



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Eighteenth periodic reports of States parties due in 2005

Addendum

CANADA* **

[3 February 2006]

* This document contains the seventeenth and eighteenth periodic reports of Canada, due on 15 November 2005, submitted in one document. For the thirteenth and fourteenth periodic reports and the summary records of the meetings at which the Committee considered the report, see document CERD/C/320/Add.5 and CERD/C/SR.1524, 1525 and 1547. For the fifteenth and sixteenth reports, submitted in one document, see document CERD/C/409/Add.4.

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List of Acronyms

AAAP	Alberta Aboriginal Apprenticeship Project
AISI	Alberta Initiative for School Improvement
AMP	Alternative Measures Program
ATA	<i>Anti-Terrorism Act</i>
AWPI	Aboriginal Workforce Participation Initiative
BACMP	British Columbia Anti-racism and Multiculturalism Program
CACP	Canadian Association of Chief of Police
CAVAC	<i>Centre d'aide aux victimes d'actes criminels (Québec)</i>
CBACM	Council for Black Aging Community of Montréal
CBSC	Canadian Broadcast Standards Council
CCJS	Canadian Centre for Justice Statistics
CCLA	Canadian Civil Liberties Association
CCP	Court Challenges Program
CDPDJ	<i>Commission des droits de la personne et des droits de la jeunesse (Quebec)</i>
CGP	Career Gateway Program
CRTC	Canadian Radio-television and Telecommunications Commission
FNMI EFT	First Nations, Métis, and Inuit Education Policy Framework
FNTEP	First Nations Training to Employment Program
FOP	Fine Option Program
FVI	Family Violence Initiative
FVPP	Family Violence Prevention Program
GREAT	Grand River Employment and Training
ICERD	<i>International Convention on the Elimination of All forms of Racial Discrimination</i>
ICESCR	<i>International Covenant on Economic, Social and Cultural Rights</i>
IMG	International Medical Graduates
IQP	International Qualifications Program
IRB	Immigration and Refugee Board
LAO	Legal Aid Ontario
LEAD	Law Enforcement and Aboriginal Diversity Network
MCSCS	Ministry of Community Safety and Correctional Services
MHRC	Manitoba Human Rights Commission
MK	Mi'kmaq Kina'matneway
MLPIMG	Medical Licensure Program for Internal Medical Graduates
MLSN	Mi'kmaq Legal Support Network
NBCC	New Brunswick Community College
NCCT	Native Canadian Centre of Toronto
NGO	Non-governmental Organization
NWAC	Native Women's Association of Canada
NWT	Northwest Territories
OHRC	Ontario Human Rights Commission
OPP	Ontario Provincial Police

PANA	<i>Programme d'accompagnement des nouveaux arrivants (Quebec)</i>
PARCI	<i>Programme d'appui aux relations civiques et interculturelles (Quebec)</i>
PEI	Prince Edward Island
PRI	<i>Programme régional d'intégration (Quebec)</i>
PRIIME	<i>Programme d'aide à l'intégration des immigrants et des minorités visibles en emploi (Quebec)</i>
RCMP	Royal Canadian Mounted Police
RPRF	The Right to Permanent Residence Fee
SALCO	South Asian Legal Clinic of Ontario
SCIP	Skills Connect for Immigrants Program
SPVM	<i>Service de Police de la Ville de Montréal (Quebec)</i>
UNESCO	United Nations Educational Scientific and Cultural Organization
UOI	Union of Ontario Indians
VIPS	Volunteers in Public Service
WPS	Winnipeg Police Service.

Part 1

INTRODUCTION

1. This report outlines key measures adopted in Canada from June 2001 to May 2005 to enhance its implementation of the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD).
2. In order to improve the timeliness and relevance of reporting to UN treaty bodies, effort has been taken to keep this report concise and focused on selected key issues where there are significant new developments and where information is not already provided within reports under other conventions to which Canada is a party. Where detailed information is available in other reports, these are referred to but, with few exceptions, the information is not repeated in this report.
3. The issues covered were selected after analysis of concerns raised by the Committee on the Elimination of Racial Discrimination during its review of Canada's previous report and consultations with the Continuing Committee of Officials on Human Rights, the principal mechanism responsible for federal-provincial-territorial consultations on human rights.
4. The key areas addressed in this report are: Canada's action plan against racism; Aboriginal issues; legislation, including the impact of the *Anti-Terrorism Act*; complaint processes; racial profiling; hate crimes and racism incidents; employment issues, including discrimination and foreign credential recognition; racism in the media; immigration and migrant related policies.
5. The Government of Canada shared the preliminary list of issues with non-governmental organizations (NGOs) in advance of preparing the report and sought their views on whether these were the appropriate issues to cover. Of the 68 NGOs canvassed, two responded: the Canadian Civil Liberties Association - National Capital Region (CCLA), and the Council for Black Aging Community of Montreal Inc. (CBACM).
6. The CCLA comments included the following:
 - The report should be focused on areas where there is likely to be real progress toward the goal to eliminate racial discrimination; and
 - The Government of Canada should make more effort in leading its citizens to develop a greater level of acceptance of diversity while facilitating the integration of immigrants in the country.
7. CBACM identified the following as the key issues for Canada's report:
 - Action plan against racism;
 - Aboriginal peoples issues;
 - Effectiveness of complaint process;

- Racial profiling;
- Employment, including discrimination and foreign credentials recognition;
- Hate crimes and racism incidents; and
- Racism in the media.

8. Canada's report is divided into five parts. Part II includes general information on the demographic characteristics of the Canadian population. Part III provides an examination of measures adopted by the Government of Canada to enhance its implementation of the ICERD. Part IV indicates measures adopted by provinces to combat racism and Part V contains information on actions taken by the territories to eradicate racial discrimination. Information on jurisprudence of relevance is included in Appendix 1 of the present report.

9. The following statistical and reference documents are being submitted with the report:

- *A Canada For All: Canada's Action Plan Against Racism*, Department of Canadian Heritage, Government of Canada, 2005, 62 p.
(http://www.pch.gc.ca/multi/plan_action_plan/index_e.cfm)
- *Projections of the Aboriginal populations, Canada, Provinces and Territories*, Statistics Canada, Government of Canada, 2005, 89 p.
(<http://www.statcan.ca/english/freepub/91-547-XIE/91-547-XIE2005001.pdf>)
- *Aboriginal Peoples in Canada: A Demographic Profile*, Statistics Canada, Government of Canada, 2003, 25 p.
(<http://www12.statcan.ca/english/census01/products/analytic/companion/abor/pdf/96F0030XIE2001007.pdf>)
- *Religions in Canada*; Statistics Canada, Government of Canada, 2003, 32 p.
(<http://www12.statcan.ca/english/census01/products/analytic/companion/rel/pdf/96F0030XIE2001015.pdf>)
- *Ethnic Diversity Survey: Portrait of a Multicultural Society*, Statistics Canada, Government of Canada, 2003, 29 p. (<http://www.statcan.ca/english/freepub/89-593-XIE/89-593-XIE2003001.pdf>)
- *Canada's Ethnocultural Portrait: The Changing Mosaic*, Statistics Canada, Government of Canada, 2003, 60 p.
(<http://www12.statcan.ca/english/census01/products/analytic/companion/etoimm/pdf/96F0030XIE2001008.pdf>)
- *The Changing Profile of Canada's Labour Force*, Statistics Canada, Government of Canada, 2003, 45 p.
(<http://www12.statcan.ca/english/census01/products/analytic/companion/paid/pdf/96F0030XIE2001009.pdf>)

Part II

DEMOGRAPHIC CHARACTERISTICS OF THE CANADIAN POPULATION

Demographic data

10. Canada is a multicultural and multiethnic country where immigration plays a dominant role in demographic growth. Canadians reported more than 200 ethnic origins in response to the 2001 Census question on the ethnic or cultural groups to which their ancestors belonged. This is an increase of 25% over the 1996 Census. Moreover, the proportion of Canada's population that was born outside the country reached a 70-year high of 18.4%.
11. Nearly four million people in Canada identified themselves as members of visible minority groups, accounting for 13.4% of the population overall. The three largest visible minority groups are: Chinese, South Asians and Blacks. They comprise two thirds of the visible minority population. These groups were followed by Filipinos, Arabs and West Asians, Latin Americans, South East Asians, Koreans, and Japanese.
12. Nearly three quarters (73%) of immigrants who arrived in the 1990s lived in three census metropolitan areas: Toronto, Vancouver and Montreal. In contrast, almost one third of Canada's population live in these areas. Consequently, the proportion of newcomers in these urban centres is on the rise. Only 6% of new immigrants have settled in areas other than the census metropolitan areas.
13. According to 2001 census data, Ontario and British Columbia were the two provinces with the highest proportion of people born outside the country. In Ontario, more than three million people were born outside the country, representing 27% of the total population in 2001; in British Columbia, 1 million people were born abroad, representing 26% of the total population.
14. Approximately 15% of Alberta's population was born abroad in 2001, making it the third highest proportion, followed by Manitoba (12%), Yukon (11%) and Quebec (10%). Less than 7% of the population of the other provinces and territories was born outside the country.
15. In 2001, 51.9% of all people born outside of the country were women. The proportion of women among the people who arrived in Canada in the last ten years is slightly higher than the proportion of women who have been living in Canada for a long time. Women represent the majority of the people who are currently immigrating to Canada. For example, 51% of all people who immigrated to Canada in 2001 were women.
16. Women are most likely to be admitted to Canada as family class immigrants. In 2002, women represented 61% of all the people admitted to Canada as family class immigrants, whereas they represented 47% of the immigrants admitted as refugees or for humanitarian reasons, and 46% of business class immigrants.

17. Intermarriage appears to explain the increasing number of people who report multiethnic ancestries. Multiethnic origins were reported more commonly by the first immigrants to Canada who had a larger number of opportunities to marry people of different ethnic ancestries throughout the generations. The increasing number of people who reported that they were Canadian with other origins in 1996 and 2001 is also a factor that supports the increase.

18. In both 1996 and 2001, approximately the same number of people (18.3 million) reported only one ethnic origin. They represented 64% of the total population in 1996 and 62% in 2001. However, the number of people who reported more than one ethnic origin has changed. In 2001, 11.3 million people, or 38% of the population, reported multiple ethnic origins, an increase over the 10.2 million or 36% of the people who did so in 1996.

19. The people born outside of the country appeared to be very attached to Canada. In 2001, 84% of the residents born abroad, who were eligible, became Canadian citizens. Although the people born abroad who have lived in Canada for a long time are more likely to become citizens, the vast majority of recent newcomers also obtained their citizenship. For example, nearly eight people out of ten who arrived in Canada between 1991 and 1995 had already obtained their citizenship in 2001.

Aboriginal people

20. According to the 2001 census, a total of 976,300 people identified themselves as a member of at least one of the three Aboriginal groups: North American Indian, Métis, or Inuit. This figure was 22% higher than the 799,000 recorded in 1996. Aboriginal people currently represent 3.3% of the total population of the country, compared to 2.8% five years earlier.

21. Children aged 14 and under represent one third of the Aboriginal population, which is much higher than the corresponding proportion among the non-Aboriginal population of 19%. Although the Aboriginal population represents only 3.3% of the total population of Canada, Aboriginal children account for 5.6% of all the children in Canada.

22. According to Statistics Canada, approximately one half of the growth of the Aboriginal population may be attributable to demographic factors, such as a high birth rate. Various other factors may explain the balance of the growth, such as fewer reserves that were partially enumerated and the growing trend in which people identify themselves as Aboriginal.

Languages

23. Canadians reported more than 100 languages in response to the census question on mother tongue. The list includes languages that have long been associated with immigration in Canada, such as German, Italian, Ukrainian, Dutch and Polish. However, from 1996 to 2001, language groups from Asia and the Middle East posted the highest increases.

24. In 2001, nearly 5,335,000 people—approximately one person out of six—were allophones, meaning that they reported their mother tongue as neither English nor French. This figure rose by 12.5% over 1996, representing three times the Canadian population growth rate (which is 4%).

25. The 2001 census confirmed that Chinese was the third most significant mother tongue in Canada. Nearly 872,400 people reported Chinese as their mother tongue, an increase of 136,400 people, or 18.5%, over 1996. They represent 2.9% of the population in Canada compared to 2.6% five years earlier. Italian continued to rank fourth and German fifth, even though that number fell. Punjabi ranked sixth, and Spanish dropped to seventh position.

26. Allophone groups from Asian or Middle Eastern countries recorded the largest increases in absolute numbers. In addition to Chinese, the language groups that reported the largest increases in absolute numbers were Punjabi, rising by 70,200 or 32.7%; Arabic rose by 54,400 or 32.7%; Urdu rose by 43,100, which is nearly double the 1996 figure; and Tagalog grew by 41,600 or 26.3%.

27. The vast majority of allophones (92%) live mostly in four provinces, namely Ontario, British Columbia, Quebec, and Alberta. Allophones represent nearly one quarter of the total population of Ontario and British Columbia. In Alberta, they accounted for 16.4% of the population, and in Quebec, 10.3%.

28. According to the 2001 census, Cree (80,000 people), Inuktitut (29,700), and Ojibway (23,500) were the three largest groups of the Aboriginal languages reported as mother tongue. These groups ranked in the same order in the censuses taken in 1991 and 1996.

29. Nearly two thirds (64%) of the population whose mother tongue was Inuktitut lived in Nunavut, while 30% lived in Quebec. Three quarters of the Cree population live in the Prairies.

Religions

30. Seven out of ten people identified their religion as Roman Catholic or Protestant. However, the 2001 Census data show that major changes have occurred in the religious composition of Canada in the last decade, owing mainly to immigration. There has been increased growth in the Muslim, Hindu, Sikh and Buddhist religions. Among the 1.8 million newcomers who arrived in the 1990s, 15% are Muslim, nearly 7% are Hindu, 5% are Buddhist and 5% are Sikh.

31. The number of people who identified themselves as Muslim has doubled from 253,300 in 1991 to 579,600 in 2001. The number of people who reported being Hindu rose by 89% for a total of 297,200 people. Those who identified themselves as Sikhs increased by 89%, totalling 278,400, and the number of Buddhists rose to 300,300, an increase of 84%. In addition, the number of people who reported being Jewish grew by 3.7% during the 1990s, for a total of 330,000 people.

Part III

MEASURES ADOPTED BY THE GOVERNMENT OF CANADA

Article 1: Definition, interpretation and general

32. Statistics Canada refers to the *Employment Equity Act* for the definition of visible minorities as "persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour.

33. The term “visible minority” was originally coined by Madam Justice Rosalie Abella (now Justice of the Supreme Court of Canada) in her 1984 report "Equality in Employment: A Royal Commission Report". Her group's research determined that there were four underrepresented groups in the federal workplace: women, Aboriginal people, persons with disabilities and visible minorities. She recommended employment equity legislation, which was implemented by the adoption by the federal government of the *Employment Equity Act* in 1986, to eliminate discriminatory employment barriers and procedures in the public service.

34. The term “visible minority” is not used for the purposes of the equality guarantees in either the *Canadian Charter of Rights and Freedoms*, the *Canadian Human Rights Act* or any of the provincial human rights codes, all of which are key components of Canada's anti-discrimination policy. The term is specific to the *Employment Equity Act* and is part of a particular program relating to employment only. The only other statute where this term is used is the *Public Service Employment Act*, s. 13(2), which allows for different criteria for groups identified under the *Employment Equity Act* to be used by the Public Service Commission in staffing processes.

Article 2: Legislative, administrative, judicial or other measures

Aboriginal issues

Residential schools

35. On May 30, 2005, a former Supreme Court Justice, the Honourable Frank Iacobucci, was appointed as the Government's Representative to lead discussions toward a fair and lasting resolution of the issue of residential schools. Mr. Iacobucci was given a mandate to pursue this goal with legal counsel for former students, the Assembly of First Nations, and Church entities. In addition to exploring ways to recognize the residential school experience so that true reconciliation can be achieved, these discussions also focus on ensuring that former students have options for pursuing their claims of sexual and serious physical abuse, and on finding ways to support continued healing.

36. Information on this issue is also provided in Canada's Update Report to this Committee during the review of its Combined Thirteenth and Fourteenth report on the ICERD and the combined Fifteenth and Sixteenth report on the ICERD available at: (http://www.pch.gc.ca/progs/pdp-hrp/docs/index_e.cfm).

Claims to Aboriginal title

37. Since the mid-1970s, Canada has adopted an approach of resolving through negotiations the assertion of continuing Aboriginal rights and title to land that have not been dealt with by treaty or other means. Comprehensive land claims negotiations address concerns raised by Aboriginal people, governments and third parties about who has the right to own or use the lands and resources in areas under claim. Where an Aboriginal community litigates existence of title, rather than negotiates, the Canadian courts require evidence supporting proof of title before a

finding of title will be made. Principles have been developed by the courts in relation to the evidentiary burden, including acceptance of oral-history evidence by the courts. Today, Aboriginal rights and title, although not generally absolute, have among the highest level of protection under Canadian law, in that they are recognized and affirmed in section 35 of the *Constitution Act, 1982*.

Proof of extinguishment of rights on land and resources

38. In Canada, although there is a constitutional recognition and protection of Aboriginal and treaty rights, there is often considerable uncertainty about the existence, content and scope of specific Aboriginal rights of ownership and use of lands and resources, as well as uncertainty about who are the specific holders of such rights. The courts have urged governments and Aboriginal communities to seek solutions and reconciliation through negotiations, rather than resort to litigation. Certainty with respect to the content and scope of ownership of and rights to use lands and resources is one of the primary goals of Canada's Comprehensive Land Claims Policy; therefore, a clear definition of the respective rights and obligations of Aboriginal groups, governments and other citizens is negotiated between the parties in the provisions of a final agreement.

39. The "cede, release and surrender" approach, which requires Aboriginal groups to give up all undefined Aboriginal rights in exchange for a set of defined Aboriginal rights set out in a negotiated treaty, has not been a requirement of the Government of Canada in treaty negotiations since 1998. In negotiations, Canada and Aboriginal communities together have developed alternative techniques whereby certainty is achieved while Aboriginal rights are maintained. These include a "modified rights model"¹ and a "non-assertion model".² These are now available as alternatives to variations on the "cede, release and surrender" model. Under the modified rights model, aboriginal rights are not released, but are modified into the rights articulated and defined in the treaty. In a second approach, a non-assertion model is paired with an "orderly process". Here, Aboriginal rights are not released; the Aboriginal group agrees to exercise only those rights articulated and defined in the treaty and to assert no other Aboriginal rights. Where rights not addressed under the treaty are subsequently identified, negotiations will take place to bring those rights into the treaty, clarifying how they may be exercised.

Land use limitations

40. The Government of Canada recognized the collective interest of Aboriginal people in land in the Royal Proclamation of 1763, which contained several provisions relating to Aboriginal peoples and an underlying acknowledgement that lands not having been ceded to or purchased by the Crown were reserved to Aboriginal people communally. The provisions also recognized that such lands could only be purchased by the Crown with the consent of the community. This collective approach to land holding is also reflected in the attributes of Aboriginal title - a communal right that cannot be completely explained by reference to common law rules of real property. In effect, Aboriginal title is a collective interest in land conferring the right of exclusive use, enjoyment and occupation of the land for a variety of activities. The interest is held by all members of an Aboriginal group and decisions with respect to that land are also made by that community. Since the content of Aboriginal title is a right to land itself, use of

the land is not limited to traditional uses. In fact, uses to which a group puts Aboriginal title to land are unlimited, except to the extent that the use prevents the special relationship between the nature of occupation of the land and the nature of the relationship that particular community has with the land from continuing in the future. The limitation would depend on the nature of past use, and the compatibility on the present or proposed uses with that use in the future.

41. Infringement of Aboriginal title by the federal Crown can occur only in special circumstances where it is intended to address a legislative objective that is “compelling and substantial” and it is consistent with the special fiduciary relationship between the Crown and the Aboriginal people. Moreover, since the entrenchment of s. 35 of the *Constitution Act, 1982*, the Crown can no longer unilaterally extinguish Aboriginal title.

42. In respect of reserve lands, provisions of the *Indian Act* also reflect Aboriginal peoples traditional way of holding land and provide for surrendering reserve lands to the Crown in certain controlled circumstances, as it is the case for surrendering Aboriginal title land. In effect, the general purpose of the land holding system on reserve is to preserve the collective nature of the interest in the land. The use and benefit of the reserve land is vested in the band as a whole and is a collective right of the band members as a body, and not of any individual band member. The same rationale is reflected in provisions of historic treaties and modern treaties - although these may have different categories of land.

