territorial legislation and accompanying regulations. All governments in Canada have adopted human rights 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. Labour laws protecting the rights of workers to bargain collectively, child protection laws, family property regimes and privacy legislation are also examples of these legislative measures. The common law (“judge made law”) of Canada continues to be a vibrant source of civil rights, including, for example, the right to habeas corpus.

10. In addition, many rights in Canada, in particular economic, social and cultural rights, are advanced and progressively realized through government policies and programmes.

### **C. Equality rights**

11. The right to equality and protection against discrimination are fundamental to the advancement of human rights for all members of Canadian society. In addition to the constitutional protection of equality rights in the *Canadian Charter of Rights and Freedoms*, the federal, provincial and territorial governments in Canada have enacted human rights legislation prohibiting discrimination on numerous grounds, such as race, religion, colour, sex, age and disability. Canadian courts have invested these human rights statutes with ‘quasi-constitutional status’ (elevated legal importance). Of special note is the *Québec Charter of Human Rights and Freedoms*, which addresses equality rights as well as a full range of civil, political, economic, social and cultural rights. The *Québec Charter* applies to both the private and public sectors and provides for recourse before a tribunal with respect to political, judicial and equality rights.

### **D. The role of the courts, administrative tribunals and rights advocates**

12. Human rights are also advanced through the judicial branch in Canada. The Canadian judicial system consists primarily of lower courts with specific jurisdiction conferred by statute and superior courts of inherent jurisdiction that address subjects not otherwise within the exclusive jurisdiction of other courts. The Federal Court of Canada reviews decisions of federal boards, commissions and tribunals. The Supreme Court of Canada is the general appellate court of last resort for all of Canada in all areas of law, including constitutional law.

13. Canadian courts are independent of the executive (programmes and policies) and legislative (laws and regulations) branches of government. Individual judges enjoy security of tenure and salary. Canadian courts have jurisdiction to determine allegations that laws, policies or practices of all levels of government or the actions of their officials violate human rights and

to review decisions of administrative boards, commissions and tribunals to ensure that these are not inconsistent with human rights legislation.

14. The Canadian Constitution expressly provides that any law that is inconsistent with the Constitution is of no force and effect, enabling Canadian courts to strike down laws held to be inconsistent with the Charter. In addition, the Constitution contains a broad remedial provision enabling Canadian courts to craft remedies for violations of the Charter rights of individuals. In a recent decision (*R. v. Hape*), the Supreme Court of Canada affirmed the importance of Canada's international human rights obligations to the interpretation of both domestic statute law and the Charter.

15. Canada's human rights commissions and tribunals are independent statutory bodies created by federal, provincial and territorial human rights legislation (see above). They are generally mandated to mediate and investigate complaints of discrimination under the prohibited grounds found in their respective legislation. Commissions also work to prevent discrimination by undertaking human rights education and promotional activities. Other administrative bodies, such as labour relations boards, have jurisdiction to investigate particular human rights issues that arise from their specific mandates. All administrative bodies mandated to apply law must do so in a manner consistent with the *Canadian Charter of Rights and Freedoms*.

16. Governments in Canada have also created various public advocates for human rights, such as ombudspersons, which generally investigate complaints about government services and promote access to these services, and children's advocates, which promote the interests of children who have concerns about provincial government services.

#### **E. Canada's international human rights obligations**

17. Canada has ratified many of the human rights treaties of the United Nations and has a long tradition of participation in the drafting of United Nations human rights instruments and co-operating with relevant monitoring mechanisms.

18. International human rights treaties ratified by Canada do not automatically become part of our domestic law. As a general practice, Canada does not incorporate the full text of treaties into its domestic law. Instead, Canada's domestic implementation is most often accomplished through a variety of laws, policies and programs at several levels of government.

19. While the Government of Canada has jurisdiction under the Canadian Constitution to enter into human rights treaties on behalf of Canada, the implementation of many of the obligations under these treaties falls within the jurisdiction of the provinces and territories. The Government of Canada therefore consults with provincial and territorial governments on matters involving their law-making authority prior to ratification.

20. Given the shared jurisdiction under Canada's Constitution and the importance Canada places on being in compliance with the obligations of a treaty before ratification, the federal, provincial and territorial governments undertake an extensive legislative and policy review prior to a decision on ratification. At present, Canada is undertaking this analysis in respect of the ratification of the *Convention on the Rights of Persons with Disabilities* and the *Optional Protocol to the Convention against Torture and All Forms of Cruel, Inhuman or Degrading Treatment or Punishment*.

### **III. PROMOTION AND PROTECTION OF HUMAN RIGHTS**

21. The federal, provincial and territorial governments work both collaboratively and in a complementary fashion to promote and protect human rights in Canada and enhance implementation of international human rights treaties to which Canada is a party.

#### **A. Human well-being**

##### **1. Health care**

22. All Canadian residents have access to medically necessary services from physicians and hospitals without charge. Provincial and territorial governments are responsible for the delivery of health care services for the vast majority of Canadians. The Government of Canada assists in the financing of these services through fiscal transfers, primarily through the Canada Health Transfer. It also provides health care benefits and/or services to specific groups, including First Nations and Inuit, the Canadian Forces, the Royal Canadian Mounted Police, veterans, federal inmates and refugee protection claimants.

23. The health care system in Canada is predominantly publicly financed with a mix of public and private delivery. It is composed of 13 interlocking provincial and territorial health insurance plans that share the principles of universality, accessibility, comprehensiveness, portability and public administration.

##### **2. Education**

24. 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 Indian 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.

25. Tuition-free access to public education is guaranteed for all at the elementary and secondary levels. At the post-secondary education, many financial support programs exist at the federal and provincial/territorial level, such as the Registered Education Savings Plan, student loans and bursary programs.

