

Protection against traffic in, sale of and other forms of abuse against women and minors, including sexual abuse, in Canada

In Canada, the federal Parliament has constitutional authority for the criminal law, while the provincial legislatures have constitutional authority over the administration of justice, including the prosecution of the majority of criminal offences.

Trafficking in Persons

Canada's criminal laws prohibit trafficking in persons for any exploitative purpose, regardless of whether the trafficking occurs wholly within Canada or whether it involves bringing persons into Canada. Canada's criminal laws apply across the country and therefore provide a uniform approach to address trafficking in persons and related conduct.

Many different offences apply to trafficking in persons cases including trafficking-specific offences, kidnapping, forcible confinement, uttering threats, extortion, assault, sexual assault, prostitution-related offences, and criminal organization offences.

The *Immigration and Refugee Protection Act* also includes a human trafficking offence which applies to cases involving trafficking of persons into Canada.

For more information, see the **Trafficking in Persons** page:
<http://canada.justice.gc.ca/eng/fs-sv/tp/>
<http://canada.justice.gc.ca/eng/fs-sv/tp/over-surv.html>

Violence against Women

The *Criminal Code of Canada* provides a broad-based response to all forms of violence against women. These protections include prohibitions on specific forms of violence such as assault, sexual assault and criminal harassment. As well, procedural protections (e.g. the use of testimonial aids for vulnerable victims/witnesses including those in spousal abuse or sexual assault cases), preventative measures (e.g. restraining orders), and sentencing principles (e.g. spousal abuse and abuse of a position of trust/authority are aggravating factors for sentencing) ensure that violence against women is addressed at all stages of the criminal justice process.

[See questionnaire completed by the province of Saskatchewan]

Children

[See questionnaire completed by the province of Saskatchewan]

Age of Consent

The *Criminal Code* addresses the specific violations and penalties involved if the parties are under 18 and involved in sexual behaviour. Part V of the *Criminal Code* addresses sexual offences. Children under the age of 14 cannot consent to any sexual conduct.

However, two consenting young people are not prohibited from participating in sexual behaviour together provided they are:

- (1) older than 12 but younger than 16;
- (2) less than two years apart in age; and
- (3) neither is in a position of responsibility such as a babysitter.

It is an offence to touch for sexual purpose, either directly or indirectly, a person under the age of 14. That is considered sexual interference. The only exception is as noted above with two consenting young people. It is also an offence to invite or entice a person under the age of 14 to touch another person's body.

Child Sexual Exploitation

Canada has comprehensive criminal laws to respond to all forms of child sexual exploitation. They are protected under general offences that protect all Canadians including, for example, against all forms of sexual assault, assault, unlawful confinement, kidnapping and human trafficking. They are also protected by child-specific sexual offences including, for example, prohibitions against:

- any sexual contact/touching of a child as well as against any invitation to engage in sexual activity with a child;
- the travelling abroad by a Canadian or permanent resident to engage in prohibited sexual activity with a child;
- the use of the Internet to communicate with a child for the purpose of "luring" or facilitating the commission of a sexual or abduction offence against that child;
- the offering up or procurement of a child for illicit sexual activity, including through prostitution; and
- all forms of child pornography – be it in visual, written or audio format – with prohibitions against possession and accessing as well as against all manner of making, distributing, selling, transmitting, making available, selling, importing and exporting child pornography.

In addition to the federal framework of criminal laws, Canada's provinces and territories are primarily responsible for the administration and enforcement of laws relating to children and youth, as well as the provision of socio-legal services geared towards children. All provinces and territories have child protection laws and agencies responsible for protecting and assisting children in need and that are focussed on the principle of the best interests of the child. Where a child is found to be in need of protection including from sexual abuse and neglect, an array of services are available to meet the needs of the child. Where appropriate, each jurisdiction works collaboratively to assist the other in meeting and enhancing their policies and programs relating to children.

Disciplining Children

Although it is not a preferred approach, parents are permitted to physically discipline their children. (Only parents may physically discipline children; teachers, caregivers and

any other adults may not use physical force on a child.) However, the *Criminal Code* only allows for a reasonable amount of force. The Supreme Court of Canada has held:

- Only parents may use reasonable physical force, and solely for the purpose of correcting the child's behaviour. It must not be done out of frustration or because the parent has lost his temper.
- Physical discipline can only be used on children between the ages of 2 and 12.
- Only "minor corrective force of a transitory and trifling nature" can be used. Parents are not allowed to use objects, or blows or slaps to the head. Parents are not allowed to use degrading or harmful discipline.
- Parents can not use physical discipline on any child who is incapable of learning from the discipline due to disability.

Physical disciplining which does not comply with the above guidelines may result in criminal charges of assault, or assault causing harm, etc., depending on the circumstances.