Measures to eradicate violence against Aboriginal women

43. In May 2005, the Government of Canada announced support to the *Sisters in Spirit* initiative that will enable Native Women’s Association of Canada (NWAC) to build the capacity necessary to collaborate with the Government of Canada and other Aboriginal (First Nations, Inuit and Métis) women's organizations to undertake a multi-pronged approach to address the issue of violence against Aboriginal women, including:

- Undertaking research to assess the extent and causes of racialized and sexualized violence against Aboriginal women to assess the extent of the problem and to monitor trends;
- Implementing a national public education strategy targeting a range of policy-makers and stakeholders to increase knowledge and understanding of the impact and causes of violence against Aboriginal women;
- Informing policy and program direction and development on issues relating to Aboriginal women's human rights and their socio-economic, political and legal status;
- Exploring sustainability for continued work on issues relating to violence against Aboriginal women; and
- Ensuring an independent evaluation in the third year to measure progress and modify timelines, priorities and next steps.

Family Violence Initiative (FVI) and program funding

44. Within the Aboriginal Women's Program of the Department of Canadian Heritage, the funding for the Family Violence Initiative has assisted Aboriginal women's groups to carry out activities that: (1) examine and address issues of violence in immediate and extended Aboriginal families, and (2) research and develop holistic and culturally-appropriate responses to family violence. In 2003, Status of Women Canada decided to devote its Family Violence Initiative allocation (\$1 million over four years) to support the work of Aboriginal women's organizations towards eliminating violence against Aboriginal women. Additionally, over the last two fiscal years, approximately \$1.7 million in funding has been provided to Aboriginal women's organizations by Status of Women Canada's Women's Program.

Employment issues

Aboriginal peoples

45. In the public sector, Aboriginal workers' access to management positions is slightly more than their labour market availability. In 2004, they held 2.9% of management positions, up from 2.0% in 2001, while they account for 2.5% of the Canadian labour market. In the private sector, the picture is not as positive: in 2001 and 2004, Aboriginal workers held 0.8% of management positions.

46. The Government of Canada recognizes that Aboriginal peoples in Canada face challenges in areas such as human capital, economic infrastructure, and access to land and resources, among others. In collaboration with First Nations, Inuit and Métis peoples, the federal government is working with provincial, territorial and private sector partners to increase the capacity of Aboriginal communities to generate sustainable economic activity, facilitate partnerships and reduce economic barriers to Aboriginal participation in local and national economic growth.

Ethnic/racial groups

47. In the public sector, the representation of visible minorities in management positions improved between 2001, when they held 3.4% of management positions, and 2004, when they held 4.8%. However, they remain under-represented given their labour market availability (12.6%).³

48. In the private sector, representation rose from 8.2% in 2001 to 8.5% in 2004, which is about half of what would be equitable representation, given their labour market availability.

49. The Canadian Human Rights Commission continues to monitor the application of the *Employment Equity Act* in areas under federal jurisdiction as described in previous reports. By 2004, it had undertaken audits of 52% of the approximately 500 employers subject to the Act, representing 77% of the labour force to which the Act applies. It had found that 192 employers representing 58% of employees covered were in compliance with the Act, and continued to require that the others take the necessary action to achieve compliance.

Foreign credential recognition

50. On April 25, 2005, the Government of Canada publicly launched the Internationally Trained Workers Initiative (ITWI), to improve the integration of immigrants and internationally trained Canadians into the workforce. Investments were announced towards the integration of internationally trained doctors, nurses and other health care professionals; the Foreign Credential Recognition program; the Going to Canada immigration portal; the Enhanced Language Training initiative; and for the Racism-Free Workplace Strategy, which is part of *A Canada for All: Canada's Action Plan Against Racism*.

51. The Department of Canadian Heritage's Multiculturalism Program contributes to foreign credential recognition by funding projects to assist internationally trained professionals in addressing barriers to their economic integration. In 2004, the Multiculturalism Program announced almost \$1 million for a two-year initiative (2004-2006), in which the British Columbia Internationally Trained Professionals Network and the Policy Roundtable on Mobilizing Professions and Trades in Ontario are building and strengthening provincial networks of internationally trained professionals across Canada.

Article 4: Prohibition against promotion of racism

52. Canada provided information on the implementation of this article in the "Update to Canada's Thirteenth and Fourteenth Reports" on the ICERD and the combined Fifteenth and Sixteenth report.

Application of section 718.2 of the Criminal Code of Canada by the Courts

53. As mentioned in Canada's combined Fifteenth and Sixteenth report, paragraph 718.2(a)(i) of the *Criminal Code* provides that, if there is evidence that an assault, damage to property, threatening, harassment or any other criminal offence, was motivated by hate, bias or prejudice based on race, national or ethnic origin etc., these factors are deemed to be aggravating for the purposes of sentencing. There are relatively few cases of crimes motivated by bias, prejudice or hate being sentenced in Canada, and fewer that have been reviewed by the appellate courts. However, it is possible to conclude that hate motivation has led judges to impose heavier sentences in all cases where it has been established beyond a reasonable doubt.

54. Courts have interpreted subparagraph 718.2(a)(i) as requiring not only that hatred must have caused the criminal act, but that it was the primary motive of the offence. Most judgments refer to the provision in a way that suggests that the judiciary believe that codification has increased the importance of hate motivation as an aggravating circumstance. For example, the Alberta Court of Appeal reviewed a sentence rendered in *R. v. Sandouga*, 2002 ABCA 196. The accused pleaded guilty to arson for throwing a Molotov cocktail at a synagogue and setting it on fire. The Court reasoned that the one year sentence was demonstrably unfit because of the trial judge's misappreciation of the degree of the accused's moral culpability, his failure to consider serious aggravating circumstances, and his lack of emphasis on the principles of denunciation

and deterrence in sentencing for a terrorist act. The Court also found that the trial judge failed to consider the motivation for the crime, including that it was motivated by hate against a religious group which aggravated the effect of the offence. The Court increased the sentence imposed from one year to two and one-half years imprisonment.

55. In the recent decision *R. v. El-merhebi*, [2005] J.Q. No. 110, the accused set fire to the library of a Jewish elementary school. Relying, *inter alia*, on *R. v. Sandouga*, the Court imposed a 40-month prison term. In its sentencing analysis, the Court stated that [Translation] "We cannot accept that individuals or groups attack the people in this country, whatever their origins, religion or ideology, in order to advance their cause. "The Court adds that Canadian courts have addressed these principles on numerous occasions.

Measures to eliminate hate-motivated activities

56. In spring 2004, the Senate Standing Committee on Human Rights studied a resolution on anti-Semitism passed by a Conference of the Organization for Security and Co-operation in Europe held in Berlin in 2002. The resolution called upon participating States to ensure aggressive law enforcement in relation to anti-Semitic criminal acts and vocally condemn manifestations of anti-Semitic violence in their respective countries. The Committee heard witnesses, and its hearings contributed to raising awareness about the problem of anti-Semitism in Canada.

57. The Government of Canada has adopted a multi-faceted approach to combatting hate-motivated activities by focussing on cross-cultural understanding and partnerships within and between communities and developing *A Canada For All: Canada's Action Plan Against Racism* (see Article 7).

58. Three initiatives in the action plan relate to the implementation of Article 4 in particular:

(1) In 2002, the Government of Canada participated with the Members of the Council of Europe in negotiating the *First Additional Protocol to the Convention on Cybercrime Concerning the Criminalisation of Acts of a Racist or Xenophobic Nature Committed through Computer Systems*. The Protocol provides for the harmonization of racism-motivated offences, and for international cooperation in their investigation and prosecution. Canada signed the Protocol on July 8, 2005.

(2) *Interventions for victims and perpetrators of hate crimes*: This initiative responds to the special needs of victims of hate crimes and addresses interventions that reduce recidivism in those who commit such crimes. The special needs of victims are addressed by conducting consultations and research to identify these special needs; testing out effective approaches through demonstration projects for victims of hate crimes; raising awareness of special needs of victims of crimes in the legal community and among service providers; and communicating information on effective practices for responding to the needs of victims. Effective interventions for offenders are addressed by conducting consultation and research to determine effective interventions and sentences for those, particularly youth, who commit hate crimes; conducting demonstration projects to test out interventions that encourage their rehabilitation; and sharing with the legal community information on effective interventions.

(3) *Countering Internet-Based Hate Crime*: Canada is working toward the establishment of a tip line for reporting hate crime on the Internet; providing public legal education and information on hate propaganda to create a better understanding of this offence; and working with Internet Service Providers to enhance enforcement capabilities.

Measures taken against racism in the media

59. Canadian Radio-Television and Telecommunications Corporation (CRTC) regulations provide that programming shall not contain comment or pictorial representation "that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability." The Canadian Broadcast Standards Council (CBSC), a self-regulatory body that reports to the CRTC, administers standards established by its members (Canada's private broadcasters), including a *Code of Ethics*. This code provides that broadcasters ensure that their programming contains no abusive or unduly discriminatory material. The CBSC has recently made its Web site and information brochure available in over 30 languages to ensure that as many Canadians as possible understand and can access the CBSC's codes and complaints process.

60. In 2001, the Task Force for Cultural Diversity on Television conducted a landmark quantitative and qualitative study on the presence and portrayal of Canada's ethno-cultural and Aboriginal diversity on television. The results were released in July 2004, and include a variety of recommendations concerning initiatives for the broadcasting industry to undertake to improve the presence and portrayal of Canada's diversity (http://www.cab-acr.ca/english/social/diversity/taskforce/report/cdtf_report_jul04.pdf). The CRTC examined and responded to this report in March 2005, setting out its own expectations for the broadcasting industry, including a review of industry codes and standards to ensure that they adequately address diversity concerns and annual reporting on the progress of the implementation of the Task Force's recommendations and initiatives (<http://www.crtc.gc.ca/archive/ENG/Notices/2005/pb2005-24.htm>).

61. The Multiculturalism Program continues to build on a recent project with the Radio-Television News Directors Association to promote increased diversity in the news media. This project encourages, supports and facilitates fair representation of racial and ethnic minorities in the media.

Article 5: Equality before the law

The Scope of the Canadian Charter of Rights and Freedoms

62. The *Canadian Charter of Rights and Freedoms* is part of the Canadian Constitution. As with other states' constitutions, the Charter is intended to govern the relationship between governments and individuals. Since governments are the bodies that can enact and enforce laws that impact on individuals' human rights, the *Charter* imposes constitutional limits on the exercise of governmental authority to ensure respect for human rights. The Charter applies to all levels of government in Canada (federal, provincial, territorial and municipal). Canadian courts have also interpreted the Charter as applying to entities controlled by the government or private

actors when implementing a specific government program or policy. However, given the purpose of the Charter to oversee governmental action, it does generally not apply to purely private actors. However, other legislation applies to govern the conduct of private actors and in particular to sanction discriminatory conduct (e.g. human rights legislation or the *Criminal Code*). The preceding reasons explain why it would not be appropriate to expand the scope of the Charter, beyond that currently recognized, to apply to non-state entities.

Indian Act issues

63. *The right to marry and choose one's spouse:* The *Indian Act* does not limit the right of individuals to marry and to choose one's spouse. The basis of the current Indian registration system is to maintain continuity with the original Aboriginal peoples of Canada. The Act creates a system of registration of Indians for the purposes of receiving certain federal government programs and benefits. The amendments to the *Indian Act* in 1985 repealed provisions under which women lost their Indian status if they married a non-Indian, which precluded offspring of that marriage from having Indian status. The 1985 amendments reinstated those women and their children who had lost Indian status prior to the amendments. They also created rules for registration providing that after two successive generations of parenting with a non-Indian the grandchildren would not be entitled to registration.

64. *The right to own property:* In Canada, on Indian reserve lands, individuals possess land by way of a certificate of possession issued by the Band Council under the *Indian Act* or by custom allotment. One purpose of the land holding system on reserve is to preserve the collective nature of the interest in the land. Jurisdiction in relation to the possession and transfer of land on reserve remains with the *Indian Act*, which is silent on the matter of matrimonial real property. Provincial or territorial laws governing possession and transfer of real property on separation or divorce do not apply on reserves. The issue of on-reserve matrimonial real property is challenging because it engages the individual's interest in possessing or transferring their interest in their home with the band's interest in maintaining the collective nature of land holding on reserve.

65. In 2004 and 2005 the Senate and the House of Commons conducted studies on the issue of on-reserve matrimonial real property and both made recommendations, including interim legislation, and in the long term, consultations with First Nations organizations to develop a legislative solution.

66. *The right to inherit for Aboriginal women and children:* There is no impediment in the *Indian Act* to Aboriginal women and children who are band members inheriting an interest in land on reserve under the *Indian Act*. Estates and inheritance on Indian reserves are ruled by the *Indian Act*, which provides that nothing in the Act should prevent an Indian from devising or bequeathing his property by will.

67. Persons of either gender who are not registered Indians and who live on reserve, or who inherit from an Indian person who lives on reserve, cannot inherit an interest in reserve land since this can only be held under the certificate of possession issued by the Indian Band Council, reflecting the collective nature of the Band's interest in the reserve land. These beneficiaries, however, can inherit the proceeds of sale of such land.

Over-representation of Aboriginal People and visible minorities in the justice system

68. One of the initiatives under *A Canada For All: Canada's Action Plan Against Racism* is entitled *Addressing Race-Based issues in the Justice system*. This initiative includes conducting research and consultations to assess the problem of over-representation of certain groups in the justice system and the perception of racial profiling by police and security forces; developing policy options to encourage the removal of any inappropriate race-based factors from the justice system decision points; training justice professionals to recognize bias and promote impartial justice; and developing and testing policies and programs to address the problem of the overrepresentation of certain groups in the justice system.

69. Canada has also adopted several policies and programmes to address the issue of over-representation of Aboriginal People in Canada's correctional system, which are detailed in the combined Fifteenth and Sixteenth report under the ICERD.

Landing fees

70. The Right of Permanent Residence Fee (RPRF) is a program introduced in 1995 to allow the government to preserve valuable immigration programs by shifting a greater share of the costs of immigration services to those who benefit directly and not the general taxpayer. Some of these benefits include enhanced economic and social opportunities and access to a wide range of programs and services provided by the government.

71. Refugees and protected persons are exempt from paying the fee, as are their dependent children. With the implementation of the *Immigration and Refugee Protection Act* in 2002, the definition of a dependent child was broadened to the benefit of many clients who were required to pay the RPRF under the previous legislation.

The Anti-terrorism Act (ATA)

72. Canada's *Anti-terrorism Act* provides a detailed two-part definition of "terrorist activity" in section 83.01(1) of the *Criminal Code*, which applies to activities inside or outside Canada. Satisfying either part of the definition constitutes a "terrorist activity". Section 83.01(a) defines a "terrorist activity" as any of the offences that implement major United Nations counter-terrorism conventions and protocols. By designating this section 83.01(1)(a) offences as terrorist activities, Canada's domestic anti-terrorism legislation complies with these international norms. Alternatively, section 83.01(1)(b) of the definition defines "terrorist activity" to include acts or omissions committed in whole or in part, "for a political, religious, or ideological purpose, objective or cause". The inclusion of this phrase refers to the motivations for terrorist activity under the definition. While it has been suggested that the phrase unduly focuses on religion and might inspire improper profiling practices by authorities entrusted with the enforcement of the Act, these words are, in fact, words of limitation and narrow the scope of activities that may fall under the definition. This motive element in definition of "terrorist activities" is not designed to criminalize or single out people on the basis of their religion, political beliefs or ideologies; rather, it is to be read in connection with the rest of the clause, which deals with activity that is intended to intimidate the public or a segment of the public. It is important to emphasize that these words help to distinguish terrorist activity from other forms of criminality that are intended to intimidate people by the use of violence.

73. As a means of clarifying the legislative intent behind the wording of the definition “terrorist activity”, section 83.01(1.1) of the *Criminal Code* also provides an interpretative, “for greater certainty” clause which states that the expression of a political, religious or ideological thought, belief or opinion, does not come within the definition of terrorist activity in s. 83.01(b) unless it constitutes an act or omission that satisfies the criteria of that paragraph. In other words, the words “political, religious or ideological purpose, objective or cause” are not to be read in isolation.

74. The Department of Justice Canada in conjunction with the Department of Public Safety and Emergency Preparedness Canada consulted with members of Canada’s ethnocultural communities, in particular members of the Arab and Muslim communities, to learn how the *Anti-terrorism Act* has impacted their communities. The most recent consultation was held on November 29, 2004. The suggestions by participants for reform of the *Anti-terrorism Act* ranged from abolishing the *Anti-terrorism Act* completely, to removing certain sections, adding additional procedural safeguards, and emphasizing the ongoing need to engage in outreach and public education campaigns. Government officials agreed to a number of undertakings including: (1) Accepting written submissions; (2) Informing ministers of the content of discussions; and (3) Establishing a Web site on the Parliamentary Review (http://canada.justice.gc.ca/en/anti_terr/). These undertakings have been completed. Further details on the suggestions and undertakings from the consultation are included in Appendix 2.

75. Various ethno-cultural groups have also expressed their views and raised their concerns on the impact of the legislation before Parliamentary Committees that were established to review the provisions and mandate of the Act (see paragraph below). In addition, officials from the Department of Public Safety and Emergency Preparedness Canada, Foreign Affairs Canada, Canadian Heritage, the Royal Canadian Mounted Police, the Canadian Security and Intelligence Service, and the Canadian Revenue Agency have all participated in consultations with ethnocultural communities to learn of the impact of national security legislation on their respective communities. As well, the Prime Minister of Canada held roundtable discussions with Canadian imams on anti-terrorism issues in July 2005.

76. Section 145 of the *ATA* mandates a comprehensive Parliamentary review of the provisions and operation of the *Act* within three years of it coming into force. The committee(s) established to conduct such a review are required to report on the review to Parliament within a year, or such further time as it may authorize. The Government then has a specified period (120 days for the House Subcommittee report and 150 days for the Senate Committee report) in which to respond to any recommendations for change. The House of Commons Subcommittee on Public Safety and National Security and the Senate Special Committee on the *Anti-terrorism Act* were established in December 2005 to review the *ATA*. In hearings that began in February 2005, the Committees examined a wide range of issues connected to the *ATA*, including the impact of the *ATA* on members of ethnocultural communities, as well as other national security initiatives. The Committees heard from numerous witnesses, including witnesses from ethnocultural and religious groups such as the Canadian Islamic Congress, Canadian Muslim Lawyers Association, Canadian Council on American-Islamic Relations, the Canadian Jewish

Congress, the Canadian Arab Federation and B’Nai Brith. Transcripts of committee proceedings can be accessed at

(http://www.parl.gc.ca/committee/CommitteeList.aspx?Lang=1&PARLSES=381&JNT=0&SELID=e21_&COM=9242) (House Subcommittee) and

(http://www.parl.gc.ca/common/Committee_SenProceed.asp?Language=E&Parl=38&Ses=1&comm_id=597) (the Senate Special Committee). Hearings had ended at the time of the dissolution of Parliament in November 2005, however the Committee reports had not yet been produced.

Once Parliament reconvenes, it will have to consider the nature and scope of further Parliamentary review of the ATA in light of the requirements of s. 145.

77. On April 27, 2004, the federal government issued Canada's first comprehensive national security policy. *Securing an Open Society: Canada's National Security Policy* sets out an integrated strategy and action plan designed to address current and future threats. A key element of this policy was the establishment of the Cross-Cultural Roundtable on Security (the Roundtable), created to engage in a long-term dialogue on matters related to national security as they impact a diverse and pluralistic society. Recognizing that the Government needs the help and support of all Canadians to make its approach to security effective, the Roundtable will provide a forum to discuss emerging trends and developments emanating from national security matters and serve to better inform policy makers. The Roundtable has met three times since its creation in 2004.

Article 6: Effective protection and remedies

78. From 2001 to 2004, 478 complaints of racial discrimination were officially filed with the Canadian Human Rights Commission. The Commission decided not to deal with 28% of those complaints, for a variety of reasons: complaint was out of time, alternative redress was available, the Commission had no jurisdiction, or the complaint was clearly trivial or vexatious. It dealt with the remainder (72%).

79. The time required to process complaints of racial discrimination is the same as that for complaints on other grounds. In 2002, the Canadian Human Rights Commission introduced a process of change aimed at significantly reducing the time taken to process complaints. Some of the changes, such as streamlining the investigation process and placing greater emphasis on mediation, are having an impact on the Commission's ability to effectively handle complaints. Two years after the reforms were launched, the Commission had succeeded in cutting the number of cases pending. The average age of cases had been cut in half, going from over 25 months in 2002 to about 12 months in 2004.

80. The Department of Canadian Heritage funds the Court Challenges Program (CCP), which provides financial assistance for test cases of national significance in order to clarify the rights of official language minority communities and the equality rights of disadvantaged groups. The CCP assists official language minorities and disadvantaged individuals and groups who would not otherwise be able to pursue their Constitutional and Charter rights in relation to language and equality rights. An evaluation of the CCP in 2003 found that it has been successful in supporting important court cases that have a direct impact on the implementation of rights and freedoms covered by the Program. The individuals and groups benefiting from the CCP are located in all

regions of the country and generally come from official language communities or disadvantaged groups, such as Aboriginal people, women, racial minorities, gays and lesbians, etc. The Program has also contributed to strengthening both language and equality-seeking groups' networks. The Program has been extended to March 31, 2009.