##### **3. Housing**

26. An extensive framework of legislation, policy and practice structures housing related activities in Canada. The *National Housing Act* (NHA) mandates the *Canada Mortgage and Housing Corporation* to promote housing affordability and choice, the availability of low-cost housing finance and the well-being of the housing sector. This is fulfilled by providing mortgage loan insurance to lenders across Canada (including on reserve and in the North) and guaranteeing timely payment of interest and principal on Mortgage-Backed Securities and Canada Mortgage Bonds, thereby ensuring a steady source of funds for Canadian home buyers. The NHA authorizes CMHC to provide housing subsidies to support Canada's social housing stock for low-income Canadians as well to provide housing assistance for those with special/distinct needs under targeted initiatives.

27. Federal, provincial and territorial (F-P/T) governments work in collaboration to meet the housing needs of Canadians, with most administrative arrangements relating to housing programs and delivery governed by F-P/T agreements. Provincial and territorial governments administer housing programs to give low- and moderate-income families access to adequate and

affordable housing. These programs include, for example, subsidized rental housing, shelter allowances, home renovation assistance, support for programs to improve accessibility for persons with disabilities, assistance for shelters for victims of family violence, supports to independent living, and homeownership options. Municipalities are also active in promoting affordable social housing.

#### **4. Labour Market training and participation in the workforce**

28. Over the past 10 years, strong labour market outcomes with low unemployment and high participation rates in the workforce have been registered. Governments in Canada work together to ensure that all Canadians have access to the education and skills training they need to enter or re-enter the workforce and the opportunity to update their skills throughout their lives.

29. The Government of Canada provides national, regional and sub-regional labour market information on occupations, industries, job vacancies, and labour market events to assist employers, workers, and communities manage labour market transitions. Support is provided for labour market training and participation of under-represented groups (older workers, Aboriginal people, person with disabilities and new immigrants) through various training and funding opportunities, including skills development for unemployed Canadians under the *Employment Insurance Act*.

30. Initiatives of the provincial and territorial governments include funding the delivery of employment benefits and support measures, such as training and job search assistance, to workers who become unemployed and are beneficiaries of Employment Insurance income support benefits; Labour Market Agreements funding for training (including literacy and essential skills support) to individuals not eligible for assistance under the Employment Insurance system; and targeted investments to help Aboriginal Canadians, new immigrants, persons with disabilities and older workers overcome barriers to participation in the labour market.

#### **5. Social benefits**

31. The federal, provincial and territorial governments of Canada recognize the importance of economic security and well-being for all Canadians, and have taken a number of joint and independent initiatives, including:

- (a) Family related benefits;
- (i) Social assistance programs available across provinces and territories provide income assistance to individuals and families to help them meet their basic living costs. For Aboriginal persons living on reserve, the Government of Canada provides social assistance benefits;
- (ii) In Québec, participation premiums are provided to income support recipients looking for employment and a bonus is given to those that find employment and keep that employment for one year;
- (iii) The Employment Insurance Family Supplement provides additional help to low-income families claiming benefits;
- (iv) The Working Income Tax Benefit is a refundable tax credit aimed at making work more rewarding for low- and modest-income Canadians. An important feature of

this tax credit is that lone parents receive the same annual amount as couples; it also provides a supplement for persons with disabilities;

- (v) Canada Pension Plan provides basic income replacement to contributors and their families in the event of retirement, death or disability;
- (b) Disability assistance;
- (i) Provincial and territorial governments provide income support assistance to persons with disabilities, for example through the Poverty Reduction Strategy of the Government of Newfoundland and Labrador, the Assured Income for the Severely Handicapped in Alberta and the Ontario Disability Support Program;
- (ii) The Canada Pension Plan Disability program is designed to provide financial assistance to Canada Pension Plan contributors under 65 who are unable to work because of a severe and prolonged disability;

(c) Seniors;

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

- (d) Children;
- (i) The National Child Benefit (NCB) is an initiative of federal, provincial and territorial governments, with a First Nations component. The NCB includes both income and other forms of support (e.g. child/day care, early childhood services and children-at-risk services, supplementary health benefits, and youth initiatives).
- (ii) The federal contribution to the NCB initiative is the NCB Supplement, a monthly benefit paid to low-income families with children. The NCB supplement is part of the larger federal Canada Child Tax Benefit (CCTB), which provides monthly benefits to low- and middle-income families to help with the costs of raising children.
- (iii) All families with children under the age of six receive the Universal Child Care Benefit, which they can use for childcare costs.
- (iv) Manitoba has established Healthy Child Manitoba and the Healthy Child Committee of Cabinet as a formal cross-department strategy to coordinate, monitor and evaluate programs for children and their families as a government priority.
- (v) Newfoundland and Labrador has implemented new universal non-taxable benefits for new families. The Progressive Family Growth Benefit goes to residents of the Province who give birth to or adopt a baby on or after January 1, 2008 and the



Parental Support Benefit is available to residents of the province for 12 months after the child's birth or adoptive placement.

- (vi) The Governments of Yukon and Saskatchewan have established child care subsidy programs that assist families in attaining a higher standard of living.

## **B. Democratic and social participation**

32. Canada has a parliamentary system of government. The federal nature of Canada underlies the country's electoral system; each province has its own electoral system and there is a national or federal electoral system. The Canadian electoral system is governed by the rule of law and is administered by impartial officials who operate independently from the government and politicians. Chief Electoral Officers in each jurisdiction are responsible for exercising general direction and supervision over the preparation, administration, and reporting aspects of elections and election expenses provisions.

33. The *Canadian Charter of Rights and Freedoms* guarantees every citizen of Canada the right to meaningful participation in the electoral process including the right to vote in elections of members of the federal House of Commons and of the legislative assembly for their province as well as the right to stand for election. The rights to vote and stand for election are subject to certain reasonable limits with respect to age (18 years) and profession (for example, superior court judges may not stand for federal election).

