

# Above All Else

A Human Rights Agenda For Canada

December 2004



Amnesty International (Canada)  
www.amnesty.ca  
1-800-AMNESTY

Amnistie internationale  
Section canadienne francophone  
www.amnistie.qc.ca  
1-800-565-9766

**COVER PHOTOS**

TOP LEFT

An Iraqi detainee inside Abu Ghraib prison, May 2004

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Amnesty International members in Nepal participate in the launch of our Stop Violence against Women campaign in March.

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Women and children flee fighting in western Côte d'Ivoire, March 2003

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# Introduction: Our Common Humanity

*For unless we also act collectively on the basis of our common humanity, the rich will become richer, the poor will become poorer, and hundreds of millions of people will be at risk.*<sup>1</sup>

Addressing the UN General Assembly in the autumn of 2004, Prime Minister Martin powerfully framed what should be the basis for Canadian policy and action whenever human rights are on the line: to act collectively on the basis of our common humanity.

Our common humanity begins at home, in how we respond to the needs of refugees in our midst or to the long unanswered demand of Indigenous peoples that their fundamental rights be protected. Our common humanity spans the world and calls Canada to action in the face of grave human rights violations in countries such as Zimbabwe or China, and compels Canada to lead global efforts to strengthen international laws and institutions that will safeguard basic rights for all citizens of this planet. Our common humanity demands that Canada reaffirm a commitment to the principle that human rights must and will come first, and can never be sacrificed in the name of national

security or in the pursuit of increased trade. And our common humanity insists that men and women everywhere be treated with equal respect for their basic rights.

Amnesty International's latest "Human Rights Agenda for Canada" outlines a set of vital recommendations for action by the federal and provincial governments across a wide variety of areas: women's human rights, refugee protection, human rights and the economy, strengthening international human rights laws and institutions, the fundamental rights of Indigenous peoples, and security and human rights.

In all instances what is needed is careful attention to human rights concerns that must be addressed domestically, as well as a reinvigorated contribution to improving human rights around the world. The global scope of Canada's responsibility is distressingly clear when considering a pressing human rights concern that is a priority demand of this agenda – that more must be done to confront violence against women, one of the most widespread yet untold human rights tragedies of our time.

There is no corner of the planet where women are safe from the threat or the reality of violence. In the home, at work, on the street, or in the midst of war, violence stalks women everywhere, from Sudan to Colombia, India to Russia, Iran to Canada. Women are brutally attacked, raped and murdered by close family members and by strangers, because they are women. They are denied protection by police, courts and governments, because they are women. They are not treated with the fundamental equality that is their right, because they are women.

This Human Rights Agenda comes at a time when Amnesty International members around the world are in the midst of a major international campaign that makes the clear, simple demand that violence against women must come to an end. All of the issues that are highlighted in this report have a profound impact on the protection of the fundamental right of women to be safe from violence. Amnesty International urges Canada to make that overarching goal a priority in the approach it takes to responding to the full slate of human rights recommendations that are discussed here.

<sup>1</sup> Prime Minister Paul Martin, Address to United Nations General Assembly, September 22, 2004.



## STOLEN SISTERS: VIOLENCE AGAINST INDIGENOUS WOMEN IN CANADA

*...my own country is not beyond accountability for its domestic human rights record.<sup>2</sup>*

That admission to the United Nations by Canada earlier this year did not come as news to Indigenous women. In a report earlier this year Amnesty International described the severe discrimination and harrowing levels of violence that are their daily reality, right across the country. The report, *Stolen Sisters*,<sup>3</sup> highlights nine cases of Indigenous women who have been murdered or gone missing in western Canadian cities over the past thirty years. Those nine cases represent a much wider pattern of violence that has affected Indigenous women and their families throughout Canada for many decades.

The *Stolen Sisters* report focused primarily on violence carried out by non-Indigenous men driven by racism and contempt for Indigenous women, and by the expectation that their crimes might go undetected and uninvestigated. It is a pattern of violence that has largely been ignored by policy makers and the public at large.

Only today, due in part to a number of high profile cases in western Canada and the determined advocacy of Indigenous women themselves, is attention finally being focused on these hidden crimes.

Such predatory violence is part of a much larger pattern of violence and fear in Indigenous communities and in Canadian society as a whole, which has torn apart Indigenous families for generations. The high levels of violence are largely due to the social and economic marginalization of Indigenous women within Canadian society. This marginalization puts many Indigenous women into situations of heightened risk, including poverty, homelessness, and resort to the sex trade to support themselves and their families. This marginalization has also contributed to the all-too frequent failure of police and the justice system to provide adequate protection to Indigenous women.

At the United Nations in November 2004 Canada acknowledged that a "great deal of work remains to be done" in addressing the challenges facing Indigenous peoples in Canada, and made specific reference to Amnesty International's *Stolen Sisters* report. These words echo the sentiments – and the frustration – of Indigenous families across Canada. At a national press conference launching the report, Darlene Osborne, grandmother of 16-year-old Felicia Solomon, whose 2003

murder in Winnipeg remains unsolved, asked Canadians: "*how many more sisters and daughters do we have to lose before real government action is taken.*"

Immediate measures must be taken to stop violence against Indigenous women, including the following three urgent recommendations. First, the scope and nature of the problem, which has been poorly documented, must be better understood. The federal government should provide adequate funding for comprehensive national research on violence against Indigenous women. Second, police responses have to be strengthened. Police forces across Canada should work with Indigenous women's organizations to put in place effective protocols for action on cases of missing Indigenous women. And finally, there must be safety for women who are facing violence. Adequate and sustained funding is needed to ensure that culturally appropriate services such as shelters and counseling are in place for Indigenous women, in all regions of the country.

Canada has agreed that there must be accountability for domestic human rights challenges such as violence against Indigenous women. Now is the time for the real action that Darlene Osborne has demanded. There can be no more silence, delays or excuses.

<sup>2</sup> Ambassador Gilbert Laurin, Deputy Permanent Representative of Canada to the United Nations, Statement to the Third Committee of the 59th Session of the United Nations General Assembly, November 1, 2004.

<sup>3</sup> *Stolen Sisters: Discrimination and violence against Indigenous women in Canada*, Amnesty International, October 2004.

# Protecting the Rights of Women

While women and girls are promised, through a range of international human rights treaties, that their rights will be equally protected and safeguarded, the sad reality worldwide is very different. Women and girls are subjected to a wide range of human rights violations including rape, murder and discrimination, and are denied the level of protection that is their fundamental right, simply because of their gender. The world still has far to go in securing and delivering the promise of equality to women and girls on every continent.