Article 7: Education, culture and information

81. The Minister of Multiculturalism held an Interfaith Roundtable in April 2003 to provide an opportunity for religious leaders from different faiths to share their experiences in promoting and maintaining intercultural and interfaith understanding in Canadian society. The roundtable also allowed leaders to discuss their role in contributing to a constructive dialogue on respect and understanding, especially in light of the international environment.

82. The Indigenous Bar Association (IBA) organized a conference entitled Hate and Racism in Canada: Seeking Solutions, which was held in Montréal, March 20 to 23, 2004. The IBA brought together individuals and organizations from across Canada to meet and explore options for appropriately dealing with and eliminating hate from our society. The conference promoted a model of Canadian citizenship and First Nations/Aboriginal citizenship that enabled diverse voices to explore how best to build on diversity and eliminate the destructive forces that feed on racism and hate. Sessions involved panel presentations on topics of hate and racism, including the causes and impacts on communities. The IBA worked in conjunction with members of the Aboriginal, Jewish, Arab, Indo-Canadian, Black communities and with other ethnocultural communities. In the long term, the IBA will continue to build a lasting and working relationship with partners and associates involved in the production of the Conference, and will continue to promote public awareness and education in seeking to find solutions for the elimination of hate and racism in Canada.

83. The Multiculturalism Program of the Department of Canadian Heritage continues the approaches to combating racism outlined in previous reports. It also continues to provide support to ethnocultural organizations for initiatives that combat racism and promote cross-cultural understanding. For example, *Building a Pan-Asian Canadian Anti-Racism Network* is a multi-year capacity-building project that will implement recommendations arising from previously funded project entitled Anti-Racism Advocacy for Asian Canadians in an International Human Rights Context (called the Pan-Asian Project). The new project aims to build stronger networks among organizations working on Asian-Canadian issues and to build awareness and the capacity of Asian-Canadian communities to respond to hate and racist activities, with a particular focus on youth.

A Canada For All: Canada's Action Plan Against Racism

84. On March 21, 2005, the Government of Canada launched, *A Canada For All: Canada's Action Plan Against Racism*, and committed \$56 million over five years to several new initiatives to eliminate racism. *A Canada For All* also outlines initiatives and strategies that are part of existing programming within 20 departments. The objectives of the action plan are to strengthen social cohesion, further Canada's human rights framework, and demonstrate federal government leadership in the fight against racism. The Government of Canada is firmly committed to breaking down the barriers to full participation in Canada's society.

85. Building on Canada's existing legal framework, and on the policies and programs currently in place, the action plan establishes a multi-faceted and horizontal approach across federal departments and agencies. It is organized into six areas identified as key priorities. These are: (1) assisting victims and groups vulnerable to racism and related forms of discrimination; (2) developing forward-looking approaches to promote diversity and combat racism; (3) strengthening the role of civil society; (4) strengthening regional and international co-operation; (5) educating children and youth on diversity and anti-racism; and (6) countering hate and bias.

86. Some of the new or enhanced measures that the Government of Canada will take to eliminate racism in Canadian society include:

- *Inclusive Institutions Initiative*: This initiative will strengthen partnerships between federal institutions and ethnocultural and ethnoracial communities to reflect Canadian diversity in federal policies, programs, and services;
- *Law Enforcement and Aboriginal Diversity Network (LEAD)*: The LEAD Network will provide law enforcement agencies at all levels across Canada with training, support, and information on effective practices that will improve their capacity to serve Aboriginal, ethno-cultural, and ethnoracial communities.
- *Data Collection on Hate-Motivated Crime*: The Department of Canadian Heritage and Statistics Canada's Canadian Centre for Justice Statistics (CCJS) will standardize the collection of data related to crimes and incidents motivated by hate.
- *Welcoming Communities Strategy*: This is a strategy that works with non-governmental organizations and provincial partners to foster a more welcoming environment in communities for newcomers to Canada.
- *Racism-Free Workplace Strategy*: This project builds on existing employment equity measures. The strategy will develop new measures and best practices that will be shared, ensuring that discriminatory barriers in Canadian labour markets are eliminated.

87. A copy of *A Canada For All: Canada's Action Plan Against Racism* is submitted with this report to the CERD Committee.

Commemorative and educational initiatives

88. As a society, looking to the future can be difficult when troubling memories from Canada's past go unacknowledged. The Department of Canadian Heritage has worked with Canadian ethnocultural communities who carry such memories with them as a result of events that occurred in Canadian history during times of war, or as a result of immigration policies of the day.

89. In support of these ongoing efforts, the Government of Canada committed \$25 million over the next three years to fund commemorative and educational initiatives that will highlight the contributions that these groups have made to Canadian society and help build a better understanding among all Canadians of the strength of Canadian diversity.

Dissemination of reports and Concluding Observations

90. The Concluding Observations of the Committee on the Elimination of Racial Discrimination and Canada's previous reports were provided to all federal departments and provincial and territorial governments. Canada's reports are available to the public on the Web site of the Department of Canadian Heritage at: (http://www.pch.gc.ca/progs/pdp-hrp/docs/index_e.cfm).

Part IV

MEASURES ADOPTED BY THE GOVERNMENTS OF THE PROVINCES

Newfoundland and Labrador

Article 2: Legislative, administrative, judicial or other measures

91. The Labrador Inuit Land Claims Agreement provides significant rights and benefits to Labrador Inuit respecting the ownership, use and management of land and resources including the right to benefit from economic development opportunities. Labrador Inuit will have the priority right to harvest wildlife, fish and plants for food, social and ceremonial purposes, subject only to conservation within the Labrador Inuit Settlement Area, which is comprised of 72,520 sq km. of land and adjacent tidal waters of 48,690 sq km. Within this area Labrador Inuit will own 15,800 sq km. of land referred to as Labrador Inuit Lands. With the exception of interest holders accommodated under the Agreement, Inuit will control who may harvest wildlife, fish and plants in Labrador Inuit Lands.

92. Inuit will control any new development opportunities in Labrador Inuit Lands. Developers must negotiate an impacts and benefits agreement with Labrador Inuit before developments in Labrador Inuit Lands may commence. Labrador Inuit will also receive 25% of provincial revenues from the development of subsurface developments in Labrador Inuit Lands. Within the larger Settlement Area outside Labrador Inuit Lands, developers of large-scale developments will be required to negotiate an impacts and benefits agreement with Labrador Inuit, and Inuit will receive 50% of the first \$2 million and 5% of additional provincial revenues from subsurface developments.

93. Labrador Inuit and the Province will jointly prepare a land use plan for the Labrador Inuit Settlement Area. Labrador Inuit will also participate with the Province and the federal government in wildlife and fish joint management boards that provide recommendations to provincial and federal ministers on the conservation and management of wildlife and fish in the Labrador Inuit Settlement Area.

94. In development of the Voisey's Bay Project in Labrador, the Voisey's Bay Industrial and Employment Benefits Agreement outlines employment preference policies. As well, the Voisey's Bay Nickel Company Ltd. has negotiated and entered into Impacts and Benefits

Agreements with both the Innu and the Inuit in Labrador. These agreements provide specific industrial and employment opportunities for certain Aboriginal groups residing adjacent to the mine and mill/concentrator processing plant. Employment figures for the Voisey's Bay project for May 2005 indicate that of the 1770 people employed on the project in Newfoundland and Labrador 348 (20%) are either Innu or Inuit.

95. For the Husky White Rose Project, Husky and its contractors are committed to providing equal access to employment and training opportunities and taking steps to achieve employment equity and diversity in the workplace and improve participation and advancement of under-represented groups. A Diversity Plan has been developed to facilitate access of designated groups to employment and training on the project. The plan addresses Husky's approaches, principles, process and initiatives for diversity goals throughout the project.

Article 4: Prohibition against promotion of racism

96. In Newfoundland and Labrador, the RCMP provides members with cross-cultural and sensitivity training. New members are, from the outset of training, given human rights training. Prior to completing training, members receive an entire training module on hate crimes, which includes an interactive panel discussion with minority groups. Members are also provided with workshops and training on areas that pertain to discrimination and harassment both inside and outside the workplace. These workshops are conducted regularly, along with "Aboriginal perceptions" training. These efforts are conducted to ensure that all employees are cognizant of their individual responsibility in providing a police service to a diverse society.

97. An active recruiting process is directed towards diverse ethnic cultures and indigenous people in the province. The idea behind this approach is to ensure a police service that reflects the population it serves. An example of these efforts is currently found in our province where the Micmac Culture in Conne River, the Federation of Newfoundland Indians, Metis, Innu, and Inuit people comprise 3% of this province's population and where the number of Aboriginals recruited is very high. This recruiting effort is supported, in part, by community-based initiatives such as the partnership with the Federation of Newfoundland Indians. This program targets young Aboriginal persons ranging from the age of 19 to 29 who are afforded the opportunity to take part in a summer work term as specialized police officers. The program exposes these young men and women to the philosophy of policing and shows other young people in the community that policing is a viable career choice.

98. The RCMP Criminal Intelligence Service assesses all avenues of interest in relation to criminal activity and monitors issues related to hate crimes in the province.

Article 5: Equality before the law

99. A new court house has been opened in Goose Bay, Labrador, which has a court room specifically for conducting sentencing circles. As well there have been efforts in the past to establish alternative sentencing practices in Innu communities to divert or mitigate the sanctions imposed by courts but these have never been formally established. The Department of Justice is collaborating with the Innu leadership to establish Justice Community Workers in the two Innu communities. These positions will be designed to assist offenders in the community reintegration process and provide more traditional support.

Article 6: Effective protection and remedies

100. For the period June 2003 to May 2005, the Human Rights Commission received 10 complaints based on race, five were dismissed and five are pending investigation. There were seven complaints received on the grounds of “national origin” and three were dismissed, with the remaining four to be investigated. There was one complaint on the grounds of “social origin”, which is pending investigation.

101. In December 2004 the *Human Rights Code* was amended to exempt application of the Code to complaints arising from the preferences given to the Inuit under the Voisey’s Bay /Inuit Impact and Benefits Agreement. The amendment effectively protects from racial discrimination complaints an affirmative action program to enhance the employment opportunities for the Inuit.

Article 7: Education, culture and information

102. The Department of Education has a Multicultural Education Policy (1992) and Educational Partnership Policy (1996) that guides curriculum development and resource selection generally, and the social studies and language arts curriculum in particular. In addition, a philosophy of inclusion permeates policies with respect to the education of children in the Kindergarten to Grade 12 school system.

103. The current *Foundation for Social Studies Curriculum* document (K-12) promotes a focus on social studies which embodies the main principles of democracy, such as freedom, equality, human dignity, justice, rule of law, civic rights and responsibilities, and diversity. Curriculum outcomes are designed specifically to promote students’ growth as individuals and as citizens of Canada and of an increasingly interdependent world. It provides opportunities for students to explore multiple approaches that may be used to analyze and interpret their own world and the world of others. Furthermore, the social studies foundation document identifies six conceptual strands to guide the development of the curriculum. One of those strands is Cultural Diversity. It states that students will be expected to demonstrate an understanding of culture, diversity, and world view, recognizing the similarities and differences reflected in various personal, cultural, racial and ethnic perspectives.

104. The philosophy of inclusion and the promotion of inclusive perspectives in education is further developed in a new provincial K-9 social studies curriculum. The guiding principles of this new curriculum include incorporating multiple perspectives, contributing to the development of equity and supporting diversity, and outcomes are designed specifically to promote understanding and awareness. At the grade one level, for example, several areas of study are particularly relevant. Children are expected to demonstrate an understanding of the similarities and diversity of social and cultural groups. They are also expected to demonstrate an understanding that people within groups have rights and responsibilities. Student learning materials have been specifically developed by publishers to help children achieve these outcomes.

Prince Edward Island

Article 2: Legislative, administrative, judicial or other measures

105. One of the purposes of the Public Service Commission is to foster the development of a public service that is representative of the province's diversity. The Diversity and Equity Policy, adopted in May 2002, is an important initiative for the growth and development of the Prince Edward Island (PEI) public service. The Government of Prince Edward Island is committed to providing a positive work environment that recognizes, respects, and accommodates diversity of individuals. The objectives of this policy are:

- To raise awareness and understanding of the value of diversity in the workplace;
- To identify and change policies, procedures, and practices that have an adverse effect on designated group members (Aboriginal peoples, visible minority groups, people with disabilities and women);
- To increase opportunities for qualified members of the designated groups to obtain meaningful employment within the public service; and
- To fully utilize the diverse range of skills, knowledge, and perspectives.

106. The (PEI) Diversity Advisory Committee was formally established in 2002. This internal departmental group supports the strategic framework for the implementation of diversity across the public sector. The committee assists and advises the PEI Public Service Commission regarding the diversity and equity policy and any other matters relating to workplace diversity in the public sector. The committee is comprised of representatives from the Public Service Commission, government departments, the Union of Public Sector Employees, the PEI Human Rights Commission, and the Interministerial Women's Secretariat.

107. The Public Service Commission provides leadership, expertise, and support for the implementation of diversity initiatives within the public service. Government departments, supported by a Diversity Advisory Committee and human resource staff, implement action plans to recruit designated group members and to improve summer employment opportunities for diversity students.

108. Workplace Diversity Surveys were conducted across the public service to identify the workforce composition with respect to the designated employment equity groups. Employees are surveyed and data is maintained on target group representation. The data is used for planning and supporting diversity and equity programs that are established to eliminate employment disadvantages. An inventory of qualified individuals from designated groups is maintained by the Public Service Commission and referrals are made to various government organizations offering employment opportunities.

Article 7: Education, culture and information

109. A series of diversity training and education programs were delivered to raise understanding of workplace diversity. Some of the course offerings are "Valuing Our

Diversity”, “Celebrating Diversity”, “Diversity in the Workplace”, “Valuing Our Differences”, “Diversity and Human Rights Issues”, etc. These sessions mostly focused on creating a welcoming workplace free from harassment and discrimination. The Public Service Commission also developed diversity awareness information that is now included in the training manual for new employees. Diversity promotional materials were published and distributed among government organizations and community groups. A diversity Web site was developed and provided information on workplace diversity (www.gov.pe.ca/diversity). A “Diversity Works” theme calendar and a promotional video, “Valuing Our Differences”, was produced and distributed among employees and diverse community groups.

110. In 2002, the Public Service Commission initiated the Annual Premier’s Award for Diversity Leadership to recognize individuals and groups who demonstrate a leadership role in integrating diversity principles. The promotion of partnerships between departments, community organizations, school boards, and other organizations focused on cultural diversity.

Nova Scotia

Article 2: Legislative, administrative judicial or other measures

111. In June of 2002 the Province of Nova Scotia entered into a negotiation process with the Mi’kmaq of Nova Scotia and the Government of Canada to address issues related to Aboriginal and treaty rights. This process is ongoing, with progress being made on the development of a draft framework agreement.

112. The Public Service Commission is responsible for the administration of employment equity for the public service of Nova Scotia. There was a slight decrease in the total number of members of affirmative action groups in the public service between 2000 and 2005. In January 2000 there were 49 Aboriginal persons employed by the public service, and this number was the same in January 2005. In January 2000 there were 200 African Nova Scotians employed in the public service; in January 2005 there were 187. In 2000 there were 72 other visible minorities employed in the public service and in 2005 there were 83. There were 471 persons with disabilities employed in the public service in 2000; in 2005 there were 400. In 2000 the number of these employees represented 7.82% of the total civil service; in 2005 they represent 7.24%.

113. As of March 2005 there is a total of 1198 Management Compensation Plan employees in the Nova Scotia public service. Women make up 45% (534) of this total, 4.67% (56) are persons with disabilities, 0.33% (4) are Aboriginal persons, 0.83% (10) are African Nova Scotians, and 0.75% (9) are other racially visible persons.

Article 4: Prohibition against promotion of racism

114. The theme of the 9th Annual Harmony Brunch of the Nova Scotia Human Rights Commission on March 21, 2004, was Media & Racism: Getting the Message.

115. Following the Kirk Johnson Board of Inquiry in 2003, the Halifax Regional Police hired two consultants to perform a needs assessment and to look into the matter of racial profiling and

discrimination in consultation with the Nova Scotia Human Rights Commission. This work is ongoing. The Province is also examining its services, especially those relating to police services, and ways to work towards equal treatment of all persons.

Article 5: Equality before the Law

116. The Province, in cooperation with the federal government, funds the Mi'kmaq Legal Support Network (MLSN). This innovative initiative provides the Mi'kmaq with an umbrella organization to manage a number of justice initiatives including the Mi'kmaq Courtworker Program and a restorative justice initiative (Mi'kmaq Customary Law Program). In addition, MLSN in cooperation with the Mi'kmaq-Nova Scotia-Canada Tripartite Forum Justice Committee supports cultural activities in both the youth and adult correctional facilities in Nova Scotia.

117. The Office of African-Nova Scotian Affairs, was legislated as a government entity in January 2005. Its Web site was launched on July 14, 2005 (www.ns.gov.ca/ansa). The Office has been involved in ongoing discussions with the Africville Genealogy Society, Halifax Regional Municipality, the Department of Canadian Heritage and Atlantic Canada Opportunities Agency concerning recognition of the cultural and historical significance of the site of Africville.

Article 6: Effective protection and remedies

118. The Nova Scotia Human Rights Commission received 104 complaints based on racial, ethnic or national characteristics in 2001-2002. One complaint dealt with Aboriginal origin, two with Ethnic/National origin and 25 with race or colour. One complaint did not proceed. There were three boards of inquiry in 2002, and one dealt with a complaint based on ethnic or national origin. The complaint was upheld.

119. The Commission received 86 complaints based on racial, ethnic or national characteristics in 2002-2003. Two complaints dealt with Ethnic/National origin and 16 with race or colour. There were five boards of inquiry in 2003, and one dealt with a complaint based on race or colour. The complaint was upheld.

120. The Commission received 86 complaints based on racial, ethnic or national characteristics in 2003-2004. Two complaints dealt with Ethnic/National origin and 16 with race or colour. 48 were not pursued. There were five boards of inquiry in 2003, and one dealt with a complaint based on race or colour. The complaint was upheld.

121. There were 11 decisions from boards of inquiry in 2004, with two of the decisions dealing with costs associated with a complaint of discrimination based on race, which was upheld by a board in 2003.

Article 7: Education, culture and information

122. All children in Nova Scotia have the right to attend a public school and parents have a duty to ensure that they attend or have some other acceptable method of schooling. A parent need only provide the child's birth certificate and proof of residence, such as a utility bill or driver's license, to enroll the child in public school.

123. The Province of Nova Scotia, through legislation, has encouraged the establishment of Mi'kmaq Kinamatneway - a Mi'kmaq education authority (MK). The MK provides the Mi'kmaq with an umbrella organization to self-govern their education institutions and promote a culturally competent education system for Mi'kmaq learners in Nova Scotia.

124. The Province has requirements for Mi'kmaq involvement in regional school boards and has developed a Council on Mi'kmaq Education to provide advice to the Minister of Education on First Nation educational issues.

125. In the 2000-2001 school year an academic and cultural enrichment program was created for African Nova Scotian students. Mi'kmaq language teaching was commenced in some schools in Nova Scotia. In the 2002-2003 school year high school courses in African Canadian history and Mi'kmaq studies were implemented. In the 2004-2005 school year a policy to promote racial equity in the public school system was implemented at the elementary level.

126. The Aboriginal Persons Training and Employment Commission Program and Transition Year Program at Dalhousie University help to make obtaining a university education possible for Nova Scotia's Aboriginal and African-Nova Scotian communities. Community Services clients enrolled in these programs are eligible for continued income assistance while participating in these post-secondary education and training programs. In 2000, an African-Nova Scotian was elected to each school board in Nova Scotia.

127. The Province announced in July 20, 2005, that \$1 million is being invested in African-Nova Scotian learners to give students more opportunities to upgrade their skills and provide them with more support in school. Among other initiatives, more student support workers will be hired and community college scholarships will be increased.

128. Scholarships for post-secondary education and training were provided to 198 African Canadian students. There were also scholarships to encourage graduates to pursue careers in teaching and science.

129. The Nova Scotia Human Rights Commission continues its activities to promote human rights and combat racism through celebration of International Human Rights day and the International Day on the Elimination of Racial Discrimination (March 21). Recent themes have included:

- “Common Threads of Fear: A Dialogue for Peace”: discussions focused on the backlash experienced by different groups during times of crisis throughout history, such as after the terrorist attacks of September 11, 2001;
- A public forum was held by the Nova Scotia Human Rights Commission on “Race and Identity: The Challenge of Change” on May 9 and 10, 2005;
- “Beyond the Boundaries: Bullying, Human Rights and the Community”;
- “Living Human Rights: (Role) Models for Change”;

- “Racism: Past Present and Future” with panel discussions involving youth and elders representing the Aboriginal, Jewish, Lebanese and African Nova Scotian communities;
- “Racism and the Economy: Change that makes Cents”.

130. The Commission is providing input to the initiative of the United Nations Educational Scientific and Cultural Organization (UNESCO) commenced in 2004 to establish the International Coalition of Cities Against Racism, a network for sharing information, experiences, expertise and perspectives to aggressively address racism, discrimination and xenophobia.