34. The full and equitable participation of individuals and communities of all origins is a fundamental principle of Canada's multicultural and pluralistic society. This principle is reflected in the *Canadian Multiculturalism Act*, proclaimed in 1988, which sets out the Government of Canada's multiculturalism policy and underlines that all citizens are equal and have the freedom to preserve, enhance, and share their cultural heritage. The Act requires all federal departments, agencies and Crown corporations to ensure their programs, policies and services respond to the needs of Canadians of all backgrounds.

## **C. Administration of justice**

### **1. Role of the courts, the police and Crown prosecutors**

35. The important role played by Canadian courts in the protection of human rights in Canada is discussed in Part II of this report.

36. In Canada, police services exist at federal, provincial/territorial and municipal levels. Although these various police services report to government ministers (federal, provincial or territorial), they enjoy a significant degree of operational independence with respect to decisions to investigate criminal activity and the conduct of those investigations.

37. Individuals in Canada may lay complaints of violations by police of their human rights before independent, administrative oversight bodies, mandated to conduct investigations and inquiries into the conduct of the police, as well as before Canadian courts. Canada also maintains independent review bodies for the activities of the Royal Canadian Mounted Police (the national police service) and the Canadian Security Intelligence Service. Governments in Canada can and have established ad hoc commissions and other independent bodies to examine specific issues or cases.

38. The laying or maintaining of criminal charges is subject to oversight by government prosecution services/Crown prosecutors. For certain types of crimes carrying significant public stigma, such as terrorism and hate propaganda offences, the *Criminal Code* specifically requires, as an additional safeguard, the consent of the relevant Attorney General. Crown prosecutors in Canada are tasked with ensuring that criminal charges do not proceed unless there is a reasonable prospect for conviction and are subject to ethical, procedural and constitutional obligations. They are expected to discharge their duties with fairness, objectivity, and integrity.

## **2. Access to justice**

39. Access to justice is an important aspect of the protection of human rights. This access is enhanced in Canada by a number of measures that are available in the Canadian legal system, including redress through the courts, human rights commissions and administrative tribunals for violations of human rights (see Part II of this report), as well as the provision of civil and criminal legal aid.

40. Public awareness of human rights and legal aid programmes also enhances the ability of individuals to seek protection of their rights through the Canadian legal system. Public awareness campaigns making use of posters, pamphlets and other publications, call centres and Internet sites are used at both the federal and provincial/territorial levels to disseminate information on both domestic and international laws governing the rights of persons in Canada.

41. While the administration of justice, and therefore the provision of legal aid, is a provincial constitutional responsibility, the federal, provincial and territorial governments work in close collaboration to ensure a strong and efficient justice system in Canada. Generally speaking, the Government of Canada contributes financial resources for criminal and civil legal aid to provincial and territorial governments through either contribution agreements or a block-transfer mechanism and these governments determine eligibility rules as well as the nature and scope of legal aid available to individuals in their jurisdictions.

## **3. Correctional services**

42. In Canada, sentences of two years or more are served in federal penitentiaries and are administered pursuant to the provisions of the federal *Corrections and Conditional Release Act* (CCRA). Sentences of less than two years are served in provincial prisons. The federal CCRA and *Prisons and Reformatories Act* regulate some aspects of provincial corrections and the release of offenders from provincial prisons. In addition, each province has its own legislation for the management of its correctional facilities.

43. The correctional services administrative agencies contribute to the maintenance of a just, peaceful and safe society by administering sentences through the safe and humane custody and supervision of offenders and assist their rehabilitation and reintegration into the community as law-abiding citizens, through the provision of programs in the correctional facilities and in the community.

44. Independent oversight mechanisms in Canada investigate and bring resolution to individual offender complaints. Provincial Ombudsmen (and federally, Correctional Investigators mandated as Ombudsmen) investigate and make recommendations flowing from individual complaints.

45. The National Parole Board is an independent administrative tribunal that has exclusive authority under the *Corrections and Conditional Release Act* for conditional release. The NPB may also order certain offenders to be held in prison until the end of their sentence. In addition,

the Board makes conditional release decisions for offenders in provinces and territories, except in Ontario and Québec, which have their own parole boards with authority to grant conditional releases for offenders serving less than two years in prison.

#### **4. Human rights and national security**

46. Canada's laws regulating the relationship between security and human rights have been drafted to be consistent with Canada's international human rights obligations and the *Canadian Charter of Rights and Freedoms*. They also implement international obligations to combat terrorism. Canada's security laws have been enacted within the framework of ordinary statute law and are subject to the authority of Canadian courts to declare of no force or effect any legislation that does not meet Charter requirements.

47. A key element of Canada's national security legislation is the *Anti-terrorism Act* (ATA). Various aspects of the Act have been challenged since its enactment but it has generally been held to conform to the Charter. The ATA includes the following safeguards:

(a) The general definition of "terrorist activity" requires that intent and purpose elements be satisfied, expressly excludes "advocacy, protest, dissent or stoppage of work" (where these are not intended to result in serious forms of specified harm) and contains an interpretive clause to ensure the protection of freedom of expression;

(b) Judicial review, appeals, and judicial oversight mechanisms are incorporated into provisions for listing suspected terrorists and for seizure, restraint and forfeiture of property;

(c) Section 145 of the ATA required Parliament to conduct a "comprehensive review of the provisions and operation of the Act," within three years from the date that the Act received Royal Assent (December 18, 2001). This review, conducted by separate committees of the House of Commons and Senate, was completed in early 2007.