Canada is a leader on the international stage in the effort to better protect women's human rights. At the UN Commission on Human Rights Canada takes the lead annually with respect to an important resolution dealing with violence against women and seeks to strengthen and improve the resolution every year. Canada has ratified the UN's *Convention on the Elimination of all forms of Discrimination against Women* and its important new Optional Protocol which gives women the right to bring forward to a UN body individual complaints about violations of their rights. Canada was a leader in adopting guidelines over a decade ago regarding gender-based forms of persecution, for application in Canada's

refugee determination system. There is a continuing need for proper training and monitoring to ensure proper application of those guidelines in practice. Canada has been a champion of UN Security Council Resolution 1325, a groundbreaking initiative that addresses the role and experience of women in the context of armed conflict.

Canada should sustain these efforts and expand its international leadership with respect to women's human rights. There are also measures that should be adopted nationally, to address issues of concern regarding the protection of women's human rights within Canada.

## **Violence against women: the need for a comprehensive and consistent national action plan**

This report opens with a disturbing overview of the particularly high levels of violence experienced by Indigenous women in Canada. More broadly, violence against women is a serious problem that affects women and girls of every ethnic, social, and economic background, right across Canada.

Amnesty International began an important worldwide campaign in March 2004 draw-

ing attention to the global human rights tragedy of violence against women. In launching the campaign in Canada, Amnesty International urged the Canadian government to take the lead in developing a comprehensive national action plan for addressing violence against women in Canada. Plans, policies and programs do exist throughout the country and at various levels of government. Amnesty International is concerned, however, that what is missing is an approach that is national in its scope and reach, which ensures that every woman and girl in Canada, be she Indigenous, be she rich or poor, be she living in the west, the north or the east, has access to the same levels of support and protection against violence.

Women's equality-seeking organizations have highlighted the ways in which the Canadian government has failed to take the necessary action to ensure women are uniformly safe from violence across the country. Limited and short-term funding for women's shelters, crisis centres and transition housing is the norm in almost every province. Social assistance and income assistance programs have been cut back, severely limiting the options that women have to escape from violent relationships.

Widely divergent provincial legal aid levels impact on the access women have to justice. Practices and policies to protect and support women and girls who have experienced violence vary widely from city to city and region to region. Amnesty International's recent report, *Stolen Sisters*<sup>4</sup> identifies weaknesses within the criminal justice system which fail to adequately protect Indigenous women from violence in Canadian cities.

Violence against women is fundamentally the product of inequality. As a result, women and girls, particularly those who are marginalized because of their ethnicity, class, race, or disability, are highly vulnerable to abuse of power by partners, friends, family members, and strangers. The causes of violence are complex and multifaceted. Therefore, Amnesty International urges the Canadian government to launch a comprehensive process of consultation, involving relevant federal departments and all provincial and territorial governments, to develop and adopt a national action plan for combating violence against women.

We understand that federal, provincial and territorial Ministers responsible for the Status of Women have agreed to turn their attention to violence against Indigenous women, gendered aspects of caregiving and its implication for women's equality, as well as the situation of women and children who have experienced domestic violence. Governments also have an obligation to respond to the concerns the UN Committee on the Elimination of Discrimination against Women expressed in their 2003 report regarding Canada's record of compliance with the UN *Convention on the*

*Elimination of all Forms of Discrimination against Women*, including the recommendation that funding for women's crisis centres and shelters be increased.<sup>5</sup> Amnesty International also urges that governments finance a widespread and high profile public education and media campaign over a number of years, focused on violence against women.

Any process for creating a national plan of action to address violence against women and girls should involve relevant federal, provincial and territorial Ministers. As well it is absolutely necessary to work with women's equality-seeking organizations, particularly those working with Indigenous women, women with disabilities, immigrant and visible minority women, and girls at risk. A plan of action that fails to adequately listen to the voices of women and girls who have experienced violence ultimately risks being irrelevant and ineffective.

#### **Gender analysis in government policy**

One critical means of ensuring that women's human rights concerns are not overlooked by governments is to make a commitment to conducting a gender analysis of laws, policies and programs. Gender analysis may shed critical light on harmful initiatives which appear on the surface to have no detrimental impact on women or may point to ways in which programs can be strengthened to better protect women's human rights.

Canada's record of carrying out meaningful and effective gender analysis varies considerably across different government departments. In the realm of development



### **SHELTER IN THE FACE OF VIOLENCE: INDIGENOUS WOMEN IN QUEBEC**

Indigenous women have long spoken out against what some describe as an epidemic of violence against women and children within Indigenous communities. The programs to provide protection to women and children fleeing this violence are woefully inadequate. For instance, there are only five shelters for women victims of violence among the 42 Indigenous communities in Quebec. Established less than 10 years ago, those shelters are under-funded in relation to shelters offering similar services to non-Indigenous women. The absence of support services often forces women to leave their community to find refuge. But there again, they often struggle to find resources and support services adapted to their needs.

Indigenous women have decided to take the matter in their own hands, but they need financial support from the government of Canada. The 'Maison communautaire Missinak' is one example of the type of initiatives being developed. This project aims to establish a shelter and to offer support resources to Indigenous women at risk in the Quebec City area. The Native Women's Association of Quebec also needs increased funding to be able to provide better services to battered women. Jurisdictional battles should not serve as a pretext for federal or provincial authorities to not fulfil their obligations to protect women.

<sup>4</sup> See footnote 3.

<sup>5</sup> UN Committee on the Elimination of Discrimination against Women, Concluding Observations: Canada, Twenty-eight session, 13-31 January 2003, UN Document A/58/38, para. 370.



## PROTECTING CAREGIVERS FROM ABUSE: THE CASE OF QUEBEC

According to the Quebec Association of Caregivers (AAFQ), there are between 20,000 and 40,000 caregivers in the province of Quebec. While many of them are Canadian citizens, landed immigrants or part of the federal government's *Live-in Home Caregiver Program*, there has been an increase in the number of caregivers working in private homes who are victims of trafficking and who work in conditions that can be equated to modern slavery. Isolated and poorly informed, thousands of women work in conditions that don't meet human rights and employment standards enshrined in provincial and federal laws and in international conventions.