131. In the 2004-2005 fiscal year, a full-time Human Rights Officer was assigned to the Race Relations and Affirmative Action Division to develop and promote programs and policies towards the elimination of racial discrimination in all areas of society. This division offers workshops and training to institutions and organizations in the areas of diversity and human rights, and has experienced a 28% increase in the number of training sessions requested.

132. The Nova Scotia Human Rights Commission is actively involved in training and educating about human rights issues in government, the private sector, and the community at large. In addition, the Commission has observed within the past few years that other organizations within the community, such as colleges and universities, are beginning to organize public forums of their own that also promote diversity awareness.

New Brunswick

Article 1: Definition, interpretation and general

133. In New Brunswick, the term visible minority was adopted under Employment Programs and Services starting in March 2005 as a new “Priority Group”. Here, the term does not identify an individual as being a member of a particular racial or ethnic group. Rather, it distinguishes those who are among the minority, which may include a number of racial or ethnic groups. When referring to a specific racial or ethnic group, efforts are made to identify these persons “based upon [their] self-identification”.

Article 2: Legislative, administrative, judicial or other measures

134. The Aboriginal Employment Strategy was in place prior to 2003 and has seen continuous progress in providing support to Aboriginal people to access employment in the province of New Brunswick. Approximately twenty activities related to the transition of Aboriginal people to the workforce were initiated or continued in 2004 as a result of partnerships with Aboriginal communities/organizations, provincial and federal departments.

135. One of these activities is an Aboriginal Employment Service Initiative, which focuses on “Job Ready” Aboriginal persons. This initiative has three objectives, one of which is to specifically create a work environment in New Brunswick that fosters greater inclusiveness. This component of the initiative consists of program elements that relate to Research, Partnership, Communication and Workplace supports.

Article 5: Equality before the law

136. New Brunswick administers the Alternative Measures Program (AMP), which is an alternative to the formal court process. It is a pre-charge community program, that permits the youth or adult to resolve the conflicts with the law (offences) within the community. Most programs involve the youth/adult offender, the victim and the community.

137. Specific emphasis has been given to various First Nation communities. For instance Aboriginal staff have been hired in Fredericton to work with the three First Nation Communities on programs such as Alternative Measures Program and the Fine Option Program (FOP). The FOP is in place for adults and youth who are unable to pay their fines and who volunteer to work them off in the community.

138. New Brunswick has worked for a long time in conjunction with Justice Canada Aboriginal Justice Directorate to provide financial and in-kind support for various restorative justice and victim related services.

139. New Brunswick has developed a Restorative Justice Framework, which is based on the principles endorsed by the United Nations in 2002. The proposed restorative justice framework would apply to both adults and youth and would build on already approved restorative approaches such as Alternative Measures, Aboriginal Healing Circles, and Extrajudicial Measures.

140. Introduction of the Restorative Justice Framework practices will need to proceed slowly in order to gain public acceptance and maintain confidence in the justice system. Aboriginal community interest in traditional approaches to conflict resolution, such as sentencing and healing circles, also need to be considered.

141. Restorative justice processes can be used for both adults and youth and can occur anywhere from the pre-charge to the post-sentencing stage of proceedings.

Article 6: Effective protection and remedies

142. The New Brunswick Human Rights Commission closed 16 complaints in 2003-2004 based on Race, Colour, Ancestry or National Origin.

143. Of the 16 complaints none was based solely on race; one was based solely on colour; three were based solely on ancestry; and one was based solely on national origin. The remaining 11 complaints were filed under more than one ground, and five were related to language, French or English.

144. One complaint of national origin discrimination proceeded to a hearing during this period. The complaint of *Tarek Sahyoun v. ACAA et al.* was heard in the fall of 2003 and a decision rendered in July 2004. The complaint alleged that a rule of the Atlantic Colleges Athletic Association limiting the number of foreign students who could play on a university's men's varsity soccer team to no more than three was a form of national origin and place of origin discrimination. The Board held that the sport governing conference's "non-Canadian rule" was a residency-and citizenship-based rule and that the Board was therefore without jurisdiction to inquire into the complaint.

145. The Commission is mindful of the principle, reflected in Canadian human rights jurisprudence, that discrimination need only be a factor among others with a causal link to the conduct reproached. For this reason the Commission has taken a very broad view of its jurisdiction to inquire into complaints of race discrimination. The broad net cast at the intake level best explains the moderately higher level of dismissal on race and race related grounds of complaint at other levels of the Commission's process. A significant portion of complaints received in this area are language-based complaints from members of French or English official language communities; these are considered a form of ancestry-based discrimination.

Article 7: Education, culture and information

146. Under the Provincial Aboriginal Employment Strategy's *Better Access to Training Opportunities Initiative*, the New Brunswick Community College (NBCC) has increased the number of Aboriginal people undertaking and graduating from post-secondary education both through the delivery of regular and of customized training.

147. Aboriginal applicants who wish to apply for admission to regular NBCC programs are encouraged to use the Aboriginal Seat Allocation process, which enables them to self-identify by completing an application form signifying their Aboriginal status. The Aboriginal Seat Allocation states that: A certain number of seats are reserved for Aboriginal applicants, i.e. one seat per program with fewer than twenty seats, and one seat per twenty for programs with more than twenty seats. These are reserved until March 1st of each year.

148. New Brunswick is allocating increased funding for partnering with Mi'kmaq and Maliseet communities on educational initiatives for First Nations children. Focus groups, with Department of Education, school district and First Nation representatives were organized in 2003-2004 to address issues related to the achievement of students from the First Nation communities. *Quality Schools, High Results* makes a commitment to improving the graduation rate of First Nation students; the focus group provides a forum by which initiatives can be discussed.

149. The Department of Education will work collaboratively with First Nation communities to improve the learning outcomes of First Nation students in the public education system, and those enrolled in schools in their community. The Department will continue to ensure that public school programming is culturally sensitive and that specific curricula and services are supported, such as language courses and awareness events. An action plan is being developed to help facilitate the transition for First Nation students into the public system.

150. The *New Brunswick Education Initiative* is an example of New Brunswick's efforts through the *Quality Learning Agenda* to ensure that students achieve at the highest standards of excellence. The *New Brunswick Education Initiative* represents an alliance of fourteen First Nations in New Brunswick who have joined together to address issues such as tuition agreements, access to special education services and the relationships between First Nations, the Department of Education and local school districts. Representation on the committee includes Indian Affairs and Northern Development, the Aboriginal Affairs Secretariat of New Brunswick, and the Department of Education. The federal government will contribute \$400,000 to the *New Brunswick Education Initiative*, while the provincial contribution includes a Learning Specialist in Aboriginal Education, shared expertise and professional development.

151. The current review, *Inclusive Education: A Review of Programming and Services in New Brunswick*, is being undertaken in recognition of the fact that the environment and the challenges in education have changed significantly. One challenge that has been identified includes ensuring better learning outcomes for First Nations students with exceptional needs, taking into account their unique situation.

Promoting multiculturalism

152. Since 1997, grants totalling \$29,400 have been awarded annually to various multicultural organizations and ethnic groups across the province. Project activities included anti-racism education, initiatives fostering cross-cultural appreciation, community development and multicultural fair, building skills for adapting to cultural diversity in the work place and the community, cross-cultural youth programmes, and activities to counter racism and discrimination.

153. Acknowledging the growing need for cultural diversity awareness in the regions, the Department's Multiculturalism Grants program budget was tripled this year to increase the number of activities with respect to the provincial Policy on Multiculturalism with the purpose of advancing the equal treatment of citizens of all cultures.

Québec

Article 2: Legislative, administrative, judicial or other measures

154. Québec's *Act Respecting Equal Access to Employment in Public Bodies*, which came into effect in April 2001, has established a specific framework to provide equal access to employment in all public bodies with 100 or more employees (public organizations, municipalities, school boards and health and social services organizations). The Act will ensure better representation in these bodies by groups that are victims of discrimination. The *Commission des droits de la personne et des droits de la jeunesse* (Québec's human rights and child/youth rights commission) is responsible for the application of the Act.

155. According to the 2001 census, the unemployment rate for immigrants in Québec was 11.7%, compared to 7.8% for non-immigrants and 8.2% for the population overall. The unemployment rate climbs to 20.5% for recent immigrants, i.e., those who have been in Québec for less than five years, and to 22.2% for women immigrants who have been in Québec for less than five years. In addition, the proportion of people born outside Canada and were receiving employment assistance as of March 2005 stood at nearly 18.6%.

156. In May 2005, Québec implemented its *Programme d'aide à l'intégration des immigrants et des minorités visibles en emploi* (PRIIME), a new program for supporting the labour market integration of immigrants and members of visible minorities. The program offers incentives to small and medium-sized businesses to hire these persons and to support their workplace integration. It is being forecast that between 325 and 675 persons will benefit from the program every year.

157. Québec gives particular attention to certain groups that are disadvantaged in their search for jobs, notably recent immigrants and members of visible minorities. Some previously adopted measures have been adapted to facilitate the labour market integration of these groups. One such measure involves the promotion of workplace experience placements for immigrants.

Furthermore, *Emploi-Québec* participates in the implementation of training programs to foster the employment integration of people (nurses and engineers in particular) who have received their training in other countries.

158. Special effort is also being made to facilitate the recognition of diplomas, training and experience obtained outside Canada. In 2004, a parliamentary committee studied the specific issue of access to regulated trades and occupations. A work team was then mandated to follow up on the recommendations made by the parliamentary committee.

159. In May 2004, an experimental program entitled *Québec pluriel* was launched with the goal of identifying avenues for action to promote the social and occupational integration of young Quebecers aged 16-24 who are members of cultural communities and visible minorities that face high school dropout rates, severe under-schooling rates and a much higher unemployment rate than in Québec overall. The program is also for youths aged 16 to 35 who have recently immigrated to Québec. *Québec pluriel* is made up of pilot projects that deal with two themes, labour market entry and increased education, using mentoring as a means of providing accompaniment to these youths. The pilot projects also seek to establish new partnerships to support youth from these target communities. The Québec government also wants to take steps to counter the factors which are associated with socio-economic inequalities and can give rise to prejudice and discrimination.

Racial profiling

160. August 2003 saw the creation of a working group on racial profiling, co-chaired by the *Ministère de l'Immigration et des Communautés culturelles* and the *Ministère de la Sécurité publique*, with representatives from the *Commission des droits de la personne et des droits de la jeunesse*, the *Conseil des relations interculturelles*, police services and community groups. The initial result of this working group's activities has been an agreement made between the *Ministère de l'Éducation, du Loisir et du Sport* and the *École nationale de police* (Québec police training centre) to include the issue of racial profiling in the training of future police officers starting in September 2005. It will be added to the cultural diversity and ethics training already included in the program. In addition, the *Commissaire à la déontologie policière du Québec* (police ethics commissioner) initiated a series of information and awareness sessions for the various cultural communities to promote their understanding of the ethics code for police officers and of the remedies available to people who feel they have been treated improperly by the police.

161. *The Service de police de la Ville de Montréal* (SPVM), the Montreal police service, has implemented various measures for combating discrimination and racial profiling, including:

- Creation of an equal access program and an action plan for recruiting police officers and civilian employees from the various ethnic groups and Aboriginal communities;
- Introduction of basic training in cultural diversity management for police officers and civilian employees in management positions;

- Adoption of an intervention policy concerning illegal racial profiling by which the SPVM commits to maintaining a firm position against all forms of illegal racial profiling and requires all employees to carry out their duties with complete respect for an individual's rights and freedoms;
- Creation in December 2003 of a mechanism for monitoring relations with the communities, through committees made up of members of the cultural communities (including youths) to identify their needs and concerns regarding security. The SPVM has developed overall guidelines based on recommendations made by the committees, as well as two strategies for strengthening relations with the communities. The guidance provided by this mechanism also led to the adoption of an action plan for relations with the cultural communities in March 2005.

162. The *Sûreté du Québec* has implemented various measures to counter racial profiling, including in particular:

- A policy covering relations with the cultural communities, which recognizes the importance of communities in all their diversity and condemns all forms of intolerance or discrimination shown towards the cultural communities;
- A policy adopted for preventing workplace harassment and discriminatory behaviour towards persons or groups from cultural communities;
- Participation in the Law Enforcement and Aboriginal Diversity (LEAD) committee, a Canadian Association of Chiefs of Police sub-committee established by the RCMP and made up of various police services throughout the country, with the objective of determining the extent of the phenomenon and of creating an information exchange network;
- Training sessions held to inform *Sûreté du Québec* members about Aboriginal realities, to help them combat prejudice and to facilitate their actions with Aboriginal persons;
- Creation of an equal employment access program made up of various measures to increase the number of police officers from Aboriginal and cultural communities, and to facilitate their integration into police services.

163. In June 2005, the *Commission des droits de la personne et des droits de la jeunesse* adopted a definition of racial profiling.

Article 5: Equality before the law

164. On December 13, 2002, the Québec government adopted the *Act to combat poverty and social exclusion*. Recent immigrants, members of visible minorities, and Aboriginal persons have been designated as being among the groups most affected by poverty and on whose behalf particular efforts must be made in the next few years. The Québec government's action plan for

combating poverty and social exclusion was made public in April 2004. Entitled “Reconciling Freedom and Social Justice: A Challenge for the Future,” this action plan encompasses a series of measures to be implemented over a five-year period.

165. In 2004, Québec created new Centres d’aide aux victimes d’actes criminels (CAVAC), crime victim assistance centres, in regions with Aboriginal communities and has fostered the hiring by CAVACs of persons from those communities. The CAVACs provide front-line services to anyone who has been a victim of a criminal act, to their family members and to witnesses. These services are also available to people who do not have Canadian citizenship.

166. Certain measures have been taken to adapt prisons to the specific needs of Aboriginal prisoners. A new concept for detention, that of the ‘community correctional centre,’ was instituted in 2002 specifically for Aboriginal communities. This concept makes it possible to develop programs that are adapted to different cultures and are offered with the participation of the community involved. The *Act Respecting Correctional Services* was modified in June 2002 to allow the management of this type of institution by an Aboriginal community.

167. In the same vein, to prevent the over-representation of Inuit in the Québec correctional system, an agreement was made with the Kativik Regional Government to implement an alternate justice system. Additional resources were provided to hire more Inuit probation officers, to create positions for Inuit community reintegration officers, and to open a community residential centre in Kangirsuk in 2004.

168. As of July 15, 2005, agreements were in place between 49 of the 54 Aboriginal communities in Québec and the Canadian and Québec governments for the delivery of police services in these communities, while two other communities were involved in negotiations with these two levels of government to renew similar agreements. These agreements cover almost the entire population of Inuit and First Nations communities in Québec, and give Aboriginal communities control of law enforcement in the territories covered by the agreements.

Article 6: Effective protection and remedies

169. From January 2001 to March 2005, the *Commission des droits de la personne et des droits de la jeunesse* (CDPDJ) investigated various allegations of discrimination based on race, colour, or ethnic or national origin. It opened a total of 815 investigation files during that period. The proportion of files dealing with the above-mentioned forms of discrimination has increased in recent years. For the period of January 2001 to December 2001, they accounted for 17.6% of investigations. In comparison, they accounted for 25.1% of investigations for the period of April 4 2004 to March 2005. About half of the files dealing with these forms of discrimination are employment-related, and about one-third have to do with housing and access to goods and services.

170. Upon completing an investigation, the CDPDJ may, if no settlement has been reached by the parties involved, propose one of the following: admission that a right has been violated, discontinuation of an action concerning which a complaint has been made, performance of a

specific action (e.g., giving the complainant his or her job back), or payment of monetary compensation or punitive damages when the discrimination was intentional. For the period January 2001 to March 2005, the CDPDJ ordered restorative measures on 37 files involving allegations of discrimination based on race, colour, or national or ethnic origin.

171. From January 2001 to March 2005, the CDPDJ brought before the Tribunal des droits de la personne (Québec's human rights tribunal) 23 cases involving allegations of discrimination or harassment based on race, colour, national or ethnic origin. These cases accounted for 13% of all cases that the CDPDJ brought before the tribunal during that period. Between January 1, 2001 and March 31, 2005, the CDPDJ won judgements in 11 cases based on allegations of the above-mentioned forms of discrimination, most of which had to do with housing or employment.

172. On April 14, 2005, in the case of *Commission des droits de la personne et des droits de la jeunesse v. Centre maraîcher Eugène Guinois Jr. inc.*, the *Tribunal des droits de la personne* ruled that that racial discrimination against the plaintiffs had occurred. The Tribunal concluded that “*discrimination by full-time White workers against seasonal Black workers had gradually set in without any action or effort on the part of the defendant to counter it.*” The Tribunal awarded close to \$62,500 in moral and punitive damages, shared equally among the four plaintiffs.

Article 7: Education, culture and information

173. In keeping with the immigration policy it enacted in 1990, Québec adopted an action plan in May 2003 entitled “Shared Values, Common Interests.” Covering the period from 2004 to 2007, this action plan is supported by a budget of \$21 million and based on the following pillars for actions:

- Ensure that immigration corresponds to Québec's needs, in respect of its values;
- Promote immigrant reception services and sustainable employment of immigrants;
- Improve French language learning by immigrants;
- Foster greater openness to diversity;
- Promote immigration as a factor in strengthening development in all regions of Quebec.

174. Some 38 new measures were targeted to implement the action plan. More specifically, in terms of intercultural relations, Québec is pursuing its goals of increasing openness to diversity by fostering intercultural understanding and dialogue, and working to combat racial discrimination and inter-community tensions.

175. Measures adopted for public bodies include the creation of the following:

- Network of respondents for intercultural relations in each Québec government department. Respondents provide focal points for actions by liaison officers with the cultural communities, advise their departments to ensure that they take into account the realities of the various cultural communities, and provide a monitoring role for their departments in intercultural relations;
- Intercultural relations consulting service offering employers and human resources branches information, reference, consulting and support services in employment diversity and intercultural management;
- Liaison office with the various cultural communities, working at the grassroots level in the cultural communities to encourage their full participation in Québec society, to promote intercultural understanding, and to contribute to the struggle against racism and exclusion. Actions to date by the liaison office include the creation of advisory tables with the Maghreb, Bangladeshi and Latin-American communities to establish action plans with them.

176. The work of community and public organizations with immigrants and cultural communities is being supported by the implementation of three programs that promote integration and intercultural understanding:

- The *Programme d'accompagnement des nouveaux arrivants* (PANA), a support program for new immigrants that was implemented on January 1, 2005 to allow community organizations to offer reception, settlement and support services to recent immigrants;
- The *Programme d'appui aux relations civiques et interculturelles* (PARCI), a program to support civic and intercultural relations implemented on June 18, 2004, provides community organizations with financial assistance to create projects to enable immigrants and members of cultural communities to get to know and understand Québec society, and to help Quebecers get to know and understand the role played by pluralism in Québec society and the contribution being made by the cultural communities to Québec's development. The program also supports the implementation of projects for preventing inter-community tensions and for combating prejudice, discrimination, intolerance, racism and exclusion based on a person's colour, ethnic or national origin, cultural or religious affiliation;
- The *Programme régional d'intégration* (PRI), a regional integration program implemented on April 1, 2004 to support joint action by local and regional partners for increasing the contribution made by immigrants to the development of Québec's various regions, for improving immigrant reception, settlement and integration conditions, and for promoting to the regions' populations the economic, social and cultural contributions which immigrants make.

177. The government's adult education policy, "Lifelong Learning," which was adopted in May 2002, is intended to enable adults without professional qualifications to obtain basic

training and to raise awareness among working adults and among employers about the importance of maintaining and increasing occupational skill levels. The policy gives particular attention to the difficulties facing immigrants and members of Aboriginal nations. For example, a five-year experimental project is now underway for adapting a general college program to Aboriginal culture as a means of encouraging more Aboriginal students to obtain a college diploma.

178. Denominational education in Québec schools is provided only to Catholic and Protestants. In these cases, Québec has used the notwithstanding clause to avoid application of the *Canadian Charter of Rights and Freedoms* and Québec's *Charter of Human Rights and Freedoms*.

179. However, beginning on July 1, 2008, all provisions regarding denominational education in the *Education Act* will be removed. Only one program in ethics and religious culture will be offered to all students at the elementary and high school levels, replacing the Catholic and Protestant programs and the moral education program. To authorize this change, Québec's National Assembly adopted on June 15, 2005 the *Act to amend various legislative provisions respecting education as regards confessional matters*.

180. Every year since 2003, Québec has been holding its *Semaine québécoise des rencontres interculturelles*, a week-long event showcasing the contributions made by cultural communities and fostering intercultural dialogue. Numerous activities are held throughout Québec for this event.

181. In 2004-2005 alone, the CDPDJ held 36 training sessions on the themes of pluralism and diversity management, nine of which were held at the request of Muslim associations. Twelve other sessions dealt with racism and intolerance, and 20 covered discriminatory and racial harassment. Six sessions were held under the theme of "La rencontre Québec-Autochtones."