48. Canada's *Immigration and Refugee Protection Act* (IRPA) also contains elements for the protection of national security, including a security certificate process for the detention and removal of suspected terrorists, where much of the information made available to Ministers and judges must be protected from public disclosure. In 2007, inconsistencies with human rights were identified by the Supreme Court of Canada and corrective legislation was enacted. The 2008 amendments to IRPA introduced a special advocate programme. Special advocates are top-secret security-cleared lawyers who are independent of government and who may be interjected into the certificate process, related inadmissibility proceedings under IRPA and other judicial reviews before the Federal Court. They are given access to sensitive information and may cross-examine witnesses and make submissions before the judge on behalf of the named person's interests.

#### **5. Refugee protection**

49. Canada's refugee protection system under IRPA takes into account Canada's obligations under the *Convention Relating to the Status of Refugees* and its Protocol and under other relevant human rights treaties, including the *International Covenant on Civil and Political Rights*, the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* and the *Convention on the Rights of the Child*. The Supreme Court of Canada ruled in 1985 that the Charter protects refugee claimants present in Canada. Since then, there have been several important decisions affecting both the procedures and the substance of Canadian refugee

protection law. Canada's international human rights obligations have informed the scope of Charter protection of refugee claimants and others seeking Canada's protection.

50. Individuals granted refugee status can become permanent residents of Canada, can access settlement services for newcomers and, in due course, can apply for Canadian citizenship.

51. Failed refugee claimants can: seek leave of the Federal Court of Canada for judicial review of the Immigration and Refugee Board decision; request a Pre-Removal Risk Assessment; and apply for permanent residence on humanitarian and compassionate grounds, including that they would be at risk should they be removed from Canada.

#### **IV. ACHIEVEMENTS AND CHALLENGES IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

##### **A. Prosperity and quality of life**

###### **1. Poverty reduction**

52. Canada has seen a decline in the numbers of persons living with low income over the past decade. The overall rate of low income in Canada declined from 15.7 per cent of the population in 1996 to 10.5 per cent in 2006. This equates to approximately 3.4 million members of Canadian society, of which 760,000 were children, 2.4 million were working-age adults and 219,000 were seniors. Various programs and benefits instituted by governments to provide financial assistance to Canadians to enhance their economic well-being, some of which are described in the previous section of this report, have contributed to this trend.

53. However, governments in Canada recognize that efforts to reduce poverty must continue and that some groups are at particular risk. Poverty reduction strategies and programs exist at all levels of government and specifically target the most vulnerable groups, including people with disabilities, lone parents, recent immigrants, Aboriginal persons, the elderly, and children.

54. For example, the Government of Newfoundland and Labrador adopted a Poverty Reduction Strategy in 2006, which sets out specific goals and actions to reduce poverty. As part of its strategy, the Government has increased and indexed Income Support Rates. The *Act to combat poverty and social exclusion*, adopted by the Government of Québec in 2000, aims to combat poverty, reduce its effects on individuals and counter social exclusion. A five-year plan targeting a range of measures was also adopted in Quebec. Governments also provide access to assistance programs, in the areas of workforce training, educational advancement and/or financial support, examples of which are outlined in Part III under Human well-being.

###### **2. Housing and homelessness**

55. The majority of Canada's housing needs are met by the private market. Despite this success, approximately 13.7 per cent of all Canadian households were in core housing need in 2001. Core housing standards define whether a household's situation to determine whether its housing is adequate, suitable (uncrowded) and affordable.

56. Governments in Canada are working collaboratively, and with non-governmental organizations, on measures to address the housing needs of all Canadians, including families with children, and ensure that their residents have access to adequate housing through various initiatives, for example:

(a) The Federal Budget 2006 provided for the establishment of housing trust funds with provinces and territories to invest in affordable housing: an affordable housing trust of \$800 million; a Northern housing trust of \$300 million; and a trust for off-reserve Aboriginal housing of \$300 million.

(b) The investment of \$1 billion by the Government of Canada under the Affordable Housing Initiative (AHI), is being matched by provincial and territorial governments and third parties. Provinces and territories have the flexibility to design and deliver programs that are best suited to their affordable housing needs, including for example, the housing needs of seniors, individuals, and families with children.

(c) The Government of Canada provides some \$1.7 billion per year to support approximately 626,000 lower-income households in existing social housing, including for example, many single and two-parent families with children.

(d) In December 2006, the Government of Canada announced \$526 million over two years for housing and homelessness programs. This includes an investment of \$270 million over two years for the new Homelessness Partnering Strategy aimed at combating homelessness in communities across Canada. The announcement also includes an investment of \$256 million for Canada Mortgage and Housing Corporation's (CMHC) renovation assistance programs for low-income households. These renovation programs will help improve the living conditions for some 38,000 low-income people including persons with disabilities, women and children who are victims of family violence, Aboriginal people and their families, and seniors.

(e) Building on the initiatives noted above, on September 4, 2008, the Government of Canada set aside funding for housing and homelessness programs at \$387.9 million per year for five years to March 31, 2014.<sup>3</sup>

57. In addition to providing an increase in affordable housing units and providing resources for those encountering difficulties in meeting their basic housing needs through financial support, provinces and territories are assisting low-income households who currently own homes that are in sub-standard condition, to have access to funds that will assist with the cost of repairs and enhancements.

58. Under the Residential Rehabilitation Assistance Program for Persons with Disabilities, the Government of Canada offers financial help to homeowners and landlords to undertake work to improve the accessibility of dwellings to meet the special needs of disabled persons. In New Brunswick and Nova Scotia, funds are available to homeowners for the purpose of adapting homes to the needs of persons with disabilities and for minor adaptations for seniors in order to facilitate independent living and modifications to accommodate an ageing parent.