Quebec citizens employing caregivers in their homes are exempt from subscribing to the Employment Standards Commission. This measure makes it impossible to identify them, inform them or penalize them if they do not comply with basic employment standards. To counter this phenomena, Amnesty International endorses the AAFQ recommendation that a mandatory system be created whereby employers would have to register the home caregivers in their employ, which would then make it possible to inform employers and workers of their rights and obligations.

assistance and international cooperation, the Canadian International Development Agency has adopted a comprehensive, sound approach. We are aware that Health Canada and Foreign Affairs Canada have also developed processes and tools to enable them to create gender equality in their work. The record is less successful in other departments. Amnesty International has, for instance, urged that there be a strengthening of the gender analysis carried out with respect to Canada's peacekeeping missions to improve gender sensitivity and guard against the possibility of Canadian armed forces personnel supporting in any way the trafficking of women into the sex trade. Canada should adopt an approach to gender analysis that is applied consistently across all government departments.

### Protecting the rights of immigrant women

Among the women in Canada most vulnerable to human rights violations are those women who are not yet citizens. For as long as a woman's legal status in Canada has not yet reached the security and certainty of citizenship, she is open to exploitation and abuse, particularly by employers and domestic partners. Amnesty International has, in the past, urged the Canadian government to respond to two particularly vulnerable groups of immigrant women: live-in caregivers and women trafficked from abroad into the Canadian sex-trade.

No one knows the real number of women entering Canada to work in the sex trade. Estimates vary from 8,000 to 16,000 annually. What is known is that these women experience a wide range of abuses, including sexual assault, physical attacks, and virtual imprisonment in slave-like conditions in over-crowded small rooms attached to clubs.

Canada's immigration laws make the trafficking of anyone into Canada an immigration offence and the Minister of Justice has stated that the *Criminal Code* is being reviewed with a view to "enacting new provisions that will address the specific offence of trafficking as a *Criminal Code* offence - that will enhance the legislative provisions that deal with trafficking and that will bring the perpetrators to justice."<sup>6</sup> Amnesty International welcomes that review. Amnesty International is concerned, however, that there is not adequate attention being paid to the plight of the victims of trafficking. As the current review progresses, Amnesty International urges the government to put in place measures that will focus on the protection of the human rights of women and girls who have been trafficked, and do not further marginalize, criminalize and isolate them. Central to that goal, there is a need for special policing units to be established, to investigate and charge anyone who has committed human rights abuses against trafficked women and girls, with expertise in assisting the women and girls who have been trafficked.

<sup>6</sup> Speech by Irwin Cotler, Minister of Justice and Attorney General of Canada, Forum on Human Trafficking, Ottawa, March 30, 2004.

Canada has for many years maintained a special immigration program for live-in caregivers. The program allows women and men to enter Canada as potential immigrants provided they work and live in a private household for at least 24 months out of a 36-month period. During that time the individual is barred from work in any other field. If they lose their job they must find another live-in position. After three years the individual can apply for permanent residence in Canada. Approximately 95 percent of the workers who enter Canada under this program are women. Amnesty International is concerned that the live-in requirement puts these women at risk of exploitation, violence and sexual harassment. The UN Special Rapporteur on the human rights of migrants noted that same concern following a visit to Canada in 2000.<sup>7</sup> Amnesty International continues to urge the Canadian government to enact reforms to this program that will reduce the vulnerability of women to abuse, including a review of the live-in requirement.

### **Human rights for all: protecting the rights of federally-sentenced women prisoners**

Human rights apply to all people, including individuals who have been convicted of criminal offences. A nation's commitment to human rights is often most sorely tested when it comes to the way that prisoners and criminal convicts are treated. Their vulnerability is high, given that there is little public sympathy for their plight. But turning a blind eye to human rights violations

that occur behind prison walls diminishes our commitment to the universal nature of human rights, degrades those who experience the abuses and undermines society's efforts to rehabilitate prisoners.

Over the last 20 years there have been numerous reports, studies and government inquiries, including the Arbour Inquiry,<sup>8</sup> that have highlighted significant failings in the policies and practices with respect to the treatment of federally-sentenced women prisoners in Canada. These repeated calls for fundamental change to the corrections system, to better ensure that federally-sentenced women prisoners are not subjected to discrimination and are protected from abuse, have not been fully accepted or implemented. Correctional Service Canada is seriously reviewing the recommendations of the Canadian Human Rights Commission Special Report, *Protecting their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*, and will be responding soon. Amnesty International urges the government to ensure that the Canadian Human Rights Commission's recommendations are implemented adequately and quickly.

The litany of reports and reviews regarding treatment of federally sentenced women speaks to a reluctance or difficulty in making the necessary changes to ensure that the fundamental rights of federally-sentenced women, particularly Indigenous women, are fully protected. Consequently, Amnesty International urges the govern-

ment to establish an independent oversight body for federally-sentenced women. That body should be charged with responsibility for ongoing monitoring of policies and practices with respect to the treatment of federally-sentenced women, and should also be able to receive complaints by women alleging violations of their rights.

<sup>7</sup> Report of Ms. Gabriela Rodríguez Pizarro, Special Rapporteur on the human rights of migrants, UN Documents, E/CN.4/2001/83/Add.1.

<sup>8</sup> Commission of Inquiry into certain events at the Prison for Women in Kingston, 1996.

# Strong and Effective Refugee Protection

In advance of, in the midst of, and in the aftermath of human rights violations, women, men and children flee, hoping to elude those who seek to kill, rape or torture them. Morally and legally, other nations are obliged to provide safety to fleeing refugees and to do so until it is durably and demonstrably safe for them to return home. In doing so they are concretely helping to prevent human rights violations.

Canada is far from the frontlines of the armed conflict and mass human rights abuses that often propel hundreds of thousands of people into flight. Nonetheless, refugees have long looked to Canada as a beacon of security. Over the decades, millions of refugees have traveled to Canada by ship, overland and by air and have begun new lives in safety. In today's Canada, and today's world, however, there is an increasing reluctance to accept refugees. Instead of compassion and understanding they are often met with suspicion, hostility and even violence. Refugee systems are becoming more complex and restrictive. Bureaucratic and legal barriers stand in the way of refugees being able to board flights that would take them to safety.

Xenophobia and racism sometimes make the country of refuge a place of danger and extreme hardship.

Amnesty International has pressed Canada to make sure that the country's refugee protection systems remain open and accessible and in conformity with international legal obligations. Canada's system is admired worldwide, but needs to be improved and strengthened in a number of important ways. Beyond Canada's own borders, there is an important role for Canada to play in responding to the wider refugee crisis that spans the globe.