182. In 2002, the CDPDJ produced a pedagogical document entitled *Mythes et réalités sur les peuples autochtones*. It is also available in English under the title of *Aboriginal Peoples: Facts and Fiction*. Produced in collaboration with the Institut culturel et éducatif montagnais, this document is intended for schools and the general public.

183. Over the past few years, *Emploi-Québec*, in collaboration with the Ministère de l'Immigration et des Communautés culturelles, has provided training to employees in its local employment centres on the delivery of services in an intercultural context to help them develop specific skills for working more effectively with immigrants and members of cultural communities.

184. Persons who apply for refugee status upon coming to Québec are entitled to a certain number of privileges, which also cover their families. For example, their children are given access to free educational services. They benefit from these privileges until a decision is made on their application. Furthermore, thanks to a modification made to the *Act respecting financial assistance for educational expenses* in December 2004, people with refugee status and people

who have been categorized as in need of protection have access to financial assistance for educational expenses. This assistance is available to people from other categories whose eligibility the Government determines by regulatory means.

Ontario

Article 1: Definition, interpretation and general

185. The Ontario Human Rights Commission (OHRC) has developed two major documents since 2003 that have broadened the concept of racial discrimination. The first document released in December 2003, was the result of an inquiry into racial profiling and is entitled “Paying the Price: The Human Cost of Racial Profiling” (Inquiry Report). The second document, released in June 2005, is a comprehensive OHRC policy statement entitled “Policy and Guidelines on Racism and Racial Discrimination” (Policy Statement). Both focus on the notion that “race” is primarily a “social construct” and not a “biological” one. Correspondingly both state that the relevant concept is “racialization” and that concepts of racial discrimination should recognize this wider social process.

186. The Policy Statement reviews the historical and social context of racism in Canada, clarifies the meaning of key concepts such as “race”, “racism”, and “racial discrimination”. It proceeds to elaborate several forms of racial discrimination including stereotyping and prejudice, racial profiling, subtle forms of racial discrimination, racial harassment and poisoned environment, language related discrimination, and systemic racial discrimination. It concludes with a detailed discussion outlining the responsibilities of organizations to deal with racial discrimination.

187. The OHRC’s Policy Statement specifically takes into account article 1 of the *Convention on the Elimination of All Forms of Racial Discrimination (the Convention)*. It refers to the *Convention* in discussing the “international context” within which the policy is framed and provides a discussion of terminology that indicates that self-identification is the preferred route for identifying individuals and groups. For generic reference to groups, the Policy Statement indicates that the term “racialized” persons or group is preferred to terms like “visible minority”.

Article 2: Legislative, administrative, judicial or other measures

188. The OHRC’s Policy Statement provides warning and guidance to employers and service providers on obligations and responsibilities to avoid racial discrimination in all its manifestations including most prominently in employment activities.

189. Although the Ontario government does not have employment equity legislation, the Policy Statement focuses employers and service providers on the mandate of the *Human Rights Code*, which requires organizations to ensure that they are not engaging in discrimination. Data collection may be required to do this in certain circumstances. The Policy Statement establishes a trigger for when data should be collected. Not every business will have to collect data but those that “have or should have reason to believe” that there is a problem with discrimination, should be collecting data. The OHRC’s enforcement of the policy will build on this trigger and

place onus on respondents to human rights complaints to demonstrate that they have not and do not operate employment and other systems that discriminate on the basis of “race” and related human rights grounds.

190. The Ontario Provincial Police (OPP) and municipal police services have implemented measures to increase the diversity of police officers. These include the following:

- The OPP, municipal and First Nations police services use the Constable Selection System, a bias-free selection hiring process.
- Several municipal services, particularly in areas with a concentration of ethnic or Aboriginal groups, undertake annual or semi-annual recruiting campaigns to increase the number of police officers from under-represented groups.

191. In addition, the OPP has implemented these specific measures to attract and recruit qualified individuals from under-represented groups:

- OPP Bound (started in 2003) - a targeted outreach, awareness, encouragement and recruitment program for reaching qualified individuals from diverse cultures and backgrounds;
- The use of a new recruitment slogan, “one size fits all”, which builds on the notion of inclusion;
- First Nations awareness training for OPP recruiters - a four-day intensive training program held in reserves and territories in northern parts of the province (started in 2003);
- Enhancing the OPP Web site with testimonials from diverse recruits and creating new brochures, pamphlets and posters to build on an inclusive theme of diversity; and
- Advertising OPP recruitment opportunities in Aboriginal or ethnic print media.

Article 4: Prohibition against promotion of racism

192. The OHRC’s Inquiry Report provided specific recommendations to law enforcement agencies to avoid practices of racial profiling. Since its release some progress on these recommendations has been made including the following:

- The *Report on the Police Complaints System in Ontario* by a former Chief Justice of the Superior Court of Ontario, recommended ways to improve the current police complaints mechanism. Many of the recommendations made by the former Chief Justice in his report, which was issued in April 2005, are consistent with the recommendations in OHRC’s Inquiry Report such as ensuring that police officers can be readily identified by requiring large name badges on their uniforms and establishing independent, accessible, and effective police complaints review systems;

- The OHRC has provided input to the Minister of Community Safety and Correctional Services regarding improvements to the proposed private security industry legislation that would better address human rights issues in the security industry;
- Police services have undertaken, or are considering, data collection projects. The Kingston Police Service recently released the results of such a project, and other services across the province, including Toronto's, are considering data collection projects of their own;
- The OHRC has been invited to speak to several major police forces; and
- The OHRC is dealing with the issue of racial profiling through several complaints that have been filed including ones that have been referred to the Human Rights Tribunal of Ontario.

193. In 2001, the OPP implemented a policy, “the Promise of the OPP”, which emphasizes the commitment of the force to professionalism and ethics including a prohibition against “illegal profiling”.

194. Other initiatives taken by the OPP to address the issue of racial profiling include the following:

- A policy requiring traffic supervisors to monitor traffic enforcement activities for illegal profiling of motorists and to take appropriate action where an officer is not acting in accordance with this policy, including adverse performance review;
- The completion in 2004 of in-service instructions to all uniform personnel on the practice of conducting professional vehicle stops; and
- The installation in 2004 of video cameras in some police cars as part of a pilot project with the twin purpose of monitoring job performance during traffic stops and helping to protect officers from unwarranted accusation of misconduct.

195. The Ontario Police College in conjunction with law enforcement stakeholders has been active in organizing seminars and workshops on racial profiling including:

- The 2003 diversity and anti-discrimination workshop entitled “Exploring the Profiling Debate”;
- The 2004 forum, “Service Excellence in a Changing Demographic”, co-sponsored by the Ontario Association of Chiefs of Police; and
- The 2005 forum, “Monitoring for Racial Bias in Police Stop and Search practices” (to present and discuss the results of the one-year 2003-2004 Kingston Police Service pilot in which officers recorded the race or ethnicity of persons stopped for questioning).

196. In the last three years, Ontario has conducted a number of prosecutions concerning hate crimes where charges were laid by the police (including institutional vandalism and mischief in relation to property used for religious worship, or a cemetery where motivated by hate or bias).

197. The Ontario Attorney General also consented to a number of prosecutions concerning hate propaganda that deal with anti-Semitism and Islamophobia. During the period, the government prosecuted six cases in which 12 persons were charged with willful promotion of hatred under the *Criminal Code*.

198. Although specific measures have not been implemented in respect of anti-Semitism and Islamophobia, the Ministry of Community Safety and Correctional Services (MCSCS) has contributed to the funding of some initiatives against “hate crimes” and “racial intolerance”. Since 2003, MCSCS has contributed more than \$126,000 and will provide about \$200,000 in 2005-2006 to a specialized joint forces unit for the investigation of hate crimes and incidents of racial intolerance. MCSCS will also assist the unit with analytical services, officer training and the production of education materials.

199. In 2004, the Ontario Police College organized a diversity and anti-discrimination workshop, “An Islamic Perspective and Policy in the New Normal”, for law enforcement officials.

200. The OHRC’s Policy Statement makes specific reference to the history of anti-Semitism in Canada and names Islamophobia as a new form of racism emerging in Canadian society.

Article 5: Equality before the law

201. Ontario delivers legal aid through an independent agency called Legal Aid Ontario (LAO). The needs of Aboriginal clients are addressed through a range of service delivery initiatives including regular certificate, duty counsel and clinic law services, specialized duty counsel at the *Gladue* court, funding to the native court worker program, the specialty legal aid clinic at Aboriginal Legal Services Toronto, the Aboriginal Legal Services Centre operated by Nishnawbe-Aski, and a pilot project designed to use mediation in *Child and Family Services Act* matters in three Aboriginal communities.

202. The needs of people of African descent are also addressed through a range of service delivery methods including certificate, duty counsel and clinic law services, and specialized legal clinic. The African Canadian Legal Clinic provides advice and representation to African Canadians in all legal forums, especially race-based test case litigation, which are likely to result in significant legal precedents.

203. The South Asian Legal Clinic of Ontario (SALCO) is a not-for-profit corporation working to improve access to justice for low-income South Asians in Toronto. LAO is providing funding to SALCO for a lawyer and community legal worker to provide legal representation in the areas of social assistance/welfare and immigration and refugee law.

204. The Bail Verification and Supervision Program serves people who would qualify for bail but have limited finances and social ties, and ensures that these individuals are supervised while

in the community awaiting trial, and are present for their court appearances. The Toronto Bail Program has a new position for bail supervision to Aboriginal persons by an Aboriginal service provider. The work of the Toronto Bail Program is well regarded by stakeholders and helps to provide a fairer and more just criminal law process for the Aboriginal community in Toronto.

205. Ontario delivers a number of accredited and non-accredited rehabilitative programs that are designed to promote positive changes in the behaviour of offenders, reduce recidivism and hold offenders responsible for their actions, thereby promoting community safety. There are three streams for the delivery of core programs to probation and parole offices and institutions: life skills, rehabilitative and literacy/numeracy.

206. Also, the Ministry of Community Safety and Correctional Services contracts with the Aboriginal community for the development of rehabilitative programs in order to provide culturally specific programs for Aboriginal offenders. Using universal Aboriginal teachings to address criminological factors and the need for change, the programs cover areas such as Aboriginal awareness training, discharge planning, substance abuse, domestic violence, translation services and other forms of culturally appropriate intervention.

Article 6: Effective protection and remedies

207. In the fiscal year 2003-2004, the OHRC received 682 complaints that cited the ground of race or colour of a total of 2,450 complaints filed. Correspondingly about 27.8% of complaints filed in this fiscal year cited one of these two grounds. In the same fiscal year, only 42 cases were dismissed under section 34 of the *Human Rights Code*, 207 were settled, and 33 were referred to the Human Rights Tribunal of Ontario, of a total of 286 such referrals. Referrals to the Tribunal during this year were abnormally high as a result of more than 100 “similar-fact” complaints being referred that dealt with the issue of autism.

208. In the following fiscal year 2004-2005, the OHRC received 735 complaints that cited the grounds of race or colour of a total of 2,735 complaints filed. Correspondingly, about 30.6% of complaints filed in this fiscal year cited one of these two grounds. In the same fiscal year only 48 cases were dismissed under section 34 of the *Code*, 233 complaints were settled, and 44 were referred to the Tribunal of a total of 150 referrals.

209. A comparison of the two years indicates that complaints that cite race and/or colour continue to represent the traditional figure of a quarter to one third of all complaints received by the OHRC. The number of race and/or colour complaints being sent to the Tribunal increased in the second of the two fiscal years by 11 additional cases. Race and/or colour complaints represented almost one third of referrals, which was almost the same as the proportion of race and/or colour complaints in the system.

210. In 2004, the OHRC began an internal review of its handling of race-based complaints. The review included both quantitative and qualitative approaches and led to the development of a draft report that highlighted areas for concern and development in the complaint-handling process. Efforts to interpret and respond to these concerns are currently being undertaken.

211. Continuing with its work towards developing a policy on racial discrimination and racism, the OHRC organized a Policy Dialogue conference in October 2004 around the theme of

human rights responses to racism and racial discrimination. The papers developed for the conference were published in the dedicated fall (2005) issue of *Canadian Diversity* magazine. The gathering of key knowledge related to racial discrimination and the dissemination of this in a special issue of a widely distributed magazine has significantly supported the human rights response to allegations of racial discrimination across Canada.

212. The Policy Statement itself is expected to have a significant impact in improving the accessibility and effectiveness of the OHRC's handling of complaints of racial discrimination. The Policy and subsequent initiatives to train and educate the public on its content will publicize the rights individuals have to file complaints in response to racial discrimination. The Policy will enhance efforts to respond to complaints by establishing clear definitions, categories, benchmarks and standards, which will help to assess and investigate the existence of racial discrimination, especially systemic discrimination.

213. In recent years, the OHRC has also coordinated the development and evaluation of its Aboriginal Human Rights Program in partnership with GREAT (Grand River Employment and Training), the Ontario Federation of Indian Friendship Centres and the Native Canadian Centre of Toronto (NCCT) to increase awareness of the *Human Rights Code* among Aboriginal communities and enhance their access to the OHRC's services. It included research on best practices for public education and awareness in Aboriginal communities, a needs assessment, the establishment of formal partnerships with Aboriginal organizations, the hiring of an Aboriginal human rights liaison officer for a period of two years, training workshops for OHRC staff and community agencies, a pilot community-based awareness campaign, the development of quality service standards and a program evaluation of the project. The evaluation identified a need to reach out more broadly to agencies serving Aboriginal communities. This led the OHRC to begin partnering with the Union of Ontario Indians (UOI) to develop and distribute a brochure about the Code and the OHRC to Aboriginal communities in several Aboriginal languages.

Article 7: Education, culture and information

214. On May 19, 2005, the Legislature unanimously passed changes to the *Education Act*. These changes extended exemptions on paying fees to allow more children of temporary residents in Canada to attend school in Ontario without charge.

215. Newly exempted are children whose parents have applied for permanent residence status and plan to stay in Canada and children whose parents are studying at a publicly funded Ontario university or college. About 250 immigrant children and their families will benefit. Prior to the passage of this legislation, school boards were required to charge fees of up to \$10,000 per child annually. Boards now will receive funding for these students under the Grants for Student Needs category.

216. The OHRC embarked in March 2005 with other partners to set up a working group of government and non-government organizations to develop and promote a proposal to call for a Canadian Coalition of Cities Against Racism. Other partners included the Canadian Commission for UNESCO, the Alberta Human Rights and Citizenship Commission, the Canadian Race Relations Foundation and the Metropolis Project. The objective is to establish a network of cities, interested in exchanging experiences and expertise, and committed to adopting a Plan of Action to address racism. The initiative is based on UNESCO's call for an

International Coalition of Cities Against Racism. The OHRC continues to lend expertise and support to the Canadian Commission for UNESCO for the development, promotion and distribution of a draft proposal to interested parties in Canada.

Manitoba

Article 1: Definition, interpretation and general

217. Manitoba's statutory prohibitions against discrimination reference ancestry, colour and perceived race, nationality or national origin, and ethnic background or origin. However, Manitoba does use the term "visible minority" in certain limited circumstances as a non-legal descriptor, not to define or limit the groups of individuals subject to human rights protection, but to identify one of a number of target groups that have been identified in the past as suffering from marked disadvantage, particularly in the field of employment. That is, visible minorities are often grouped with women, Aboriginals and persons with disabilities for the purpose of identifying potential beneficiaries of special programs such as employment equity. The Manitoba Civil Service Commission's Employment Equity Policy defines "members of visible minorities" as "persons, other than Aboriginal peoples, who because of their race or colour, are a visible minority". It further stipulates that members of such designated groups are to be identified either by voluntary self-declaration during the staffing process or throughout employment, or "by conducting department-wide workforce surveys on a periodic basis to improve the rate of self-declaration by designated employees".

Article 2: Legislative, administrative, judicial or other measures

Measures to eradicate violence against Aboriginal women

218. Following the October 4, 2004, release of the Amnesty International Report "*Stolen Sisters: A Human Response to Discrimination and Violence against Indigenous women in Canada*", Manitoba formed a Stolen Sisters Interdepartmental Working Group to identify options to address issues related to violence, sexual exploitation of youth and missing and murdered Aboriginal women in Manitoba. The working group is jointly chaired by the Women's Directorate and Manitoba Aboriginal and Northern Affairs and includes members of Manitoba Family Services and Housing and Manitoba Justice.

219. Family Services and Housing, through the Family Violence Prevention Program (FVPP), is working to improve the support and services provided to women and families caught in the cycle of domestic violence. This service sector has increasingly recognized the need for relevant and accessible services to families of Aboriginal background and immigrant and refugee families. For example, in response to a request made by the Aboriginal community, the Department has begun to develop an outcome-based data model that will support the development and implementation of culturally appropriate services. As well, the department continues efforts to provide a consistent and coordinated program response to the incidence of domestic violence in the Aboriginal community and to ensure that this response considers the legacy of reserves and residential schools and the impact these legacies have had on the language and identity loss among Manitoba's Aboriginal people.

220. The FVPP within Family Services and Housing also funds a wide-range of community-based organizations that provide support, information, counselling, referral and protection planning to women who have experienced domestic violence, which includes cross-cultural and multi-lingual services for immigrant women caught in the cycle of violence.

Employment issues

221. The Government of Manitoba uses population and labour force participation data to establish benchmarks. The benchmark in terms of representation within the civil service is 50% women, 14% Aboriginal persons, 8% members of visible minorities, and 7% persons with disabilities. As of March 2005, 52.68% of Manitoba Government employees are women, 10.5% are Aboriginal persons, 3.86% are members of visible minorities, and 2.79% are persons with disabilities. With the exception of a 0.17% decrease in persons with disabilities, the representation of Aboriginal persons and members of visible minorities has increased since March 2002.

222. In terms of the representation of senior employees, as of March 2005, 33.52% were women, 3.24% were Aboriginal persons, 2.86% were members of visible minorities and 2.86% were persons with disabilities. This represents an improvement since March 2004 when 2.78% were Aboriginal persons, 2.78% were persons with disabilities and 2.58% were members of visible minorities.

223. The Government of Manitoba introduced the Civil Service Renewal Strategy in October of 2003. The strategy has four goals (Renewal, Sustainability, Diversity, and Clarity). As one of the key goals, diversity means that the civil service, in all kinds of jobs, including management positions, is more reflective of the provincial population.

224. The Employment Equity policy that has been in place for the past 20 years has been reviewed and updated. The new Diversity and Employment Equity Strategy integrates a broader approach to diversity while maintaining a focus on increasing representation of the four designated groups. Other updates include a move from set targets to benchmarks for representation of the four designated groups and changes to the weighting and rating of equity in the selection process. The concept of “preference” was further clarified and “designation” was introduced as another way to target the recruitment of equity groups. Accountability mechanisms were strengthened through regular reporting on Diversity and Employment Equity (e.g., Annual Report on Renewal, Annual Diversity and Equity Report to Cabinet, five-year review of Diversity and Equity Initiatives by the Civil Service Commission). Lastly, the 10 Criteria for the Assessment of Employment Equity Programs were further clarified.

225. In 2004-2005, the Civil Service Commission introduced the Career Gateway Program (CGP) and the Volunteers in Public Service (VIPS). The Career Gateway Program recruits members of visible minorities for term placements in positions where there will be recruitment need. The VIPS Program is conducted in partnership with the Department of Education, Citizenship and Youth and provides career-related volunteer opportunities in government for visible minorities and immigrants. As of June 2005, 20 individuals have participated in these programs.

226. A corporate human resource project was undertaken to identify practical and sustainable strategies for attracting, retaining and advancing Aboriginal employees. The project will be completed and implemented in 2005-2006.

227. The Civil Service Commission works with departments to develop and maintain policies to support a respectful workplace in the Manitoba government. A project was recently undertaken to develop a corporate policy that sets expectations and strategies for ensuring respect in the workplace. The project will be completed and implemented in 2005-2006. Many departments have implemented their own respectful workplace policies. A human resources policy on Racial and Other Prohibited Harassment is being developed by the Labour Relations Division of Treasury Board Secretariat.

228. For the first time, employment equity language was included in the 2003-2006 Manitoba Government and General Employees Union Collective Agreement in the form of a Memorandum of Agreement. This further clarifies the application of employment equity in the recruitment and appointment process.

229. In annual reporting on renewal for 2004-2005, seventeen departments (94%) report in varying degrees of detail the steps being taken to advance equity group members, especially to senior professional and management levels. Three departments (17%) report an increase in representation of equity group members at higher levels compared to a year ago and 10 departments (56%) reported an increase in "some" equity group members.

230. All departments report actions being taken to make the workplace itself more receptive to diversity and equity. In several cases, those actions were wide ranging and dealt with the issue from a number of perspectives. Seventeen departments (94%) report action being taken to encourage more equity group members to declare their equity status. Thirteen departments (72%) report that turnover rates for equity group members are not greater than those for other employees.