59. Aboriginal housing remains a priority for the Government of Canada, which provides help to address housing needs on reserve. This supports housing construction of approximately 2,300 new homes and renovation of some 3,300 existing houses, as well as ongoing subsidies for some 27,000 rental units for Aboriginal people and their families. In April 2007, the Government of Canada announced the creation of a First Nations Market Housing Fund that will help provide for up to 25,000 housing units on-reserve over 10 years. This is a first step in fundamentally transforming the housing system on-reserve. The objective is to move away from a housing system that depends almost entirely on government subsidies to one that provides First Nation people with the same housing opportunities and responsibilities as other Canadians. Off-reserve,

Aboriginals are eligible for all current government housing initiatives including for example, the Affordable Housing Initiative (AHI) and CMHC's Housing Renovation Programs.

60. Governments are also taking measures to address homelessness in Canada. Although the very nature of homelessness makes it difficult to measure its extent, it is estimated that there might be 150,000 homeless people in Canada; however, some estimations put the rate as high as double that number. Certain groups are becoming more vulnerable to homelessness, such as the elderly, women, including young girls, and children. Aboriginal people are overrepresented in the homeless population, especially in larger urban areas.

61. In partnership with over 61 communities, including Aboriginal communities, the Government of Canada's Homelessness Partnering Strategy (HPS) puts in place partnerships and structures, including longer-term housing solutions, to combat homelessness and improve the quality of affordable housing for low-income households. Federal funding is invested in finding solutions, as identified by communities in consultation with all levels of government, as well as the private and voluntary sectors. The Strategy recognizes that housing stability is essential to self-sufficiency and other positive life outcomes such as improved health, parenting and employment.

62. Programs across provinces and territories are geared towards increasing the number and accessibility of emergency shelters for those in need and developing strategies and frameworks to reduce the need for these resources in the future. Government departments and agencies are working together to provide a comprehensive strategy at the federal, provincial and territorial level to diminish the homelessness rate in Canada.

63. An example of a comprehensive strategy is Housing Matters BC, which will provide new housing units, purchase and renovate buildings across British Columbia for vulnerable individuals; and expand the Homeless Outreach Program from approximately 30 communities in 2006 to 47 in 2008. This housing approach is based on research, evidence and integrated decision-making, and service delivery. Newfoundland and Labrador's "Profiling at Risk of Housing Affordability" project aims to identify low income sub-populations at risk of housing affordability. The main objective is to develop and utilize small area data to examine trends and characteristics of low income and risk of housing affordability at the neighbourhood, community, regional and provincial level.

## **B. Government initiatives on Aboriginal issues**

64. The Government of Canada recognizes that in order to ensure that Aboriginal peoples share equally in Canada's current prosperity and future development, it is necessary to deal fairly with obligations arising from the past while balancing current competing interests in order to strengthen relationships and achieve workable solutions.

65. Inequalities persist in contemporary Canadian society between Aboriginal people and other Canadians. These inequalities are reflected in the fact that Aboriginal people in Canada are statistically more likely to be recipients of social assistance, to be unemployed, to be incarcerated, to live in poverty, to face increased health risks and to commit suicide. In partnership with Aboriginal peoples, the Government of Canada is committed to addressing these pressing issues and ensuring an improved quality of life for Aboriginal individuals and groups through a policy agenda focused on five key areas: economic development; education; citizen empowerment and protection of the vulnerable; resolution of land claims and

reconciliation; governance and self-government. Examples of progress in some of these areas are provided below.

### **1. Programs for Aboriginal children and families**

66. The Government of Canada's First Nations Child and Family Services Program is an example of social programs for First Nations children and families living on reserve. Under this program, the federal government funds First Nations and other recipients to deliver culturally-appropriate child welfare services to First Nations families and children on reserve. In all cases, recipients receive their mandate from the reference province to deliver child and family services on-reserve.

67. In 2006-2007, there were approximately 8,282 First Nations children in care. This number is disproportionately high in comparison to the general population and is indicative of the broader social concerns that exist on many reserves, those of poverty, poor housing conditions, substance abuse and exposure to family violence.

68. In response to these underlying concerns as well as to recommendations by the Auditor General of Canada to better address gaps in policy, funding, accountability and reporting, governments in Canada, in partnership with First Nations, undertake measures to incrementally shift agency programming to a prevention focused approach. This shift began in 2007 is working towards completion by 2013.

69. Examples of government measures include British Columbia's work with Aboriginal communities, leadership and individuals to develop capacity within the Aboriginal communities to take on child and family services, with the objective of achieving in fewer Aboriginal children in care, more culturally appropriate services delivered to Aboriginal people, and increased involvement by Aboriginal community members in decisions pertaining to their children. Through Aboriginal Education Enhancement Agreements in British Columbia, school boards and Aboriginal communities jointly identify the direction needed to improve the success of Aboriginal students, take steps to reach their shared goals and reflect local Aboriginal culture. The Province has provided grants to help Friendship Centre Societies with enhanced early childhood development programming and family literacy initiatives.

70. Other government measures include the enactment by the Government of Yukon of the *Child and Family Services Act*, which recognizes the importance of culture and community in the lives of children and families; and the importance of involving First Nations in planning and decision-making where First Nations children are involved in child protection matters. The Government of New Brunswick continues to advance its work with First Nation communities and organizations on issues such as the provision of culturally sensitive mental health and addictions services. Manitoba's *The Child and Family Services Authorities Act* devolved responsibility for development and delivery of programs for Aboriginal families to a Métis and two regional First Nation authorities. The Government of Newfoundland and Labrador funds an Aboriginal grants program for women and children to support their efforts to promote violence prevention.

### **2. Extension of the *Canadian Human Rights Act* to matters under the *Indian Act***

71. The *Canadian Human Rights Act* was amended to repeal section 67. This amendment closed a long-standing legislative gap noted by national and international bodies and allows for issues of discrimination arising under the *Indian Act* to be addressed under this legislative

scheme (in addition to challenges that can at any rate be brought by litigation raising the Charter).