## **Absolute recognition of the right not to be tortured**

International law is clear and unequivocal. No one should be subjected to torture, ever. There are no excuses, no exceptions, no justifications for torture.<sup>9</sup> Torture is so fundamentally contrary to the very notion of human dignity that lies at the heart of human rights, that governments have consistently framed its prohibition in the strongest terms possible. As part of the effort to combat torture, governments have gone further

and established the critical legal principle that it is always wrong to send someone to another country, be it through deportation, extradition or any other means, where there is a serious chance that he or she would be tortured.<sup>10</sup>

While torture is universally outlawed in treaties, constitutions and national laws, it is still carried out widely in all corners of the world and is rampant in many countries. There has also been a worrying tendency since the September 11th attacks in the United States to argue that torture might be justified in some circumstances. The need to be vigilant in upholding the ban on torture has never been more important.

Amnesty International is concerned that the government has not fully implemented its international obligation to always refrain from deporting someone to a country where he or she faces a serious risk of being tortured. Government lawyers continue to assert that in cases where there are national security considerations, deportation to torture would be justified. The Supreme Court of Canada has ruled that normally the

<sup>9</sup> *United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, article 2(2): "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

<sup>10</sup> *Convention against Torture*, article 3.

government should refrain from deporting someone to face torture but has left open an undefined possibility that in “exceptional circumstances” deportation might be justified.<sup>11</sup> The UN Committee against Torture has, however, reminded Canada that its international obligations do not allow for any exception.<sup>12</sup>

Torture is never the answer, even when security concerns are at stake. Torture only furthers the cycles of violence, repression and revenge that fuel insecurity. Rather than deport to torture, Canada should creatively explore means to bring to justice individuals about whom there may be security or criminality concerns. It is time for Canada to cement its commitment to fighting torture by enacting necessary provisions to guarantee that no one will ever be expelled from Canada to face a serious risk of torture in another country.

### **When lives are at stake: the right to an appeal**

A longstanding concern about Canada’s refugee determination system has been the lack of a full appeal of decisions which deny refugee status. Decisions in refugee claims are among the most important judgments made in Canada’s legal system. They are often complex and difficult to make. Decision-makers must predict what harm might occur in a country halfway around the world, evaluate witnesses who may have been traumatized, and respond to a wide variety of cross-cultural challenges. The potential for mistakes is very real. The cost of a mistake could be fatal.

While rejected refugee claimants do have access to a range of limited court reviews and bureaucratic applications, there is no access to a full, merits-based review of their decision by an independent decision-maker. The 2002 overhaul of Canada’s refugee system, enacted through the *Immigration and Refugee Protection Act*, did finally establish such an appeal. At the same time, the previous right that refugee claimants had to an initial hearing in front of two independent decision-makers, only one of whom needed to rule in a claimant’s favour, was repealed and replaced with a one-person hearing. Amnesty International and other organizations understood that the loss of one decision-maker in the initial hearing was being offset by the introduction of a new appeal process.

More than two years later, however, the government has not yet enacted the provisions of the new Act that would set up an appeal process. While the appeal process has not gone ahead, the change to initial hearings before one decision-maker has. The losers in this legislative sleight-of-hand have been refugees.

Amnesty International knows that mistakes are made in Canada’s refugee process, and that existing limited review mechanisms do not reliably catch and correct those mistakes. Efforts to encourage the Minister of Immigration to intervene in such cases are often met with indifference or silence. There is no doubt that the promised appeal procedure is a sorely and long-needed addition to Canada’s refugee system. Amnesty Interna-

tional urges that the relevant provisions of the *Immigration and Refugee Protection Act* be implemented without any further delay.

### **The dangers of closer cooperation with the United States**

For over fifteen years Canada’s immigration laws have anticipated the possibility that Canada might enter into what is often termed a “safe third country” agreement with another country. Under the terms of any such agreement, refugees passing through one country on their way to making a refugee claim in the other country would find their onward journey blocked, and they would be required to make their claim in the first country only. Canada has long been interested in entering into such an agreement with the United States. Anywhere in the range of 30-50% of refugees making claims in Canada have traveled through the United States. For those refugees coming from Latin America, the overland route necessarily passes through the United States. For refugees coming from other parts of the world, the most direct air travel often means coming through a U.S. airport.

An effort to conclude a safe third country agreement with the United States was rejected at the last minute by U.S. officials in 1996. But negotiations resumed in 2001. An agreement has been signed by both governments and final arrangements to make the deal operational are under way. It could be in effect within a few months.

Amnesty International does not oppose the principle of designating safe third

<sup>11</sup> *Suresh v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 S.C.R. 3.

<sup>12</sup> Conclusions and Recommendations of the Committee against Torture: Canada, U.N. Doc. CAT/C/XXVI/Concl.4, 22 November 2000, para. 6(a).



## MOHAMED CHERFI: NO SAFETY ON EITHER SIDE OF THE BORDER

On March 5, 2004, Quebec City police officers forcibly entered the church where refugee claimant Mohamed Cherfi had taken sanctuary and transferred him to Canadian Border Services agency officials who then immediately deported him to the United States. Held in a New York State prison since then, he is now appealing the refusal of US authorities to recognize him as a refugee under the UN Refugee Convention. There is a high risk that he will be deported back to Algeria, his country of origin, at the end of the judicial process.

Amnesty International is convinced that his activism as a conscientious objector, political opponent and human rights defender would put Mohamed Cherfi's security and physical integrity at risk if forced to return to Algeria. If this should happen, Amnesty International would consider that not only the United States but also Canada had contravened its obligation to not return anyone to a country where they face a serious risk of persecution.

countries, as long as the country concerned fully complies with its international human rights and refugee law obligations. We have repeatedly drawn to the attention of Canadian officials significant concerns about serious shortcomings in the U.S. approach to refugee protection. Refugee claimants seeking access to Canada, who are forced instead to remain in the United States, face a very real risk of experiencing serious human rights violations. We have highlighted three areas of primary concern.

First, refugee claimants in the U.S. are regularly detained in an arbitrary manner, in harsh conditions (often co-mingled with criminal detainees) and for reasons not recognized under international law (such as deterring other refugee claimants from making claims). Second, refugee women who fear gender-specific forms of persecution, such as domestic violence and honour killings, often have their claims denied in the U.S. by decision-makers who do not consider victims of that type of abuse to be eligible for refugee protection. Third, there is mounting concern about the commitment of U.S. officials to the obligation not to deport individuals to countries where they would face torture. The case of Maher Arar, a Canadian citizen who was tortured in Syria after being deported there by U.S. officials in October 2002, has brought that concern into sharp focus. New legislation recently proposed by the U.S. House of Representatives<sup>13</sup> would, if passed, legalize this practice, often termed "extraordinary rendition".