Foreign credential recognition

231. Manitoba has also sought to assist highly skilled immigrants in finding work in the province. In March 2002, the government approved the development of a government-wide strategy to address the issue of Qualifications Recognition for such immigrants. On March 23, 2003, the government accepted the principles outlined in the *Framework for a Manitoba Strategy on Qualifications Recognition* which, among other things, stated that Manitoba should ensure a coordinated capacity for highly skilled immigrants to enter their occupations in an efficient and equitable manner. A more detailed summary of activities in relation to this can be found at <http://www.mbchamber.mb.ca/updates/update05/Docs/SummaryofQRActivities-MBOnlyNov04.doc>.

232. An example, in a professional field, is the development of the Medical Licensure Program for Internal Medical Graduates (MLPIMG). This program was implemented in April 2001 to assist international medical graduates (IMGs) living in Manitoba to obtain conditional registration and begin primary care practice in under-serviced areas of the province. To date, 19 IMGs have achieved conditional registration through the program and are practising

in their sponsoring regions. Another five are in enhanced training in 2005. There are plans to increase capacity in the program from 10 to 15 this year and from 15 to 25 next year. Additional information is available at: (<http://www.gov.mb.ca/health/mlpimg>).

Article 4: Prohibition against promotion of racism

233. The Winnipeg Police Service Hate Crime team works closely with police and community organizations, Crown Counsel and affected individuals to respond to crimes motivated by hate and bias due to personal characteristics such as race, colour, and ethnicity. It uses a comprehensive approach which attempts to include the expertise and assistance of the Manitoba and Canadian Human Rights Commissions (the latter is especially important in the context of hate on the Internet), community groups, etc. It has held extensive training programs for the team and senior police officers, including a Hate Crimes & Human Rights Investigators course September 20-21, 2004.

234. Manitoba Justice is currently reviewing its policy on prosecutions for hate-related crime. Similarly, s. 18 of the Manitoba *Human Rights Code* is under review to determine whether it requires expansion.

235. Policing, in Manitoba, is carried out by municipal forces (the largest by far being Winnipeg Police Service - WPS), or by the federally regulated Royal Canadian Mounted Police (RCMP) operating under contract. These law enforcement agencies make continued efforts to address and eliminate bias in policing, including racial profiling to the extent that term refers to actions by authorities based on unreasonable stereotypes about race, colour, ethnicity, etc. The WPS maintains a policy of Bias-free Policing. Training is provided to new police recruits and existing members in order to properly educate them on policy and ensure compliance. As well, if a member of the public feels he or she is being treated in a manner disclosing bias, he/she can file a complaint with the Law Enforcement Review Agency or the WPS Professional Standards Unit.

236. The Canadian Association of Chiefs of Police (CACP) adopted a resolution regarding Bias-free Policing at its 2004 Annual Conference. As indicated by the CACP, the resolution “simply represents the current ethical practice of CACP members. However, as a formally written statement, it serves to emphasize the importance of Bias-free Policing, highlighting to the public the commitment of the CACP to principled policing”.

237. Although there have been no specific complaints of racial profiling in Manitoba to date, instances of such activity could be the subject of a complaint under the *Human Rights Code*, in which event the practices, rules and policies in question would need to be justified under the rigorous standards that have been enunciated by the Supreme Court of Canada.

Article 5: Equality before the law

238. Restorative Justice is a First Nations-led Justice initiative that is more culturally sensitive than traditional law enforcement methods. Instead of looking at the offender's crime as being against the state, the approach is that the offender has wronged the victim and the community.

The Justice process then requires the offender to face his victim and seek a solution to the situation that satisfies both the victim and offender. It is anticipated that this process will initiate healing on both sides. The project will be overseen and assessed by two non-governmental agencies.

239. Ten Manitoba First Nations have been selected for a pilot program aimed at improving restorative justice delivery in the north. The three-year pilot project will build a peer-support network of community justice workers in the First Nations involved, so they can share resources and expertise and allow for mentoring.

240. Incarcerated Aboriginal offenders continue to represent a disproportionately high percentage of the Manitoba correctional facilities population. While Corrections works to treat all its inmates equally, it recognizes that needs differ among some in the prison population. As a result, it actively involves Aboriginal elders and spiritual advisors at each facility. This has had a significant impact on the focus of the full range of activities, including cultural influences, available to inmates.

Article 6: Effective protection and remedies

241. The Manitoba Human Rights Commission (MHRC) functions as a gatekeeper. It conducts an independent investigation of complaints and if there is sufficient evidence to justify proceeding further (and if the complaint is not settled), it has conduct of the resulting adjudication. Thus the concept of ‘admissibility’ in the international sense is not applicable. The Commission also expends a great deal of time and effort in mediating complaints at various stages in the process (pre-complaint, pre-investigation, during investigation, post-investigation).

242. The MHRC reports that approximately 15% of its complaints allege some form of discrimination based on race, ethnic origin, etc. In 2004, 69 of the 413 files closed were filed based on ancestry and national origin; 24 of these were terminated due to insufficient evidence or a finding by the Board that the respondent had made a reasonable offer; 30 were settled at various stages through mediation/conciliation; 14 were abandoned or withdrawn, and one was referred to adjudication.

243. Manitoba reported under the Fifth Report on the *International Covenant on Economic Social and Cultural Rights* (ICESCR) on Legal Aid Manitoba’s Aboriginal community law office. It handles legal cases of particular interest to the Aboriginal community, including civil rights, racism or discrimination; and is intended to do so in a manner consistent with the values and traditions of Aboriginal peoples.

Article 7: Education, culture and information

244. Manitoba reported in its ICESCR Report on various efforts related to Aboriginal education and training. Further reference may be made to the *Aboriginal Education Action Plan 2004-2007* at (http://www.edu.gov.mb.ca/strategy/AET_Framework.pdf) and related sites such as (<http://www.edu.gov.mb.ca/ks4/docs/policy/abpersp/index.html>).

Saskatchewan

Article 1: Definition, interpretation and general

245. In June, 1999, the Saskatchewan Human Rights Commission (SHRC) adopted a “Policy Relating to Visible Minorities as a Designated Equity Group.” The policy states that, for the purposes of equity programs, the SHRC defines members of visible minorities as “persons, other than Aboriginal peoples, who are people of colour.” This definition was adopted in order to be consistent with the definition of visible minorities used in the federal *Employment Equity Act*. Government of Saskatchewan employment equity plans, which have been approved by the SHRC, also use the term “visible minority.”

246. The SHRC policy nevertheless emphasizes self-identification: “Employers with employment equity plans who wish to identify members of visible minorities should use the principle of self-identification and ask employees and prospective employees themselves to indicate whether they are visible minority members.” The Government of Saskatchewan relies upon self-identification, through the voluntary completion of a workplace survey provided to all new employees.

Article 2: Legislative, administrative, judicial or other measures

Measures to eradicate violence against aboriginal women

247. A Domestic Violence Treatment Option Court has been operating in North Battleford since April 2003, and a Domestic Violence Court begins operation in Saskatoon in September 2005. The courts bring together social service agencies, the criminal justice system, and community agencies to provide an immediate, seamless and effective response. A critical component of these courts, in addition to the treatment programs for offenders, is the intensive support provided to victims and families through the police-based victims services programs. There are 17 victims services programs and six Aboriginal Resource Officer Programs serving 15,000 victims annually. Through an Aboriginal Family Violence Initiative, funding is also provided to eight community-based programs that assist urban Aboriginal families. In 2005-2006, there will be an expansion of victims services, in two new northern communities.

248. A Provincial Protocol on Relationship Violence and Abuse, to help communities mobilize, is being developed by the Inter-Departmental Committee on Interpersonal Violence and Abuse and “STOPS” - Saskatchewan Towards Partnership Solutions to Eliminate Violence - a partnership of community organizations, government representatives and individuals, to promote healthy relationships and eliminate violence and abuse.

Other Aboriginal issues

249. The Government of Saskatchewan proclaimed 2005 as the Year of First Nations and Métis Women. The Proclamation recognizes the historical and contemporary contributions, strengths, and struggles of First Nations and Métis women, and the positive changes that are occurring through the work of First Nations and Métis women, their communities, and government offices.

250. See paragraph 251 of Canada's Fifth Report under the *International Covenant on Economic, Social and Cultural Rights*, respecting the creation of the Department of First Nations and Métis Relations as a stand-alone department in the Government of Saskatchewan.

Employment issues

251. Voluntary employment equity plans of 38 employers, covering more than 42,500 employees, and education equity plans involving 17 school divisions (close to 80,000 students) and 10 post-secondary institutions, have been approved by the Saskatchewan Human Rights Commission.

252. In its 2003-2004 annual report, the SHRC reported that the proportion of Aboriginal employees in the sponsor workforce had grown from 2.9% to 7.9% over the previous decade, and was 10.2% in the Government of Saskatchewan. Aboriginal people accounted for 13.5% of the Saskatchewan population. The SHRC also reported that the proportion of visible minorities in the sponsor workforce had grown from 1.5% to 3.1% during the same period. This approximated the 3.0% representation of visible minorities in the Saskatchewan working age population but fell short of the 5.5% and 5.8% representation in Regina and Saskatoon.

253. On July 31, 2005, representation in the Saskatchewan Government, for all job types, was 10.7% for Aboriginal people and 2.5% for visible minorities. Aboriginal employees made up 0.7% of senior managers and 3.2% of middle and other managers. Visible minority employees made up 2.0% of senior managers and 1.7% of middle and other managers.

254. The January 2005, *Understanding Client Needs* report identified the following profile for Aboriginal persons in Saskatchewan's Employment and Income Assistance Employment programs (from April 1, 2004 to November 30, 2004):

- 26% of all clients accessing services aimed at individuals who have had an active Employment Insurance claim in the past five years were Aboriginal;
- 54% of all clients accessing employment services were Aboriginal;
- 65% of all clients participating in *Jobs First* job-matching services were Aboriginal.

255. The Multi-Party Training Plan (MPTP) agreement has assisted residents and businesses in northern Saskatchewan to gain economic benefits from the mines in the region. From 1993 to 2003, it helped double the number of northern residents employed at mine sites, and made major strides in increasing the skill levels of northerners in the workforce. 85% of all students are of Aboriginal ancestry. The Forestry Training Strategy has also had a positive community impact, with 85% of all trainees being First Nations and Métis people. 60% are northern residents.

Article 4: Prohibition against promotion of racism

256. The Saskatchewan Police College provides 35.5 hours of cultural diversity training to municipal police recruits, which includes 16 hours of instruction provided by the First Nations University of Canada. Recruits receive an additional 19 hours in a variety of topic areas related

to cross-cultural issues. One such topic is “Bias Free Policing”. Experienced officers receive further training in cultural diversity through a five-day cultural awareness course and two sessions during operational courses. The RCMP provides recruit training through the RCMP Training Academy. The curriculum includes training about policing Aboriginal people and other minority groups.

257. A new model for public complaints against municipal police officers will come into effect in spring 2006. An independent Public Complaints Commission (PCC) will be formed, consisting of five persons, including one First Nations person and one of Métis heritage. There will be similar representation at the investigator level. The PCC will have control over the investigation into public complaints, regardless of whether the complaints allege criminal or disciplinary offences. It will have authority to direct that an investigation into any complaint be commenced by the PCC, by the police service that is the subject of the complaint, by the police service that is the subject of the complaint with an external observer, or by an outside police service. Where the circumstances indicate the possibility of criminal activity, the file will be forwarded to Public Prosecutions for a recommendation as to whether criminal charges should be laid.

258. The Government of Saskatchewan is supporting the creation of 49 new police positions over the next two years, with a focus on recruiting Aboriginal police officers. In 2005-2006, there are 11 new positions in the RCMP First Nations Policing Program. One is to work exclusively in Aboriginal recruiting and to develop an Aboriginal recruitment strategy, and one is to support the RCMP Cadet program. The Cadet program involves First Nations youth in programs that foster youth leadership and crime prevention. Five new municipal police positions in the major urban centers will be filled by Aboriginal recruits in 2005-2006. The recruitment strategy for municipal police services will also consider ways to attract Aboriginal people into policing and to provide necessary supports for career success.

259. Five new Community Tripartite Agreements (CTAs), between First Nations and the Governments of Canada and Saskatchewan, will be developed over three years. CTAs are for policing on First Nations and represent a form of self-administered policing in which the community provides the RCMP with input about local issues, culture, traditional practices and appropriate strategies for policing in the community. Currently there are 32 CTAs with 44 First Nations, covering approximately 78% of the Saskatchewan on-reserve population. In addition, the File Hills Police agency is in the process of becoming the province’s first self-administered First Nations police service.

260. The SHRC was one of 30 community partners that brought the exhibit, *Anne Frank in the World: 1929 - 1945* to Saskatoon, May 16 to August 30, 2005. Other partners included B’nai Brith, City of Saskatoon, Congregation Agudas Israel, Congregation Shir Chadash, Shir Chadash Sisterhood, Saskatoon Tribal Council, and government, education, religious, cultural and arts organizations. The exhibit provided information on the history of the Holocaust, affirmed the need to accord all people just and equal treatment, and urged vigilance about the infringement of human rights.

Article 5: Equality before the law

261. The Commission on First Nations and Métis Peoples and Justice Reform was established in November 2001 to identify efficient, effective and financially responsible reforms to the justice system. The objective of the reforms was to reduce offending and victimization, leading to reduced incarceration and safer communities for First Nations and Métis peoples. The Commission's final report, released in June 2004, contained more than 100 recommendations, and addressed such issues as leadership, crime prevention, victimization and violence, restorative justice, policing, justice institutions, racism, and children and youth.

(<http://www.justicereformcomm.sk.ca>)

262. In May 2005, the Government of Saskatchewan released an Action Plan, *Creating a Healthy, Just, Prosperous and Safe Saskatchewan: A Response to the Commission on First Nations and Métis Peoples and Justice Reform*. Initiatives in the Action Plan address four themes: Dealing with the Underlying Causes of Crime, Increasing the Involvement of Aboriginal People and Groups in Justice Processes, Using Alternatives to Court and Incarceration, and Improving Justice System Responses. More than \$48 million in new funding will be invested in 2005-2006.

(http://www.saskjustice.gov.sk.ca/Publications/ActionPlan_final_web.pdf)

263. Two of the targeted outcomes of the Action Plan are reduced contact with the justice system for First Nations and Métis people and reduced levels of incarceration. Initiatives include a program in correctional centres to reduce violence and reoffending; an Education of Youth in Custody program to ensure success in learning once youth are released from custody; enhanced reintegration and cultural programming; reduction of the number of people remanded into custody due to systems offences (eg. bail violations, failure to appear in court); replacement of a portion of the Regina Provincial Correctional Centre; creation of a second Domestic Violence Court; creation of an Aboriginal Provincial Court Party, with a translator, in the northwest area of the province, development of a community safety plan for dealing with interpersonal violence in northern communities; expansion of victim services programs in northern communities; and increased referrals to alternative measures programs. The Action Plan also addresses the underlying causes of crime through educational services; health services; training opportunities; housing; crime reduction strategies; leadership training for Aboriginal youth; and public education to encourage racial harmony.

Article 6: Effective protection and remedies

264. From April 1, 2004 to March 31, 2005, the Saskatchewan Human Rights Commission (SHRC) received 3,664 inquiries and opened 411 complaint files. 209 of the complaint files were pay equity files, and 202 were other complaint files. From the latter, the majority of the complaints were based on mental or physical disability (43.3%) while 17.7% were based on sex, 14.2% on ancestry, 5% on age, 5.9% on religion, 2.5% on marital status, 5% on family status, 2.5% on sexual orientation, 0.4% on receipt of public assistance and 2.5% on other.

Article 7: Education, culture and information

265. The SHRC has focused on overcoming cultural barriers and geographic distances to improve services to Aboriginal and northern communities. It has given priority to presentations

to Aboriginal and northern audiences, and Commission representation at Aboriginal and northern events. It has also reached a northern audience through a weekly newspaper, the *La Ronge Northerner*. The SHRC has developed a partnership with the Aboriginal Friendship Centres of Saskatchewan (AFCS) to deliver on-site human rights awareness training to AFCS board members, staff and clientele, and to supplement that information with technical training on complaint processing, for designated friendship centre staff. The initial pilot phase of the *Accessing Human Rights* project has been completed and, after a period of review, it is expected that the training will be available to Aboriginal friendship centres throughout the province. In 2004-2005, the SHRC also provided human rights awareness training to local community police boards in four northern communities.

266. The *Celebrating Community (Centennial Projects Program)*, established in 2002-2003, provides financial support to community projects that bridge cultural or linguistic boundaries. Projects funded promote the creation of personal bonds and understanding among people from diverse cultural and ethnic backgrounds. The *Working, Living and Playing Together (WLPT)* initiative, also established in 2002, brings together groups of athletes, leaders and professionals from diverse groups, to develop action plans for their communities. The plans encourage them to spend time together organizing sport and recreation activities, and promote their participation as board members, leaders, and athletes.

267. As part of its response to the recommendations of the Commission on First Nations and Métis Peoples and Justice Reform, the Government of Saskatchewan has begun work with the SHRC to develop an Action Plan to address racism and promote understanding and respect.

268. The SHRC has been working with the Canadian Commission of UNESCO and the Cultural Diversity and Race Relations Committee for the City of Saskatoon in promoting a UNESCO initiative, the Coalition of Cities Against Racism. The proposal to establish a Canadian Coalition is based on the UNESCO plan for an International Coalition of Cities Against Racism. Launched in 2004, its goal is to establish a network of regional coalitions around the world committed to fighting racism.

269. The Government of Saskatchewan has provided funding to the Office of the Treaty Commissioner (OTC) to increase awareness about Treaty issues and racial harmony through public education. The OTC program includes Treaty resource kits for classrooms. Presentations have been given to more than 40,000 people at more than 800 events. The Saskatchewan Government will also be working with the Federation of Saskatchewan Indian Nations, Métis Family and Community Justice Services, and others to develop a directory of First Nations and Métis people who are respected as trainers on cultural awareness.

270. The *Aboriginal Employment Development Program* promotes Aboriginal cultural awareness education for employees in partnership with employer organizations. As of March 31, 2005, more than 12,000 employees from various industry sectors had received the education.

271. The Aboriginal Education Provincial Advisory Committee's (AEPAC's) interim report, *The Learning Community in Aboriginal Education: Priorities Report 2005-2007*, sets out AEPAC's renewed priorities for the 2004-2007 period. AEPAC has added School^{PLUS} to its priorities. (School^{PLUS} envisions schools as improving student outcomes through the delivery of

a strong learning program and serving as centres for social, health and other services for children and their families.) AEPAC's priority related to School^{PLUS} is to "imbed and integrate Aboriginal education priorities with School^{PLUS} in a manner that is inclusive of Aboriginal communities."

272. The Saskatchewan Apprenticeship and Trade Certification program has increased its partnerships with industry, equity groups, Aboriginal post-secondary institutions and organizations, students and communities to increase access to apprenticeship training and certification programs. The total number of Aboriginal apprentices increased 30% from 2000 to the end of June 2004, with 12.8% of all apprentices being of First Nation or Métis background.

273. From 1979 to 2005, 300 Aboriginal teachers have graduated from the Northern Teacher Education Program. Approximately 95% are in teaching or teaching-related positions, with about 81% teaching in northern Saskatchewan. From 1984 to 2005, 739 teachers have graduated from the Saskatchewan Urban Native Teacher Education Program for Métis students.

274. Two programs designed to attract and train First Nations and Métis people are the Northern Health Science Access Program (NHSAP) and the Nursing Education Program of Saskatchewan (NEPS). NHSAP is offered by the First Nations University of Canada in partnership with the Saskatchewan Institute of Applied Sciences and Technology (SIAST). It is designed to enhance student success in the sciences, math and English, and to provide a basic introduction to the health field, with a special emphasis on nursing as a career choice. The goal of the ten-month preparatory program is to improve the recruitment, admission, and retention of First Nations and Métis students into health professions. The program began in 2001-2002, and approximately 100 students have completed the program. NEPS is designed to encourage primarily northern Aboriginal students to obtain nursing degrees. The program, which began in 2002-2003 and is now in its fourth year, is administered by the First Nations University of Canada in partnership with the University of Saskatchewan and SIAST. There are approximately 100 students.

275. A priority of the Technology Enhanced Learning Action Plan has been to enhance Métis and First Nations people's education and training. The First Nations University of Canada, Saskatchewan Indian Institute of Technologies, and Gabriel Dumont Institution/Dumont Technical Institute are developing online and televised courses to support the inclusion of Aboriginal people in education and training and the work force. Aboriginal cultural context and learning methodologies are being incorporated in program areas. In 2003-2004, the Aboriginal institutions provided an estimated 6% of the 175 available online and televised courses and learning resources. About 7% of registrations were Aboriginal students.

276. The Aboriginal First Year Transition Program was established in 2003 at the University of Saskatchewan, to support Aboriginal first year students in achieving academic success.

Access to Education

277. Sections 141 and 142 of *The Education Act, 1995* guarantee the right to education for all children. Subsection 173(3) states that, “Where neither a pupil nor any of his or her parents are either Canadian citizens or permanent residents, a board of education may charge tuition fees in the amount prescribed in the regulations.” In practice, since the number of migrants with no status is small, school divisions invariably waive any tuition fees they have a legal right to impose.