### **3. Indian residential schools**

72. Reconciliation is a fundamental aspect of the Government of Canada's approach to addressing the harmful legacy of Indian residential schools. For over a century, until the last school was shut down in the 1990s, this system educated more than 150,000 Aboriginal children in schools outside their communities.

73. On 11 June 2008, the Prime Minister formally apologized to former students of Indian residential schools on behalf of the Government of Canada and all Canadians, asking forgiveness for the students' suffering and for the damaging impact the schools had on Aboriginal culture, heritage and language.

74. The Indian Residential Schools Settlement Agreement is the basis upon which compensation is paid to individuals who attended these schools. In total, 64,000 former students have received \$1.3 billion dollars. Canada also established a Truth and Reconciliation Commission. The Commission is intended to give a voice to those who wish to recount their personal experiences with the Indian residential school system and to produce an accurate and public record of the past.

### **4. Treaty rights, self-government and land claims**

75. Traditional territories have great cultural and spiritual importance for Aboriginal peoples. Moreover, the collective management of land and resources is a significant aspect of the way of life of many Aboriginal groups, contributing to their subsistence and economic self-sufficiency. The Government of Canada seeks to reconcile the rights of Aboriginal peoples over traditional lands with Canadian territorial sovereignty through continued respect for existing, historic treaties and the negotiation of new treaties and other agreements. The Canadian Constitution recognizes and affirms Aboriginal treaty rights.

76. Historic treaties provided for the allocation of lands specifically reserved for Aboriginal groups as well as continued access by Aboriginal groups to non-reserve lands for the purposes of hunting, fishing, trapping and gathering. Most of these treaties are still in force today. Claims sometimes arise from disagreements over whether treaty provisions or contractual or other obligations have been fully satisfied.

77. The Government of Canada has initiated a multi-faceted action plan to expedite the process for the resolution of specific claims, placing greater emphasis on dispute resolution, committing an additional \$250 million a year for settlements and creating a tribunal of impartial judges to decide claims when negotiations fail.

78. Comprehensive claims negotiations address a wide range of rights, responsibilities and benefits, including ownership of lands, fisheries and wildlife harvesting rights, participation in land and resource management, financial compensation, resource revenue sharing and economic development projects. Twenty comprehensive claim agreements or treaties, covering roughly 40 per cent of Canada's land mass, have come into effect since 1973. These treaties involve over 90 Aboriginal communities with over 70,000 members. Approximately 60 other processes across the country are at various stages of negotiations.



79. Many of these new treaties include self-government provisions. Since 1995, Canada has recognized that Aboriginal peoples have the right to govern themselves in relation to matters internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions and with respect to their special relationship to their lands and their resources. To date, 17 self-government agreements affecting 36 communities have been concluded.

### **C. Women's rights**

80. Canada works to advance women's equality through international commitments such as the *Convention on the Elimination of All Forms of Discrimination against Women*, and domestic commitments to gender mainstreaming. Using an accountability-based approach, Canada has made extensive progress on the implementation of gender-based analysis (GBA) across governments, including, for example, the application of GBA to measures in the national budget.

#### **1. Employment and education**

81. Women in Canada have made significant strides in the areas of employment and education. The unemployment rate for Canadian women is at a 30-year low and is below the unemployment rate for Canadian men. As of 2007, the unemployment rate for women was 5.6 per cent (6.4 per cent for men). Governments are working to facilitate women's labour market participation through programs such as the Aboriginal Human Resources Development Strategy, the Targeted Initiative for Older Workers, the Youth Employment Strategy and the Trades and Apprenticeship Strategy.

82. Canadian women have the highest rate of post-secondary educational attainment in OECD countries. In 2005, 59.7 per cent of Canadian university qualifications were awarded to women, compared to 40.3 per cent for men. While the incidence of low income is somewhat higher for women compared to men (10.9 per cent vs. 10.1 per cent in 2006), significant progress has been made in recent years in improving the low-income situation of women in Canada. For example, overall, the low-income rate among females in Canada has been steadily declining since the mid-1990s, from 16.5 per cent in 1996 to 10.9 per cent in 2006. In addition, the low-income rate for female lone-parent families decreased significantly from a high of 52.7 per cent in 1996 to 28.2 per cent in 2006.

83. Governments are also taking steps to break down barriers in the skilled trades, a sector traditionally dominated by men. For example, several new initiatives introduced in recent years in Newfoundland and Labrador have led to a 35 per cent increase in the number of women registering for apprenticeship programs in non-traditional trades.

#### **2. Measures to address violence against women**

84. Women in Canada, particularly Aboriginal women, are more likely than men to be victims of violence, including the most severe and frequent forms of spousal assault. However, in general, the prevalence of spousal violence is showing signs of a decline and spousal homicide rates have also decreased in recent years. The decline in the prevalence of spousal assault suggested by victimization surveys, together with the decrease in spousal homicide, may be a result of improved social interventions and the increased use of services by abused women.

85. Addressing violent crime remains a priority for all governments in Canada. The Government of Canada has introduced numerous criminal law reform packages that will serve to better protect women and all Canadians from violence. In addition, federal, provincial and territorial governments have strategies and programs in place to eliminate violence against

women and address the immediate needs of women and their children who are victims (or who fear becoming victims) of violence. Resources include access to emergency shelters and counselling, province-wide action plans against sexual violence, and Aboriginal-specific initiatives, including culturally adapted health services, and the creation of culturally sensitive residential and outreach programs.

86. The Government of Canada also provides financial and professional assistance to organizations to carry out projects at the local, regional and national levels. These initiatives include training for shelter staff working with victims of violence, empowerment sessions, entrepreneurship training, childcare and violence prevention programs. To address the high rates of violence against Aboriginal women, the Government of Canada, in partnership with the Native Women's Association of Canada, supports the Sisters in Spirit Initiative, which is aimed at raising awareness about racialized and sexualized violence against Aboriginal women. This violence often leads to the disappearance or death of Aboriginal women and girls. The Government of Canada has also recently announced new initiatives, such as the Federal Elder Abuse Initiative, to raise awareness of and combat elder abuse in its many forms.