Canada should go no further in linking its refugee protection system to the U.S. system until serious flaws in the U.S. are remedied. The safe third country agreement must not be implemented until U.S. law and practice with regard to the detention of refugee claimants, the protection of refugee women, and deportation fully conforms to international standards.

### **A strengthened response to the global refugee crisis**

As important as it is to take steps to ensure that Canada's own domestic refugee system is strong and effective, it is vital that Canada also play a role in improving and strengthening the international refugee protection system, particularly in Africa. Crises of mass displacement continue to strain the capacity of many African countries to provide protection, the outflow of thousands of refugees from Sudan's Darfur region into neighbouring Chad being a recent case in point. Far too many African refugees live in situations of extreme insecurity, illustrated dramatically by the killings of more than 150 Congolese refugees at a refugee camp in Burundi in August 2004. Restrictive laws and practices deny refugees access to protection in many African countries, as is the case for the vast majority of Zimbabweans who have fled to South Africa in recent years.

Canada can do much more to help Africa cope with these crises. That should include providing higher levels of financial support for UN agencies and humanitarian

<sup>13</sup> 9/11 Recommendations Implementation Act (HR 10).

organizations that provide protection and support to refugees in Africa. Our efforts should also include playing an increased, direct role in providing protection, through resettlement of refugees to Canada. That goal can be realized through two initiatives: direct resettlement and resettlement from third countries.

First, Canada's *Immigration and Refugee Protection Act* significantly allows for some individuals to be directly resettled to Canada from their countries of nationality, rather than first traveling to a third country and being resettled from there, which is the standard practice. At present only three African countries have been designated as "source countries" for direct resettlement: the Democratic Republic of Congo, Sierra Leone and Sudan. Amnesty International, in conjunction with a coalition of other Canadian organizations, has pressed Canada to include Zimbabwe on the list. More widely, there is a need for the source country program to be reviewed to ensure that other African countries facing serious human rights problems are included.

Second, Canada's levels of resettlement of African refugees from third countries should be increased. Amnesty International has long been concerned that the numbers of African refugees resettled to Canada have not matched the nature and level of human rights abuse and armed conflict within Africa. Canada should, and could play a greater role in resettling an increased number of African refugees to Canada. Numbers

of African refugees that the government itself sponsors for resettlement to Canada have risen marginally in recent years, but should be further increased. As well there are wide concerns that extraordinarily lengthy delays in refugee sponsorship applications made by private groups, including church and other faith organizations, are leaving refugees in situations of hardship and danger, in Africa and elsewhere. These delays have become seemingly entrenched. Amnesty International urges the Parliamentary Committee on Citizenship and Immigration to launch a study of the private sponsorship process, as has been called for by the Canadian Council for Refugees.

# Getting Down to Business: Human Rights in a Global Economy

Canadian companies span the world. Resource companies drill for oil and dig for minerals in isolated, far-flung corners. Telecommunications firms do business on every continent. Foreign investment flows in and out of Canada like never before. As global trade expands and the reach and impact of corporate Canada grows, it becomes increasingly important to ensure that Canadians do business in ways that safeguard and promote fundamental human rights and do not directly or indirectly lead to human rights violations.

Amnesty International regularly engages in direct human rights dialogue with companies. We highlight any aspects of their operations that we believe may be contributing to human rights violations. We press them to champion human rights reforms in the countries where they operate. We urge them to adopt comprehensive human rights policies that are backed up by strong internal monitoring and verified through independent public reporting. With the goal of promoting a responsible corporate approach to human rights, however, it will never be enough to rely entirely on the goodwill and voluntary compliance of companies. There is an important role for government as well.

## **Regulating business in conflict zones**

While it can be dangerous and volatile, it is not unusual to find transnational companies operating close to the frontlines of armed conflict or widespread human rights violations throughout the world. This is particularly and, it seems, increasingly so for resource companies – petroleum, mining and forestry – a business sector which involves a large number of Canadian firms.

Wars have been fought over the control of natural resources and the royalties that flow from their exploitation. The desire on the part of companies and governments to access those resources may spark armed conflict. Governments eager to pave the way for resource development may forcibly relocate Indigenous peoples. The potential for a firm operating in a conflict-ridden environment to contribute to further conflict or human rights violations is substantial. Securing their base of operations, showing preferential treatment to those who support or are involved in their work, and providing support, financial or otherwise, to one side of a conflict are but a few of the ways that a company's conduct can lead to further conflict or human rights violations.

During conflicts the civilian population, particularly children, are highly vulnerable to grave human rights violations. The pattern of sexual violence committed against women and girls is consistent from conflict zone to conflict zone. Groups that raise concerns or protest about such developments might find that their objections are met with arrest, imprisonment and even violence.

Amnesty International urges companies to ensure that when they commence operations in a country, they engage in a process of meaningful consultation with local communities. This is particularly important in situations involving Indigenous peoples. International law requires that the free, prior and informed consent of Indigenous peoples be sought and obtained before decisions are made that will impact upon their rights. This certainly applies in situations where a commercial enterprise or investment is being considered on lands that may belong to or be claimed by an Indigenous community, lands that may often be located in a zone of conflict. The government should press for further entrenchment of this right to free, prior and informed consent in the draft UN Norms for Businesses (see next section).

One sector where the link between commerce and conflict has been well documented is the diamond trade. Amnesty International and many other organizations have highlighted the great harm that trade in conflict diamonds has caused in a number of African countries, including Angola, the Democratic Republic of Congo and Sierra Leone. In 2000 governments were finally compelled into action and by 2002 had launched the *Kimberly Process Certification Scheme*, which strives to regulate the international diamond industry to ensure that conflict diamonds are kept out of the global trade. Amnesty International welcomed that development but highlighted that the failure of governments to include a compulsory monitoring system to ensure compliance with the scheme could undermine its effectiveness. While compulsory monitoring has still not been adopted, the majority of participating governments, including Canada, have voluntarily agreed to reviews of their national systems. Canada should continue to press for an eventual agreement that monitoring will be a regular and obligatory component of the Kimberly Process.