Alberta

Article 2: Legislative, administrative, judicial and other measures

278. The Government of Alberta forbids harassment in the workplace based on race, religious beliefs, color, gender, physical disability, mental disability, marital status, age, ancestry, sex or place of origin. Alberta hires people based on merit and their abilities and is an equal opportunity employer.

279. The First Nations Training to Employment Program (FNTEP) provides unemployed or underemployed First Nations people (primarily living on-reserve) with the skills needed for sustained employment in occupations with long-term employment prospects. Through partnerships between the private sector, government and First Nations, specific training is developed to meet industry’s skills needs. Since its start in 2002, FNTEP has had 292 graduates, 260 (89%) of whom are employed.

280. The Alberta Aboriginal Apprenticeship Project (AAAP) was established in 2001 to promote apprenticeship and industry training to Aboriginal people, communities, and organizations in Alberta. The project is designed to help Aboriginal people enter and complete apprenticeship programs. The AAAP takes a unique approach to working with Aboriginal people in their pursuit of careers in the trades. Through the project's employment support model, First Nations, Métis and Inuit people can receive coaching to help them select a trade, referrals to potential employers and mentorship and support while completing their training. The project also encourages employers to welcome Aboriginal apprentices, matching them with suitable candidates and working with them to improve cultural awareness in the workplace.

281. The Province of Alberta signed a partnership agreement in 2004 with the federal government known as the Aboriginal Workforce Participation Initiative (AWPI). The main objectives of the AWPI are to increase the participation of Aboriginal people in the labour market by educating employers about the advantage of hiring Aboriginal people and to breaking down the barriers that deter the employment of Aboriginal people.

Article 4: Prohibition against promotion of racism

282. The Alberta Human Rights and Citizenship Branch involved community organizations, all levels of government and policing services in the development of a *Policing in Diverse Communities* forum in Red Deer. The forum supported the development of a provincial strategy to address hate and bias motivated activity. A provincial committee made up of community, policing, government and the justice system is working together to address hate-bias activity.

283. The Alberta Policing Standards (2004) state the following:

- “The police must seek and preserve public trust, confidence and support by exercising impartial service to the law, and providing service to all people without regard to race, national or ethnic origin, colour, religion, gender, age, sexual orientation, belief of social standing.”

284. The Alberta *Police Service Regulation* code of conduct prohibits police officers from:

- “Differentially applying the law or exercising authority on the basis of race, colour, religion, sex, physical disability, marital status, age, ancestry or place of orientation.” (Section 5(2)(e)(vii) - under review.)

285. In Alberta, while there is no uniform police training program, the issue of race relations, and in particular Aboriginal cultural awareness, is commonly addressed in police recruit and ongoing training. All police services are aware of the sensitivity of this issue and of the above standards and code of conduct. Several of the policing services have instituted a Bias Free Policing program for their members.

Article 5: Equality before the law

286. Aboriginal people are the youngest and fastest growing population in Alberta, with one-third 14 years or younger. The significant representation of Aboriginal people at all stages in the criminal justice system, both as victims and offenders, continues to be a serious issue.

287. While the incarceration rate for Aboriginal offenders remains much higher than for non-Aboriginal offenders, over the past several years Alberta has made significant progress in reducing the Aboriginal incarceration rate in this province.

288. In 2001-2002, Aboriginal people represented 31% of the provincial adult in-house correctional centre count and 36% of the young offender in-house correctional centre count.⁴ Despite the significant increase in the population of Aboriginal people in Alberta, the average number of Aboriginal youth offenders in custody has decreased slightly and the average number of adult Aboriginal offenders in custody has not increased during the past five years.

289. In particular, between 1991 and 2001, years for which census data are available, the Alberta incarceration rate of adult Aboriginal offenders fell by 51%. This significantly outstripped the decline in the incarceration rate for adult non-Aboriginals, which fell by approximately 40% over the same period.

Article 6: Effective protection and remedies

290. In the period June 2001 to May 2005, 498 complaints were opened at the Alberta Human Rights and Citizenship Commission that cited as a ground of discrimination, Ancestry, Place of Origin, Race or Colour. Of the 498 complaints opened, 24 were found to have merit, either by an investigator or a panel.

291. Of the 498 complaints, the Commission opened seven, sixty-one were dismissed, either by the director or a panel. A complaint is dismissed if there was no discrimination as defined by the *Human Rights, Citizenship and Multiculturalism Act* or if there was discrimination, it was reasonable and justifiable under the circumstances. Seventy-two complaints have been withdrawn or abandoned by the complainant. A complainant may withdraw when he or she agrees there is no merit to the complaint, or when he or she settles the dispute in another forum such as a grievance procedure or civil court action and withdrawal of the human rights complaint is part of the settlement agreement. The commission considers a file to be abandoned when, for whatever reason, the complainant decides not to maintain contact with the commission. 158 complaints remain open and are proceeding through the complaint process.

Article 7: Education, culture and information

292. The Alberta Human Rights and Citizenship Commission is a member of the working group developing a call for a Canadian Coalition of Municipalities Against Racism.

293. The Human Rights and Citizenship Branch is involved in educational initiatives which relate to a broad definition of human rights, including diversity and multiculturalism. Some examples of the anti-racism education, information and consultation services that the Human Rights and Citizenship Branch provides or develops include:

- Work with 12 community-based organizations across the province to plan and assess diversity public education programs. This diversity education research project resulted in the development of eight diversity education planning tools, the specifics of which are included in a publication, *Diversity Education for Change, A Guide to Planning and Management*;
- Development of a media initiative, *Help Make a Difference*. Both phases promoted intercultural understanding and encouraged Albertans to contribute to building a fair and respectful society through their own actions;
- A new award program with the Alberta Chambers of Commerce, the *Alberta Human Rights and Citizenship Commission Diversity Leadership Award of Distinction* that recognizes and honours organizations that embrace diversity in their workforce, encourage respect and inclusion, and are working towards eliminating discrimination and barriers to fair employment practices was initiated in 2003-2004; and
- A pilot project with 11 organizations to assist them to build organizational capacity to undertake anti-racism and diversity work.

294. The Human Rights, Citizenship and Multiculturalism Education Fund supports community organizations in undertaking human rights and diversity initiatives that lead to change. Some examples of community initiatives supported by the Education Fund that deal with racism include:

- The Calgary Jewish Centre is developing an integrated Holocaust educational package; and

- Calgary Police Services developed an interactive youth Web site that provides students with the information, knowledge and educational resources that can be used to prevent and respond to hate and bias activity and discrimination.

295. In May and June of 2003, Alberta coordinated four workshops for 106 government staff persons. The purpose was to provide participants with both historical and contemporary perspectives in order to gain a better understanding of issues affecting Aboriginal people. In addition, small group sessions helped participants to identify strategies that can assist in addressing future issues.

Immigrants and refugees

296. Children of individuals who are lawfully admitted to Canada for permanent or temporary residence are entitled to have access to basic education. The Guidelines to Section 8 of the *Alberta School Act* define “temporary resident” for the purpose of determining a child’s eligibility for provincial per student grants.

297. People defined as temporary residents under the Guidelines to Section 8 include those who have filed a refugee claim with the Immigration and Refugee Board (IRB) within the past year and have received an Acknowledgement Of Convention Refugee Claim.

Aboriginal education

298. In 2002, the Government of Alberta released the First Nations, Metis, and Inuit (FNMI) Education Policy Framework. Since the release of the Framework, Alberta Education continues to work with an Advisory Committee to support the Framework objectives through a number of initiatives.

299. A Cree Language and Culture Twelve Year Program of Studies has been developed and authorized for use in Alberta schools. New draft provincial Cree Language and Culture Nine Year, Six Year, and Three Year Programs of Study have also been developed and are being field-tested. Teaching and learning resources to support these new programs have been identified and authorized.

300. The first provincial program in Aboriginal Studies has been developed in partnership with elders, educators, and Alberta Education staff. *Aboriginal Perspectives - Aboriginal Studies 10* was published in August 2004. Final published versions of *Aboriginal Studies 20* and *30* were made available to teachers in May 2005.

301. Five Alberta Initiative for School Improvement (AISI) projects are exclusively aimed at providing direct assistance for Aboriginal students. Strategies are designed to increase school attendance, improve performance on Provincial Achievement Tests, provide cultural awareness and professional development for staff, provide student support, and promote parental involvement.

302. Alberta Education has dedicated \$1.5 million to support 16 school jurisdictions with significant Aboriginal student populations to develop and implement projects that target increased student achievement, enhanced parental/community engagement, valuing of Aboriginal cultures and history, and that includes professional development for staff in order to identify effective practices that can be shared provincially.

303. Rainbow Spirit Project is a joint venture between Edmonton Catholic Schools and Alberta Education. It is designed to identify and implement a series of Best Practices into six district schools to meet the needs of integrated Aboriginal students. A more detailed report can be found at: (<http://www.education.gov.ab.ca/nativeed/nativepolicy/pdfs/FNMIProgRep.pdf>).

Aboriginal Teacher Education Program

304. Operating in conjunction with Blue Quills College and Northern Lakes College, the University of Alberta is supporting three cohorts of future Aboriginal teachers through Access Fund Grants. The first cohort began in January 2002 in cooperation with Blue Quills College. The second cohort at Slave Lake, in cooperation with Northern Lakes College, began in September 2002. The third cohort, regionally based, began in September 2003.

305. The Niitsotapi Program, which will receive approximately \$1.2 million over three years, was developed at the University of Lethbridge in collaboration with Red Crow Community College. The first phase of the initiative involved the admission of a one-time additional cohort of 12 Aboriginal students across all teaching majors to the regular, on-campus program in Fall 2003. This phase incorporated additional cultural support, including consultants from the Aboriginal community. The second phase involved the admission of a one-time additional cohort of 24 First Nations students to a specialized, culturally-sensitive Blackfoot teacher education program in 2004.

British Columbia

Article 2: Legislative, administrative, judicial or other measures

306. British Columbia has created a new Ministry of Aboriginal Relations and Reconciliation that will forge new relations with First Nations, founded on reconciliation, respect, and recognition of Aboriginal rights and title. Over the past four years, there has been significant progress in ensuring that Aboriginal British Columbians enjoy the benefits of the current healthy economy.

307. The Province has committed to work with First Nations to develop an improved government-to-government relationship between the provincial government and First Nations. This new relationship will guide policy development that will lead to new processes, institutions and an effective method of working with First Nations on land and resource decisions, while meeting First Nation aspirations for meaningful participation in these processes. In further response to these rulings, the Province is engaging in specific non-treaty negotiations with First Nations, such as the St'at'imc and Tahltan First Nations.

308. The treaty process in British Columbia does not require proof of Aboriginal title over land in order to participate in the treaty process, rather the outcome of the treaty process results

in the reconciliation of Aboriginal rights and title with that of Crown title. Also, court decisions have stated that government must consult and, where necessary, accommodate First Nations without the requirement of First Nations proving their rights over the land. The Province is negotiating with First Nations on that basis.

309. The treaty process in British Columbia does not require First Nations to agree to the extinguishment of Aboriginal land and resource rights in land claim agreements, but rather the modification of these rights through the use of a non-assertion language within the agreements.

310. To increase access to employment for Aboriginal persons, British Columbia has developed an Aboriginal recruitment and retention strategy for ministry positions across the province. The goal is to use the strategy to increase the number of Aboriginal peoples employed by the Government.

311. An Aboriginal representative has been hired as a special advisor in the Office of the Premier to help facilitate the new relationship the Province is forming with First Nations. British Columbia also recently appointed its first Aboriginal Infant Development Program Advisor to assist families.

Foreign credential recognition

312. The Ministry of Economic Development provides leadership and support in addressing barriers that impede the use of skilled immigrants within the British Columbia economy through two key program areas:

- International Qualifications Program (IQP) - Supporting institutional, sectoral, and regional capacity to assess and recognize foreign credentials and reduce systemic barriers that impede the recognition and use of the skills, credentials, and experience that immigrants bring to British Columbia; and
- Skills Connect for Immigrants Program (SCIP) – Supporting the delivery of career assessment and planning services, pre-employment skill enhancement services, and workplace orientation and practice services that target foreign-trained professionals, trades persons and other high skill workers seeking entry to British Columbia labour market.

Article 4: Prohibition against promotion of racism

313. The Government of British Columbia held a number of community consultations regarding the future of multiculturalism and anti-racism in the province between 2002 and 2005.

314. In October 2002, the provincial Critical Incident Response Model was developed to build capacity and formalize community protocols to address racism and hate activity in British Columbia. To date, 19 communities have been involved at various stages in this unique three-year, three-step process and, of these, eight communities have a protocol in place to address racism and hate.

315. Training for RCMP officers on racism and response mechanisms, and workshops at provincial RCMP conferences, took place between 2001 and 2004 to support the British

Columbia Hate Crime Team. This team was established in 1997 and continues to co-ordinate the effective enforcement of hate and bias motivated crimes across British Columbia. British Columbia's Hate Crime Team uses a coordinated police/prosecution/community approach to hate crime across the province.

316. A Diversity Management training module is included in the RCMP's new Officer Orientation Guide.

317. The RCMP Commissioner has an Advisory Committee on Visible Minorities with a mandate to advance and promote positive relations between the RCMP and visible minorities and communities. The Committee exists to ensure there are fair and equitable recruiting, training, advancement and promotion policies; to encourage an effective RCMP response to cultural diversity and to reaching the goals of Canada's multicultural policy; and, to create an open, equitable and culturally skilled organization.

318. The RCMP Commissioner has an Advisory Committee for First Nations Policing with representation from First Nations communities, which resolves operational and communications issues, and advises on policy.

319. Each RCMP detachment is required to have an Advisory Committee. These committees are comprised of representatives of the community who have been brought together to advise the detachment on matters relating to visible minorities in British Columbia's diverse communities, among other things. First Nations communities with dedicated First Nations Policing Program members also have Community Consultative Groups to facilitate communication with the RCMP and provide a forum for resolving issues.

320. British Columbia recognizes the importance of incorporating issues relating to diversity and policing into its overall law enforcement agenda. Police Services sponsors the Provincial Committee on Diversity and Policing, which operates to enhance understanding, communications and participation between police and ethno-racial minorities in British Columbia. The Committee is comprised of senior police officers and representatives from British Columbia's racial and ethnic communities. This committee is co-chaired by the Director of Police Services and the President of the Committee for Racial Justice in British Columbia. The latter is an umbrella organization of community and religious-based organizations concerned with racism, human dignity, and equality.

321. The Provincial Committee on Diversity and Policing advises municipal police agencies, the RCMP, and other law enforcement partners on the development and implementation of effective strategies and programs to recruit ethno-racial minorities. It has organized conferences, forums and workshops on multiculturalism and policing in an effort to develop and maintain an ongoing dialogue between police and diverse communities. The committee has recently discussed the use of "bias free policing" as a term that may be adopted by the committee. The Province supports efforts towards the use of fair and equitable terminology that more accurately reflects policing in the province.

322. Police Services also funds the Justice Institute of British Columbia regarding cross-cultural training programs for police officers and tracks the multicultural representation amongst British Columbia's eleven independent police departments. In setting policing priorities

for the province, Police Services emphasizes the importance of police responsiveness to minority cultures. Departments are proactively working to establish trust and build bonds with the various communities.

Article 5: Equality before the law

323. Work is under way with communities and Aboriginal agencies across British Columbia to reduce the over-representation of Aboriginal youth in justice facilities. This work includes the development of community based alternatives to custody for Aboriginal youth that are culturally based and delivered by Aboriginal agencies.

324. The number of Aboriginal people in youth custody has declined by about 40 per cent in the last five to seven years. This is partially due to investments in community alternatives, equally available to Aboriginal citizens, and changes in law related to the introduction of the British Columbia *Youth Justice Act* in 2003.

325. Abuse allegations are investigated internally and may be reviewed by oversight agencies such as the office of the Provincial Ombudsman and the Investigation and Standards Office of the Ministry of Solicitor General.

326. Revised correctional regulations provide for discipline to inmates who “behave in a manner towards a person that shows hatred or contempt for the person based on the person’s race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age”.

327. Prison chaplaincy supports an inter-faith ministry that recognizes the cultural diversity of the inmate population. For Aboriginal offenders, spiritual programs support culture and identity, while Aboriginal liaison prison workers provide a link between offenders and their community.

328. Within the community, the Corrections Branch works with Aboriginal justice groups in partnership with the Government of Canada to support Aboriginal justice initiatives that are restorative in nature and that endorse the devolution of responsibility to the community level. The Corrections Branch also supports the Native Courtworkers Association’s review of the Aboriginal justice system and has participated in their review of deaths in custody. The Native Courtworkers Association is supported by the Corrections Branch in their work with Aboriginals involved with the justice system.

329. Similarly, the Corrections Branch contracts with Asian organizations that provide programs within a cultural context and in appropriate languages, particularly with respect to the delivery of programs pertaining to domestic violence.

Article 6: Effective protection and remedies

330. British Columbia provided information in Canada’s 5th report on the *International Covenant on Civil and Political Rights* on changes undertaken in the human rights complaints process since 2003 in order to ensure the efficiency and accessibility of the complaint system.

331. The Ministry of Attorney General funds a specialized Human Rights Clinic that assists eligible complainants and respondents in taking a complaint to the Human Rights Tribunal.

332. Human rights complaints are recorded on the basis of areas of discrimination. For the period 2003-2004, the British Columbia Human Rights Tribunal received 1,145 complaint forms in total, of which 947 were accepted. Of the 198 claims that were rejected: 68% were found to be outside the jurisdiction of the tribunal; 25% were not pursued by those making the complaints; 4% were rejected in part; and 3% fell outside the six-month statutory limitation period.

333. Of the accepted complaints in 2003-2004, the tribunal made 23 final decisions. The tribunal determined that the complaints were justified in 15 of those decisions, and dismissed the other eight. There were four final decisions on complaints alleging discrimination on the basis of race, colour, ancestry or place of origin. The tribunal held that one of the four complaints was justified.

Article 7: Education, culture and information

334. In February 2005, the British Columbia Multicultural Advisory Council launched the *Strategic Framework for Action: A Strategy to Stimulate Joint Action on Multiculturalism and the Elimination of Racism in British Columbia* and assisted in coordinating a multi-stakeholder Dialogue on Multiculturalism during BC Multiculturalism Week. The Strategic Framework and the Dialogue encouraged a shared responsibility of various sectors (private sector, municipalities, education, media, government, and non-government); through short- and long-term recommendations (see <http://www.mcaaws.gov.bc.ca/amip/sam/framework.htm>).

335. In March 2005, British Columbia developed a provincial *Strategy to Enhance the Social and Economic Benefits of Cultural Diversity to British Columbia* to be implemented over the coming years.

336. Each year, British Columbia, through the Settlement and Multiculturalism Branch, funds projects under the British Columbia Anti-racism and Multiculturalism Program (BCAMP). BCAMP is designed to prevent and eliminate racism by enhancing community understanding of multiculturalism and cultural diversity. Projects address three main priorities: partnership building, public education, and responses to address racism and hate activity.

337. Special measures were undertaken in 2004-2005 by British Columbia to provide \$46,450,725 in enhanced funding to school age students of Aboriginal ancestry for culturally appropriate educational programs and services. Aboriginal students self-identify as Aboriginal for purposes of receiving these educational programs and services. The funds are used to support Aboriginal language and culture programs, Aboriginal support service programs, and other localized Aboriginal education programs.

338. British Columbia has signed 21 Aboriginal Enhancement Agreements with First Nations in the province. The agreements share two common themes: improving Aboriginal student achievement, and increasing awareness of Aboriginal languages and culture.

339. The agreements, which include on- and off-reserve First Nations, Inuit and Métis students, allow First Nations culture to be reflected in public schools. Aboriginal people are involved in the design of programs, services and curriculum delivery. School districts with Aboriginal enhancement agreements are reporting improved student achievement.

340. In British Columbia, the Ministry of Children and Family Development has an ongoing practise of including cultural awareness as part of core training for all ministry social workers. Each of the ministry's five regions offers intensive five-day Aboriginal Cultural Awareness Training sessions to ministry staff.

341. More than 300 ministry employees from various ethnic backgrounds have volunteered their language skills to assist co-workers to communicate more effectively with clients with limited English skills.