87. Examples of provincial measures to address violence against women and girls include Saskatchewan's Strategy for Stopping Interpersonal Violence and Abuse and Québec's "Action plan on sexual abuse 2008-2013". The Government of Ontario established a Domestic Violence Advisory Council to provide advice on improving the efficiency and effectiveness of community and justice system supports to better meet the needs of women who are victims of domestic violence as well as their children. The Alberta Relationship Threat Assessment and Management Initiative aims to reduce and prevent fear, suffering, violence and death in high-risk relationship violence cases by providing an integrated criminal justice response. In Newfoundland and Labrador, the Community Advisory Committee, developed under the Violence Prevention Initiative (VPI), ensures that grass-roots information informs government policies.

## **D. Immigration and integration measures**

### **1. Integration of newcomers**

88. The successful settlement and integration of new immigrants is an important objective under the *Immigration and Refugee Protection Act* (IRPA). In addition to general orientation information, settlement services for permanent residents include those aimed at language and skills development, labour market participation, and development of community connections. These services play a major role by assisting immigrants and refugees to overcome barriers specific to the newcomer experience so that they can undertake their longer-term integration on a similar footing to other Canadians.

89. In conjunction with provinces, territories, partners and stakeholders across Canada, the Government of Canada improves immigrant integration outcomes by helping internationally-trained individuals to integrate and participate in the Canadian labour market, as well as enhancing the interprovincial mobility of internationally trained workers. The Going to Canada immigration portal provides newcomers with information services and tools to facilitate their integration into Canada's labour market and society.

90. Provincial governments offer funding and programming to support newcomers in their quest to integrate into Canadian society. Newcomers are provided with resource materials, counselling opportunities, language training, settlement and employment assistance. For example, Saskatchewan provides funding to community-based organizations, colleges,

employers, and other partner agencies to provide settlement and retention supports for immigrants, through such services as: assessment and referral; providing assistance in locating housing, health care and education for children; language training; and removing barriers to the recognition of credentials. The Government of New Brunswick provides funding for employment counsellors for newcomers participating in the New Brunswick Enhanced Language Training Program, which is offered through community organizations. The Government of Alberta's Victims Services Branch works to inform all victims, including newcomer groups and newcomers of assistance available to them if they are victims of crime. The Victims of Crime handbook "Crossing the Cultural Divide: Information for Immigrants and Refugees on Services for Victims of Crime" was produced and translated into 11 different languages. Québec's action plan *Des valeurs partagées, des intérêts communs* outlines a series of measures aimed at facilitating the integration of immigrants and cultural communities into Québec society.

## **2. Migrant workers**

91. Temporary foreign workers are usually brought into Canada in response to a documented need to fill a specific job identified by an employer. They are generally expected to leave Canada once the contract has been fulfilled. Temporary foreign workers enjoy the same labour-related rights, human rights and social protections that Canadians possess. The *Canadian Charter of Rights and Freedoms* applies to all individuals on Canadian soil and fosters an environment of social inclusion.

92. Through the Temporary Foreign Worker Program, Canada provides information to employers and employees to ensure that foreign workers are aware of their rights and any recourse mechanisms. The Government of Canada also works collaboratively with its provincial counterparts, who are primarily responsible for labour standards, occupational health and safety, and labour relations for most of the occupations in Canada, to ensure awareness of and access to appropriate protections and eligible services.

93. Examples of provincial/territorial measures include the following. New Brunswick is working with employers in the province to establish co-funded English Language Programming for temporary foreign workers which will serve to enhance their safety while in Canada and improve their integration into the workplace. Migrant workers in the Yukon Territory enjoy the same rights and protections as any other worker in the territory under the relevant territorial employment legislation. Training and employment programs are also available to assist migrant workers. In British Columbia, foreign workers are entitled to the same statutory protections as any other worker in British Columbia under the *Employment Standards Act*, *Labour Relations Code*, and *Workers Compensation Act*.

## **3. Human trafficking – prevention and protection**

94. Canada's efforts to combat trafficking in persons focus on four broad areas (the 4 "P's"): the prevention of trafficking, the protection of victims, the prosecution of offenders and working in partnership with key stakeholders towards these ends. This approach is consistent with prevailing international best practices. The enactment of specific offences against trafficking in persons in the *Immigration and Refugee Protection Act* (2002) and the *Criminal Code* (2005), provide a broad based criminal law framework to respond to this crime.

95. Canada is believed to be primarily a transit and destination country for trafficking in persons (TIP). It is believed that victims that are being trafficked in Canada are largely destined for major centres in Canada such as Montreal, Toronto and Vancouver. Intelligence indicates

that trafficked persons in Canada are predominantly forced to work in the sex trade. Investigations conducted by Canadian law enforcement support these findings; TIP cases encountered by Canadian law enforcement involve women and children who are trafficked for the purpose of sexual exploitation.

96. Governments in Canada have put in place measures aimed at combating trafficking and providing support to victims, for example:

(a) Protection for foreign victims of trafficking in Canada has been strengthened through guidelines for a fee-exempt temporary resident permit for 180 days. Access to health care (including counselling) is provided through the Interim Federal Health Program and victims can apply for a concurrent fee-exempt work permit;

(b) Training is provided to law enforcement, border and immigration officials and civil society on the identification of trafficked victims as well as the new trafficking offences.

(c) The Royal Canadian Mounted Police's Human Trafficking National Coordination Centre has been established.