Recognizing the potential harm that may be caused by companies operating in conflict zones, in December 2000 the governments of the United Kingdom and the United States launched the *Voluntary Principles on Security and Human Rights*. Amnesty International assisted in the development of the principles, which are directed to the extractive sector. The principles provide important guidance to businesses as to the measures they should adopt to minimize the degree to which their security arrangements may con-

tribute to human rights violations. The governments of the Netherlands and Norway have subsequently endorsed the principles, as have many businesses, including several Canadian companies. Some companies have gone further and begun to formalize their commitment to the principles through action and new contractual arrangements for security. But the Canadian government has not yet accepted the principles. Canada should endorse these Voluntary Principles and press Canadian businesses to follow suit.

**Greater accountability:  
the UN norms for business**

To date, governments and businesses have promoted exclusively voluntary means of ensuring that businesses live up to their human rights responsibilities. Amnesty International agrees that voluntary approaches are valuable; but more is needed. Governments should play a role in establishing binding minimum human rights standards for business. Amnesty International is encouraged by an initiative now underway in the UN Commission on Human Rights to clarify those responsibilities. The Commission is currently reviewing a proposed set of *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*. The review comes as part of a study examining options for strengthening standards on the human rights responsibilities of companies and possible means of implementation. To date, Canada has not yet come out in favour of the Norms. Amnesty International urges Canada to lend its support and leadership to the development of strong and effective Norms that will strengthen the account-



**CONFLICT IN  
COLOMBIA:  
THE NEED FOR  
RESPONSIBLE  
DEVELOPMENT  
ASSISTANCE**

Colombia's worsening internal armed conflict affects virtually every part of the country and has taken the lives of more than 60,000 people since 1985 - currently around 20 people every day. Thousands of civilians live in fear of being kidnapped, killed or "disappeared"; thousands are forced to flee their homes, lands, and livelihoods, as warring factions refuse to guarantee their safety and their right not to be drawn into the conflict. Around 80% of victims are civilians, killed outside combat. Killings, threats and intimidation of members of human rights organizations, trade unionists and other vulnerable sectors of civil society form part of a campaign by sectors of the Colombian security forces and their paramilitary allies to weaken the work of human rights defenders.

Canada has an upcoming, important opportunity to push for human rights improvements in Colombia. During the first half of 2005 Canada will serve as chair of a group of twenty-four donor countries that provide assistance to Colombia. Canada must use that position to insist forcefully that Colombia take concrete steps to comply with outstanding recommendations that the United Nations High Commissioner on Human Rights has made for human rights reform in the country.



## CHINA: BUSINESS MUST ADVANCE RIGHTS PROTECTION

In virtually every corner of China, human rights violations are a commonplace, daily reality. Hundreds of thousands of people are detained in violation of their fundamental human rights, death sentences and executions are imposed after unfair trials, torture and ill-treatment are widespread and systemic, and freedom of expression and information are severely curtailed. Faced with that dismal picture, Amnesty International has longstanding concerns that trade and investment goals have overshadowed human rights in Canada's bilateral and multilateral foreign policy with respect to China. Canada considers a policy of private engagement with China about human rights concerns to be the most constructive strategy for realizing human rights improvement in the country, through a bilateral human rights dialogue process that does not report its progress or results publicly. Amnesty International believes Canada should pursue an approach that involves a balance of quiet engagement and public advocacy. Further, a credible strategy of engagement must be accompanied by clear benchmarks and timelines against which to measure progress. Amnesty International is concerned that no such benchmarks appear to have been developed, despite the fact that this has been Canada's approach to China for over seven years.

It is time for a comprehensive review of Canada's foreign policy with respect to China. Amnesty International urges the House of Commons Standing Committee on Foreign Affairs and International Trade to launch such a review as a priority in the current session of Parliament.

ability of businesses for their human rights conduct. Importantly, this would not only improve the human rights conduct of Canadian businesses operating abroad, but would apply also to foreign companies which operate or invest in Canada, a concern that has come into focus through the recent proposed purchase of Canada's Noranda Inc. by China Minmetals.

### **Responsible consumer, responsible investor: equipping Canadians with the information they need**

As public awareness grows of the profound positive and negative impact that company operations can have on the enjoyment and protection of human rights, more and more people seek to make responsible consumer and investment decisions. But it is difficult to make the right decision without easy access to the right information about company practices or investment policies.

Consumer and institutional purchasing power is a considerable force for changing business policies and practices. To use the power effectively, purchasers need information. This includes information about where garments are produced, so that consumers can make informed decisions to promote company practices that protect workers' rights. Current clothing labeling laws make it impossible to confirm where clothing is made. It is time for Canada to enact changes to regulations under the *Textile Labeling Act*, which would require companies to disclose manufacturing locations in a publicly accessible database. And it is time for governments across Canada to set a good example and adopt ethical purchasing policies. Canadians need to be assured that their tax dollars are not rewarding companies which may have workplace conditions

and practices which violate the basic rights of their employees.

Another area where the need for information has come into sharp focus in recent years is the question of the management of pension funds. Increasingly, Canadians want to be sure that their invested pension dollars are not rewarding companies whose operations are directly or indirectly contributing to human rights violations. They want their retirement income to encourage human rights leadership in the corporate sector.

Currently it is difficult for individuals to get reliable information as to the degree to which the administrators of their pension plan take human rights issues into account or whether they consider such concerns at all. Amnesty International urges the Canadian government to amend Canadian law to require pension plan administrators to report annually as to the social, ethical and environmental factors, including human rights, which are considered in the course of investment decisions. That would include amendments to the *Public Sector Pension Investment Board Act*, the *Canada Pension Plan Investment Board Act* and the *Pension Benefits Standards Act* to require pension funds covered by those statutes to disclose the extent to which social, environmental and ethical considerations are taken into account in the selection and management of investments, to disclose their proxy voting policies and to provide their voting records to pension plan members upon request.

# Global Rules to Tackle a Global Problem

Human rights are promised equally to all citizens of the world. But human rights are lived unequally. Ideally we should be able to look to national governments to adopt the laws, policies and practices that are needed to ensure that the basic rights of their own citizens are fully respected. But governments are far too often the source of the problem when it comes to human rights: directly committing violations, turning a willing blind eye while others commit abuses, or simply too weak or fragmented to be able to intervene and prevent abuses from happening. With human rights protection at national level so uneven and problematic, there is a clear need for a strong international system.

Canada has been a vocal champion of international human rights treaties and institutions for many decades. As a member of numerous intergovernmental organizations, including the United Nations, the Organization of American States, the Commonwealth and La Francophonie, Canada is well-placed to promote robust multilateral responses to pressing human rights concerns.