342. British Columbia recognizes that a strong pillar to prevent and eradicate racial discrimination is through public education. Some highlights of government activity during the reporting period follow:

- In September 2002, British Columbia provided support for local Muslim and non-Muslim youth to take a leadership role in responding to racism in schools and communities post-September 11 through theatre productions; funded a peer education program called Peer Perspectives: Youth 2 Youth Outreach; designed to bring the issue of racism to classrooms, supported the Canadian Anti-racism Education and Research Society to create guidelines to combat hate on the Internet and conduct workshops.
- In February 2003, the province funded the British Columbia Human Rights Coalition to produce "Responding to Incidents of Racism and Hate: a Handbook for Service Providers" in conjunction with workshops in 14 communities.
- In March 2003, the "Celebrate Cultural Diversity" poster and brochure was launched and distributed during Multiculturalism Week.
- In April 2003, a "Working towards a Racism Free Community" tool kit was developed to address policy development, inclusive programming, community building and anti-racism training resources in New Westminster.
- In 2003, British Columbia funded production and piloting of the "People Power Youth Diversity Training Manual and Facilitator's Guide" aimed at training youth to facilitate diversity training among their peers. Further to this, a Trilogy Certificate Program was created and piloted in partnership with a post-secondary institution (Capilano College) to deliver a 12-day training session for youth culminating with a conference held on March 21, 2003.
- In September 2004, a Critical Incident Response Model educational toolkit, called *Building Safe Communities*, was released and posted on the British Columbia government Web site. This kit has been designed in plain language to assist communities in protocol development in addressing racism and hate activity (see <http://www.mcaaws.gov.bc.ca/cirm/cirm.htm>).

- In 2004, the Ministry of Education provided guidelines for addressing safe, caring and orderly schools to the school system. *Safe, Caring and Orderly Schools: A Guide* describes the vision for schools as places where students are free from harm, where clear expectations of acceptable behaviour are held and met, and where all members of the school community feel they belong. The document conveys standards to guide school board/school practice. (www.bced.gov.bc.ca/sco)
- In 2004, the Ministry of Education provided *Diversity in BC Schools: A Framework* to all British Columbia school boards and schools. The *Framework* is designed to assist the school system in meeting its obligations under the *Constitution Act*, the *Canadian Charter of Rights and Freedoms*, the *BC Human Rights Code*, the *Multiculturalism Act*, the *Official Languages Act*, the *Employment Equity Act*, and the *School Act*; and to assist the school system in its ongoing efforts to environments that are responsive to the diverse social and cultural needs. The *Framework* provides guidelines for establishing policies, strategies, and initiatives to: honour diversity and promote human rights; prevent discrimination, harassment, and violence; and responding to incidents of discrimination, harassment, or violence when they occur. (www.bced.gov.bc.ca/diversity)
- British Columbia's English as a Second Language (ESL) programs and services support students whose primary language or language spoken at home is other than English. ESL programs consist of both language and cultural instruction and support to students to enable them to access the British Columbia curriculum, to develop their individual potential within the school system and to develop language skills that will assist them to live and function more effectively in broader society.
- British Columbia's provincially prescribed curricula provide opportunities to address diversity in the classroom and beyond. The curriculum guides contain learning outcomes and suggested instructional strategies associated with active citizenship (e.g., defending human rights) and prevention of discrimination, harassment, and violence.
- The British Columbia Performance Standards for Social Responsibility provide a broad framework to assist in monitoring and evaluating a variety of school and classroom programs that aim to enhance how students get along and develop responsible behaviours in areas such as anti-bullying, multiculturalism, anti-racism, and cooperative learning.

343. The reports and concluding remarks of the ICERD Committee are available through the Legislative Library of British Columbia. Members of the public are invited to access these reports and the Convention.

Part V

MEASURES ADOPTED BY THE GOVERNMENTS OF THE TERRITORIES

Nunavut

Article 2: Legislative, administrative, judicial or other measures

344. Information on issues pertaining to this article is provided in Canada's Combined Fifteenth and Sixteenth report on the *International Convention on the Elimination of All Forms of Racial Discrimination*, and in Canada's Fifth Report on the *International Covenant on Economic, Social and Cultural Rights*. No significant developments have occurred during the period of this report that would add to the information already provided.

Article 6: Effective protection and remedies

345. Nunavut's *Human Rights Act* was passed on November 5, 2003. It prohibits discrimination on the basis of race and provides for the establishment of a tribunal, which was implemented on November 5, 2004.

Article 7. Education, culture and information

346. Public education in the form of a widely distributed poster was produced with the establishment of the Human Rights Tribunal and the implementation of the *Human Rights Act*.

Northwest Territories

Article 1: Definition, interpretation and general

347. The term visible minority is not generally used in Northwest Territories (NWT). Nearly half the population is Aboriginal.

Article 2: Legislative, administrative, judicial or other measures

348. The *Human Rights Act* prohibits discrimination on the basis of race, colour and ancestry, among others. It has been in effect in the Northwest Territories since July 1, 2004, replacing the *Fair Practices Act*.

349. As of December 31, 2003, 32% of the NWT public servants were Aboriginal (Dene (First Nations), Metis and Inuit). Aboriginal people continue to be under-represented in management positions and in positions requiring university education.

350. Increased numbers of NWT Aboriginal people are attaining certificates and post-secondary degrees. The employment market for Aboriginal graduates is very competitive, with the diamond mines successfully targeting Aboriginal youth for educational support and hiring.

Article 4: Prohibition against promotion of racism

351. Policing is provided by the Royal Canadian Mounted Police. Members of the Force in the NWT are subject to ongoing training in human rights and cultural diversity, as are members across Canada.

Article 5: Equality before the law

352. The NWT has received additional funding for youth programs under the implementation of the *Youth Criminal Justice Act*. Reducing involvement and re-involvement in the criminal justice system is a complex, long-term activity.

Article 7: Education, culture and information

353. The Government of Northwest Territories promotes human rights through teaching about cultures, encouraging respect through workplace conflict policies and the work of the Human Rights Commission.

354. In NWT, residency would likely be sufficient to permit children of migrants to register for school in the territory.

Yukon

Article 2: Legislative, administrative, judicial or other measures

355. The Yukon government has had an Employment Equity Policy in place since 1994. The policy applies to women, Aboriginal people and people with disabilities. Visible minorities were not formally included in this policy because data indicate that visible minorities are well represented in the Yukon Government (see chart below). The Employment Equity Policy is targeted at minorities that are under-represented in employment.

356. The Yukon government created a Workplace Diversity Employment Office in 2004 to manage targeted recruitment and training programs for persons with disabilities and Aboriginal persons. Women's concerns are handled through the Women's Directorate.

357. The Representative Public Service Plan is the Government's strategy for meeting legal obligations regarding government employment as set out in Final Agreements with First Nations in the Yukon.

358. Target group members are under-represented in the Yukon government compared to their representation in the population. There continue to be few Aboriginal employees in management positions. The application of the Employment Equity Policy and other programs is slowly increasing equity group representation in the workforce.

359. Statistics - Equity Groups - December 2004.

Target group	Yukon Government representation	Yukon population (Census 2001)
Aboriginal People	13.4%	23%
People with disabilities	5.5%	11%
Visible minorities	3.4%	3.6%

360. The Government of Yukon continues to be in compliance with the provisions of the ICERD. The legislative and administrative measures outlined in previous reports under this treaty remain in effect.

Notes

¹ Nisga'a Agreement.

² Tlicho Agreement.

³ Human Resources and Skills Development Canada, *Annual Report Employment Equity Act, 2004*, Government of Canada, 2004, 117 p.

⁴ Based on 2003-2004 snapshot population projection - (Alberta Solicitor General and Ministry of Public Security, Correctional Services Division, Research Unit).

Appendices

Appendix 1: Jurisprudence

Article 2: Legislative, administrative, judicial or other measures

It has been recognized that there is a disproportionate number of Aboriginal people in the criminal justice system. The Supreme Court of Canada in *Sauvé v. Canada*, [2002] 2 S.C.R. 519, considered this in relation to the constitutionality of denying voting rights to prisoners pursuant s. 51(e) of the *Canada Elections Act*. In finding that factors like institutionalized alienation and high degrees of poverty result in the incarceration of a disproportionate number of Aboriginal people, the Court held that denying voting rights to prisoners would result in an adverse effect on Aboriginal people in general. The Court ultimately ruled that the impugned provision offended s.3 of the *Canadian Charter of Rights and Freedoms*.

In *Van de Perre v. Edwards*, [2001] S.C.R. 1014, the Supreme Court of Canada considered the importance of race in the custody determination of a child of mixed racial heritage. The Court acknowledged that race can be a factor in determining the best interests of the child because of its connection with the culture, identity and the emotional well-being of the child. Generally, biracial children should be encouraged to positively identify with both racial heritages. According to the Court, any evidence regarding the “cultural dilemma” of biracial children is relevant but, as there are other factors more directly related to the primary needs of children, such evidence is to be considered in context on a case by case basis.

In *R. v. Calderon*, [2004] O.J. No. 3474, the police stopped the appellants based on a number of “indicators” of suspected drug couriers, including an observation that the car being driven by the accused was “too expensive” for the “looks” of its passengers. The Ontario Court of Appeal found that such stereotypical observations easily masked discriminatory conduct and could not be given credence. Ultimately the Court found that the appellants’ s.9 right to be free from arbitrary detention had been violated.

Of further interest is the case of *R. v. Brown* (2003), 64 O.R. (3d) 161, where the accused’s claim that he had been racially profiled by the police was dismissed by the trial judge. In reviewing the decision, the Ontario Court of Appeal found that racial profiling would usually be proven through circumstantial evidence and that in this case there was enough evidence to support such a finding. Based on the trial judge’s reasons and comments, the Court found that the trial judge did not hear the accused’s application with an open and dispassionate mind and thus ruled that the trial judge demonstrated a reasonable apprehension of bias in dismissing the claim.

In *Mack et. al. v. Attorney General of Canada* (2002), 60 O.R. (3d) 737, Chinese Canadians brought a claim with respect to the *Chinese Immigration Acts*, between 1885 and 1923, which had imposed a head tax and prohibitive immigration requirements on Chinese immigrants. The Ontario Court of Appeal found that their equality rights under s.15 had not been infringed as the Charter does not apply retroactively to events that took place before it came into effect. The appellant’s allegation that the impugned legislation was invalid because pre-1947 customary international law prohibited racial discrimination was also dismissed by the

Court, who found that even if international law supported their claim, such principles could be ousted by contrary domestic legislation. Finally, the Court found that the Government of Canada had not been unjustly enriched by the head tax because the impugned legislation provided a juristic reason for the enrichment. Appeal to the Supreme Court of Canada has been denied.

In *Canada (House of Commons) v. Vaid*, 2005 SCC 30, the respondent filed a complaint under the *Canadian Human Rights Act* (CHRA) against the Speaker of the House of Commons. The respondent, as a former chauffeur for the Speaker, alleged that he was dismissed from employment, harassed and discriminated against, on the basis of race, colour, and national or ethnic origin. It was the position of the Government of Canada that parliamentary privilege prevented the application of the CHRA to this case. The Court found that no parliamentary privilege existed for the category of “management of employees” nor was any such privilege a “matter of necessity” in this case. As such, while allowing for some exceptions for “necessity”, the Court found the CHRA applicable to employees of Parliament. Despite this, the appeal was allowed on the basis that the respondent should have used the complaint mechanisms under the *Parliamentary Employment and Staff Relations Act* (PESRA). The Court found that PESRA ousted the jurisdiction of the CHRA in this particular case because the complaint was founded mainly on workplace discrimination and harassment and not racial prejudice.

Article 4: Prohibition against promotion of racism

In *R. v. Krymowski*, 2005 SCC 7, the defendants had been charged under s.319(2) of the *Criminal Code* for willfully promoting hatred against “Roma” refugee claimants. The defendants protested outside a motel where Roma refugees were being housed, chanting and holding placards that made hateful statements about “Gypsies”. The trial court judge dismissed the charges, finding that the Crown did not show that the terms “Gypsy” and “Roma” referred to the same group. The Supreme Court of Canada ruled that the Crown did not need to prove any “interchangeability” between the defendants’ use of the term “Gypsy” in their hateful speech and the name by which the target group was identified in the police information. Rather, such a relationship could be drawn from the totality of the evidence or through judicial notice of common dictionary definitions.

In *Minister of Citizenship and Immigration v. Mugesera*, 2005 SCC 40, the Supreme Court of Canada reinstated the respondent’s deportation order pursuant to ss.27(1) and 19(1) of the *Immigration Act*. A speech given by the respondent in Rwanda was found to have, on a balance of probabilities, incited murder, genocide and hatred. Because all of the requisite elements of the crimes were met in Canadian law, the Court held that this was also determinative of the crimes under Rwandan law. There were also reasonable grounds to believe that the speech constituted a crime against humanity. In applying principles found in both domestic and international law, the Court found that the speech amounted to a crime against humanity as it incited hatred and persecution amounting to a “gross or blatant denial of a fundamental right on discriminatory grounds”, was systematic, was directed against a civilian population, was part of furthering the systematic attack on the civilian population that was occurring in Rwanda at the time and that the respondent knew of the attack and knew that his speech would further and form part of the attack.

Also of interest is the case of *R. v. Ahenakew*, [2005] S.J. No. 439, where the Saskatchewan Provincial Court found that statements made by the accused Chair of the Federation of Saskatchewan Indian Nations to a news reporter, in a one-on-one interview, promoted hatred pursuant to s.319(2) of the Criminal Code. The Court found that the accused knew or should have known that his statements could be published and that his statements were made with the “sole purpose and intent” of willfully promoting hatred against people of the Jewish faith.

Article 6: Effective protection and remedies

The Alberta Court of Appeal reviewed an incarceration sentence in *R. v. Sandouga*, 2002 ABCA 196. The accused plead guilty to arson for throwing a Molotov cocktail at a synagogue and setting it on fire. The Court reasoned that the sentence of one year was demonstrably unfit because the trial judge failed to properly consider the appropriate sentencing principles under ss. 718, 718.1 and 718.2 of the *Criminal Code*. Specifically, the Court found that the trial judge failed to consider that the crime was motivated by revenge which increased the degree of moral culpability, that the crime was motivated by hate against a religious group which aggravated the effect of the offence and that there was a need to denounce and deter crimes involving terrorist acts, hate crimes and acts of religious intimidation. The Court increased the sentence to two and one-half years.

In *R. v. Borde* (2003), 63 O.R. (3d) 417, the Ontario Court of Appeal considered whether the background and systemic factors affecting black youths could be used to reduce a prison sentence. The Court recognized the importance of such factors and acknowledged that there may be situations where they could play a role in reducing sentences. However, given the serious nature of the crimes, the Court held that these factors would not affect the length of sentence in this case.

In *R. v. El-merhebi*, [2005] J.Q. No. 110 (Ct of Quebec, Criminal and Penal Division), the accused set fire to the library of a Jewish elementary school. The Court imposed a 40 month prison term relying on *Sandouga* to condemn acts of terrorism.

Also of interest is the recent case of *Hill v. Hamilton-Wentworth Regional Police Services Board*, [2005] O.J. No. 4045 (Ont. C.A.). In this case, the plaintiff had been wrongfully convicted for robbery in the criminal context. At issue was whether the racial composition of the photo line-up during the investigation could amount to the tort of negligent investigation. The Court found that in this particular case, although “intuitively problematic and far from ideal”, there was insufficient evidence to support the contention that a photo line-up of 11 Whites males and one Aboriginal male (the accused) was structurally biased against the accused and thus could not constitute negligent investigation.

In *R. v. Lamirande*, 2002 MBCA 41, the Manitoba Court of Appeal considered the Aboriginal appellant’s claim that the lack of an Aboriginal presence on the jury resulted in an unfair trial. According to the Court, although deliberate exclusion of persons based on race would be unlawful, individuals are not entitled to request that the random selection of jury members result in the inclusion of members of particular racial identities. A jury pool is representative as long as members are randomly selected from the community in accordance with the law.

In *R. v. Spence*, [2004] O.J. No. 4449, the accused African Canadian and was charged with robbing a person of East Indian descent. The Ontario Court of Appeal found that it was appropriate for accused persons to include the interracial nature of the crime in their questioning of prospective jury members. This would help to ensure that any racist or stereotypical views of the accused or the victim would not influence a potential juror's approach to the assessment of evidence.

The Ontario Court of Appeal considered workplace discrimination in the case of *Gnanasegaram v. Allianz Insurance Co of Canada*, [2005] O.J. No. 1076. Although the complainant had only alleged direct discrimination, the Court recognized the difficulty involved in proving allegations of race discrimination by direct evidence, and thus allowed for evidence of systemic discrimination to support the complainant's claim.

In *Tahmourpour v. Canada (Solicitor General)*, 2005 FCA 113, the Federal Court of Appeal set aside the Canadian Human Rights Commission's decision to dismiss the complainant's discrimination claim. The Court, in balancing the interests of the complainant to a full investigation and the demands of administrative efficiency, found that by not looking further into the complainant's presentation of statistical and other evidence of systemic discrimination in the work force, the Commission had failed to investigate "obviously crucial evidence".

**Appendix 2: Suggestions and commitments from consultations
on the *Anti-Terrorism Act***

Further to information provided under Article 5 of this report, some of the suggestions culled from the consultation on the *Anti-Terrorism Act* include, *inter alia*:

- (i) Add an “Anti-Discrimination Clause” in the Act;
- (ii) Ban “racial profiling”, either through a prohibition in the preamble of the Act and/or anti-racism education for law enforcement;
- (iii) Amend section 430(4.1) (“mischief related to religious property”) so that attacks on property should not be restricted to “religious property” but should be extended to “communal” or “community” property such as schools and community centres;
- (iv) Remove the motive requirement from the definition of terrorist activity. It was felt that the inclusion of religious or ideological motive is not a justified safeguard by making it more difficult to establish the *mens rea* requirement, but rather that it makes law enforcement focus on a person’s religious practices which is a discriminatory line of questioning;
- (v) Make the listing process have more transparency and procedural safeguards;
- (vi) Preventive arrest should be based on “imminent” threat, and not on “reasonable grounds that a terrorist activity will be carried out”;
- (vii) Direct access to the Supreme Court of Canada for security certificate appeals;
- (viii) Annual consultations with the departments of Justice and Public Safety and Emergency Preparedness Canada;
- (ix) Outreach Work: measures such as the following were identified as useful:
 - 1. More funding for *Anti-terrorism Act* implementation and training,
 - 2. A need to undertake a “race analysis” and “gender analysis” on how the legislation impacts minorities,
 - 3. Departmental officials to travel across the country to meet with concerned communities to discuss the impact of the Act on their communities,
 - 4. A need for public education in other languages than just English and French;
- (x) Appoint an Officer of Parliament to oversee the Act;

- (xi) Guidelines for judges in evaluating evidence, especially evidence from foreign governments; and
- (xii) Positive obligation on government to assist individuals who have been de-listed.

At the end of the consultation, a number of undertakings were made to the participants including the following:

- (i) To provide a summary report of the proceedings to the participants;
- (ii) To inform the Minister of Justice and the Minister of Public Safety and Emergency Preparedness Canada of the content of the discussions during the consultation;
- (iii) That Ministers have indicated that they would consider reporting to their Cabinet colleagues on the consultation;
- (iv) That the Department of Justice would consider the possibility of further consultations, either formal or informal;
- (v) To accept further written submissions;
- (vi) That senior officials will discuss the results of the consultation at the next FPT Coordinating Committee of Senior Officials meeting;
- (vii) To establish a Web site on the Parliamentary Review of the *Anti-terrorism Act*; and that officials from Public Safety and Emergency Preparedness Canada will meet with senior officials from the RCMP, CSIS and border services to inform them of concerns that relate to policing and law enforcement.

Appendix 3: Links to British Columbia educational programs focused on the elimination of racial discrimination

Key policies

Diversity in BC Schools: www.bced.gov.bc.ca/diversity/diversity_framework.pdf

English as a Second Language Policy (1999): www.bced.gov.bc.ca/esl/

English as a Second Language Standards (2001): www.bced.gov.bc.ca/esl/standards.pdf

BC Performance Standards for Social Responsibility (2001): www.bced.gov.bc.ca/perf_stands/

Safe, Caring and Orderly Schools: A Guide (2004): www.bced.gov.bc.ca/sco

Call it Safe: A parent guide for dealing with bullying in elementary schools (2003): (available in Chinese Simplified, Chinese Traditional, English, French, Korean, and Punjabi)
www.bced.gov.bc.ca/sco

Call it Safe: A parent guide for dealing with harassment and intimidation in secondary schools (2003): (available in Chinese Simplified, Chinese Traditional, English, French, Korean, and Punjabi) www.bced.gov.bc.ca/sco

Funding: English as a Second Language: www.bced.gov.bc.ca/policy/policies/funding_esl.htm

Funding: Aboriginal Education: www.bced.gov.bc.ca/policy/policies/funding_esl.htm

Language Education Policy: to recognize the official languages of Canada and the growing number of other languages spoken by British Columbians
www.bced.gov.bc.ca/policy/policies/language_educ.htm

Key structures

Accountability mechanisms: Accountability Contracts, Annual School Plans, Foundation Skills Assessment Results, Satisfaction Surveys www.gov.bc.ca/bced/

Aboriginal Education Enhancements Branch: www.bced.gov.bc.ca/abed/

Aboriginal Education Enhancement Agreements: www.bced.gov.bc.ca/abed/agreements/

Institute for Safe Schools (ISS) of British Columbia:
http://www.safeschools.gov.bc.ca/4105/02_02_faculty_and_staff.asp

Initiatives Department, Diversity, Equity and School Health Unit – Safe, Caring and Orderly Schools: www.bced.gov.bc.ca/sco