(d) The Alberta Coalition Against Human Trafficking is examining issues around human trafficking in Alberta and includes members from several provincial government departments, the federal government and from non-profit community agencies.

(e) The Office to Combat Trafficking in Persons (OCTIP) in British Columbia, is working in collaboration with other provincial ministries, federal departments, municipal governments, law enforcement agencies and community organizations, to eliminate human trafficking and build services for trafficked persons. OCTIP takes a human rights centered approach and places the rights and needs of trafficked persons at the centre of all its work.

(f) Motions and resolutions have been adopted by Canadian legislatures with respect to human trafficking.<sup>4</sup>

## **E. Anti-discrimination**

### **1. Measures to combat racism**

97. As a multicultural society, Canada is not immune from problems of racism. Surveys show that 36 per cent of visible minorities feel they have experienced discrimination and unfair treatment because of ethno-cultural characteristics<sup>5</sup> and 46 per cent of Aboriginal people living off-reserve reported being a victim of racism or discrimination at least once over the previous two years.<sup>6</sup>

98. Governments in Canada have enacted legislative protections as well as policies against racism and the promotion of hatred. For example, under the *Criminal Code* of Canada, 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 groups distinguished by race, colour, religion or ethnic origin. In 2004, these offences were extended to apply to groups distinguished by sexual orientation. As well, hate motivation in the commission of any offence, is an aggravating factor for sentencing purposes. Hate speech is also dealt with in the *Canadian Human Rights Act* and in some provincial human rights Acts. The Canadian Human Rights Commission is currently studying the effectiveness of the *Canadian Human Rights Act*

hate speech provision in the context of contemporary society and new communications technologies.

99. The 2001 *Anti-terrorism Act* contained additional provisions to protect against acts of hatred and discrimination. The hate propaganda offences in the Code were amended to authorize courts to order the deletion of publicly available hate propaganda stored on computer servers. A specific offence of public mischief in relation to places of religious worship was created for acts motivated by hatred based on religion, race, colour, or national or ethnic origin.

100. Measures undertaken by provincial and territorial governments include:

(a) New Brunswick has a Population Growth strategy, whereby the government has committed to promoting Multiculturalism in the province's public schools by making it part of the curriculum. The Multicultural Grants Program funds activities that educate New Brunswickers about the value of cultural diversity to the province.

(b) In October 2008, the Government of Québec issued a policy entitled *Diversity: An Added Value*, to promote the participation of all in Québec's development. The policy sets out a series of measures aimed at combating and preventing racism and racial discrimination, ensuring the full participation of all citizens in economic activities and promoting intercultural rapprochement.

(c) British Columbia's *Multiculturalism Act* legislates the appointment of a Minister responsible for Multiculturalism and a Multicultural Advisory Council. This Council advises the Minister on issues pertaining to multiculturalism and anti-racism.

(d) Newfoundland and Labrador has a Multiculturalism Working Group to assist executive staff in Government to identify and manage specific activities and initiatives related to implementation of the Policy of Multiculturalism within Government and at the local, regional and community level.

## **2. Persons with disabilities**

101. Canada has in place a foundation of equality and non-discrimination protection for persons with disabilities, which is entrenched constitutionally in section 15 of the *Canadian Charter of Rights and Freedoms*, and in human rights legislation enacted in all jurisdictions (see Part II of this report).

102. Governments have also implemented other legislative and policy measures to ensure the full inclusion and equal participation of Canadians in all aspects of society and community life, for example:

(a) The Government of Canada's Registered Disability Savings Plan helps parents and others save to ensure the long-term financial security of a child with a severe disability. In addition to individual savings, the Government will contribute up to \$90,000 in grants and bonds to a beneficiary's plan.

(b) The Enabling Accessibility Fund provides funding for projects that improve accessibility and enable Canadians, regardless of physical ability, to participate in and contribute to their communities and the economy.

(c) The Government of Québec has enacted the *Act ensuring the right of handicapped persons to exercise their rights with a view to achieving social, school and workplace integration*, that aims to help them integrate into society to the same extent as other citizens by providing for various measures to apply specifically to handicapped persons and their families, their living environments and the development and organization of resources and services for them.

(d) Health Authorities in British Columbia provide home and community care services for persons with acute, chronic, palliative or rehabilitative health care needs.

(e) New Brunswick and the Northwest Territories have developed and implemented action plans for persons with disabilities. The action plans highlight recommendations and actions that will serve to improve the lives of persons with disabilities, to ensure their full and active participation in Canadian society.

(f) The Government of Newfoundland and Labrador has established a new Disabilities Policy Office and in consultation with the disabilities community, work will be conducted to find solutions to the barriers faced by persons with disabilities in accessing public services, pursuing an education and securing meaningful employment.

#### Notes

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<sup>1</sup> The Canadian Constitution recognizes three groups of Aboriginal people – Indians, Métis and Inuit. These are three separate peoples with unique heritages, languages, cultural practices and spiritual beliefs.

<sup>2</sup> The Supreme Court of Canada has recognized that the constitutional protection of freedom of expression is premised upon fundamental principles and values that promote the search for and attainment of truth, participation in social and political decision making and the opportunity for individual self-fulfillment through expression.

<sup>3</sup> Funding for the Affordable Housing Initiative, the housing renovation programs, including the Residential Rehabilitation and Assistance Program and the Homelessness Partnering Strategy were set to expire on March 31, 2009.

<sup>4</sup> The House of Commons unanimously adopted a motion in 2007 condemning human trafficking and supporting a comprehensive strategy to combat trafficking worldwide and the Manitoba Legislature adopted a resolution in 2008, which recognizes that women in particular are victims of trafficking and urges governments to work collaboratively to address the issue.

<sup>5</sup> According to the Ethnic Diversity Survey of 2002 and Statistics Canada census data.

<sup>6</sup> According to the 2003 Ekos survey.