The current global climate poses a significant challenge to multilateralism, however. The United States and other countries have pursued unilateral approaches to secu-

rity that often undermine the authority of multilateral bodies. The need for countries such as Canada to defend and promote a strengthened international human rights system is evident. Amnesty International urges Canada to do so in two important ways: first by supporting existing human rights treaties and advocating for strong new treaties, and second, by scrupulously complying with its own international human rights obligations.

While Canada has an admirable record of signing on to international human rights treaties, there are a number of treaties dealing with important human rights issues which Canada has yet to ratify. Canadian ratification of these outstanding treaties is critical because it extends greater human rights protection within Canada. It is also important because it means that Canada can then legitimately press other countries, where the human rights concerns may be much more serious, to follow suit.

## **The Optional Protocol to the UN Convention against Torture**

In 2002 the United Nations General Assembly adopted an important new human rights instrument, in the form of an Optional Protocol to the existing UN *Convention*

*against Torture and other forms of Cruel, Inhuman or Degrading Treatment or Punishment*. The protocol seeks to tackle one of the most significant factors that allows torture to flourish at such an alarming global scale – secrecy. Under the protocol a new international inspection system for the world’s detention centres would be created, with a global team empowered to carry out spot-checks of prisons, immigration lock-ups, police holding cells and other places of detention, with an eye to exposing the conditions that breed torture. The new system will not enter into force until 20 states have officially signed up. Only five have done so to date.<sup>14</sup> Canada must add its voice.

Canada should be an ardent champion of this new legal tool. Recent cases of Canadian citizens who have been subjected to torture in foreign jail cells – Zahra Kazemi in Iran, William Sampson in Saudi Arabia, Maher Arar in Syria – highlight the frightening degree to which torture can strike very close to home. But the question of Canadian ratification has become complicated by federal/provincial wrangling. The protocol would require Canada to establish a system of national level inspections and that involves provincial governments, which have jurisdiction over the bulk of

<sup>14</sup> As of November 18: Albania, Denmark, Liberia, Malta and the United Kingdom.



## ALBERT DUTERVILLE: ACCOUNTABILITY WITHIN CANADIAN PRISONS

Amnesty International has repeatedly called for the Canadian government to conduct a thorough investigation into the serious allegations of beatings suffered by Albert Duterville at the hands of other prisoners but perhaps also by prison guards, including during the summer of 2003. Amnesty International is concerned about the lack of action by the authorities in this case and reminds them that they are responsible for the security of Albert Duterville.

the country's detention centres. Canada's constitutional complexities cannot stand in the way of doing the right thing in the global struggle to eradicate torture. Canada must ratify without further delay.

### **Second Optional Protocol to the International Covenant on Civil and Political Rights**

As global consensus that the death penalty should be abolished began to mount, in 1989 the UN adopted the *Second Optional Protocol to the International Covenant on Civil and Political Rights*. Fifty-one governments have now ratified that document and in doing so have guaranteed that there will be no executions in those countries. Canada, which became firmly abolitionist in 1998

when provisions of the *National Defence Act* allowing for the death penalty were abolished, is notable for its failure to ratify the protocol.

Some officials within government are of the view that if Canada were to ratify the Second Optional Protocol it would make it difficult for Canada to extradite or deport criminals to a country where they would face the death penalty. But the Supreme Court of Canada has already ruled that Canada would only be able to do so in exceptional circumstances<sup>15</sup> and the UN Human Rights Committee has told Canada that extradition or deportation should never go ahead unless reliable assurances are received from the other state that the death penalty will not be used.<sup>16</sup> Canada should not cave in to the death penalty. Canada should stand firm as an abolitionist state and ensure that criminals face justice through fair proceedings that do not include the possibility of execution. Speaking at the Second World Congress against the Death Penalty in Montreal in October 2004, Minister of Foreign Affairs Pierre Pettigrew indicated that Canada was committed to examining the question of ratification. Canada should move beyond examining the possibility and immediately ratify the Second Optional Protocol.

### **Convention on the Protection of the Rights of all Migrant Workers and Members of their Families**

Around the world, migrant workers are often among the most vulnerable members of any society. With no status or precarious, temporary permission to remain in the countries where they work, migrant workers

are easy targets for unscrupulous employers and violent spouses. They may have difficulty accessing essential health care, or basic education for their children. Fearful that to complain will invite deportation, migrant workers often endure injustice rather than assert their rights. Amnesty International has documented the serious and widespread human rights violations that migrant workers experience in countries around the world.

There is no reliable figure as to the number of migrant workers in Canada. Many do have official status, and come to Canada with work permits or through special programs such as those designed for live-in nannies or seasonal agricultural workers. But there is almost certainly a large population of migrant workers residing in Canada who have no legal status at all and who are particularly susceptible to abuse and exploitation.

Recognizing the vulnerability of migrant workers, the UN adopted the Migrant Workers Convention in 1990. It took thirteen years, however, to attract the needed 20 ratifications for it to enter into force. Even today, only 27 governments have signed on, all from countries which tend to be the source of migrant labour, not the destination. None of the countries that have pledged to uphold the Convention are the wealthy nations of Western Europe or North America which are often home to significant numbers of migrant workers. It is time for Canada to ratify this Convention as a means of demonstrating a commitment to protecting the rights of migrant workers in Canada,

<sup>15</sup> *United States v Burns*, [2001] 1 SCR. 283.

<sup>16</sup> UN Human Rights Committee, Communication No. 829/1998: Canada, *Roger Judge v Canada*, 20 October 2003.

but also to compel other countries which are host to migrant workers to follow suit.

### **The Organization of American States' Human Rights Treaties**

Canada has been a member of the Organization of American States (OAS) for fifteen years. Canada has not yet, however, ratified any of the OAS human rights treaties. Amnesty International has pressed Canada to sign on to six important OAS instruments: the overarching *American Convention on Human Rights* (ACHR) and specific documents dealing with the death penalty, economic, social and cultural rights, torture, "disappearances" and violence against women.<sup>17</sup> The latter treaty dealing with violence against women is the only binding treaty in the world dealing specifically with that critically important human rights concern.

Canadian ratification of these treaties would go far in strengthening the OAS human rights system, which has frequently been undermined politically by other OAS states and continues to be woefully under-resourced. The OAS system can play an important role in addressing some of this hemisphere's pressing human rights tragedies, such as the situations in Colombia and Haiti. The need for a strong human rights system within the Americas has also become more acute as governments have moved rapidly towards trade liberalization in the hemisphere, including a possible free-trade area that could stretch from Canada to the tip of South America. Continental economic integration must be matched by strong Americas-wide human rights institutions. Canadian ratifica-

tion would also strengthen human rights protection in Canada, including through the access to an international human rights court, the Inter-American Court of Human Rights, which would stem from ratification of the ACHR. Becoming part of the OAS human rights system would be good for Canada and good for the rest of the Americas.

Debate about Canadian ratification to date has focused solely on the *American Convention on Human Rights* and its controversial provision specifying that the right to life shall be protected "in general" from the moment of conception.<sup>18</sup> Amnesty International has urged Canada to ratify in a manner that is consistent with Canadian law regarding access to abortion services. Proposals have been made as to the nature of the reservation or statement of understanding that would therefore need to be part of Canada's ratification. Fifteen years after joining the OAS it is time for Canada to make a firm commitment to human rights in this hemisphere by ratifying these six human rights instruments.

### **Support for new standards - An Optional Protocol to the Covenant on Economic, Social and Cultural Rights**

Human rights speak to the full range of human existence. They include the right to be free from torture, but also the right to adequate health care, the right to life, and also the right to food. All rights are interdependent. The international human rights system recognizes this full range of rights: those that are considered to be civil and political rights and which are elaborated



### **MAKING HAITI SAFE AGAIN: THE INTERNATIONAL COMMUNITY MUST TRULY COMMIT**

Human rights violations are on the increase in Haiti as the level of violence is on the rise.

During the first two weeks of November, 2004, at least 11 people were killed by individuals dressed in black, wearing balaclavas and travelling in cars with National Police markings. Cité Soleil is under complete control of politically- and criminally-motivated rival armed groups.

Amnesty International believes that the lack of an effective disarmament programme throughout the country is a major cause of the current crisis. It urges the Canadian government to exercise strong leadership within the UN Stabilization Mission in Haiti (MINUSTAH) especially with respect to disarmament, policing and the administration of justice.

<sup>17</sup> *American Convention on Human Rights; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador"; Protocol to the American Convention on Human Rights to Abolish the Death Penalty; Inter-American Convention to Prevent and Punish Torture; Inter-American Convention on Forced Disappearances of Persons; and Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará").*

<sup>18</sup> *American Convention on Human Rights*, article 4(1).



## ZIMBABWE : THE NEED FOR A STRONG RESPONSE FROM AFRICA

Over the past four years, the human rights situation in Zimbabwe has rapidly deteriorated. There is virtually no sector of Zimbabwean society that has been spared from the violence and human rights abuses. Trade unionists, lawyers, human rights activists, opposition politicians, journalists and others all face death, rape, intimidation and assault when they dare to stand up for justice and challenge the policies of President Robert Mugabe. Canada can make a strong contribution toward ending this deepening human rights crisis, but has often been restrained in its efforts, out of concern that the Zimbabwean government will criticize Canada for racial interference.

Canada must take a courageous and creative stand with Zimbabweans against injustice and in favour of human rights. Working with other Canadian organizations concerned about the dire situation in the country, Amnesty International has pressed Canada to adopt a more proactive policy on Zimbabwe, which would be championed by the appointment of a Special Representative. It is time for new approaches.

in the *International Covenant on Civil and Political Rights*; as well as those termed economic, social and cultural rights, defined in the *International Covenant on Economic, Social and Cultural Rights*. However, the international system and individual governments have long treated the enforcement of those rights differently.

Many states, including Canada, argue that it is not possible to measure and complain about violations of economic, social and cultural rights in the same way as violations of civil and political rights, and that they are therefore not susceptible to being brought to court on an individual basis and subject to adjudication. As a result, at the international level there is not, to date, an opportunity for individuals to bring cases to the attention of an expert UN body, alleging a violation of such rights, as access to primary education or being allowed to work. That opportunity does exist for civil and political rights, and the UN Human Rights Committee has, over the years, issued numerous reports after receiving individual complaints. The Human Rights Committee's work has played an important role in strengthening a shared international understanding of the nature of the rights laid out in the *International Covenant on Civil and Political Rights*.

Amnesty International and many other organizations believe it is long past time for the UN's Committee on Economic, Social and Cultural Rights to be given the power to receive and examine complaints from individuals about violations of their rights under the *International Covenant on Economic, Social and Cultural Rights*. Within

the UN's Commission on Human Rights a Working Group is attempting to elaborate an Optional Protocol to the Covenant that would accomplish that very goal. Canada has not yet lent its support to this initiative. Canada must add its voice to the many countries which agree that this would go far in strengthening the protection of economic, social and cultural rights worldwide.

### **Canadian compliance with its international obligations: the need for a more coordinated approach**

On the world stage Canada is perceived as being firmly committed to the international human rights system, and rightly so. Canada has often demonstrated valuable leadership in creating and shoring up international treaties and institutions. As well, Canada has in place important national-level laws and institutions designed to safeguard basic rights across the country. Attention to human rights at both the international and national levels is crucial. Adhering to international-level obligations through national action protects rights in Canada and sets an example for other countries. Amnesty International believes that Canada needs to improve its record of adherence to international-level obligations and put in place stronger mechanisms for ensuring compliance.

Amnesty International has expressed concern about Canada's failure to comply with recommendations made to it by international-level human rights bodies. For instance, Canada has on occasion refused to delay deportations or extraditions from Canada when asked to do so by bodies such as the UN Special Rapporteur on Torture

and the UN Human Rights Committee. The 1990 recommendations of the UN Human Rights Committee regarding the Lubicon Cree in Alberta remain unimplemented. The federal government said it could not comply with the Human Rights Committee's 1999 call for a public inquiry into the killing of Dudley George by an Ontario Provincial Police officer in 1995. That inquiry was only finally convened because of a change of government in Ontario in 2003. In 2000 the Inter-American Commission on Human Rights called on Canada to institute a merit-based review of negative refugee claim decisions. In 2002, legislation was passed which would establish such an appeal mechanism, but the relevant provisions have never been implemented.

Amnesty International believes that Canada needs a more coordinated and publicly transparent approach to ensuring compliance with the country's international human rights obligations, and for making decisions about ratification of and support for international human rights instruments. Complexities often arise because of divided federal and provincial jurisdiction, or because an issue involves a number of different government departments. Some of these issues are discussed within the Continuing Committee of Officials on Human Rights, involving federal, provincial and territorial government representatives. However, that Committee meets behind closed doors and has no decision-making authority. More recently a new body has been established, the Deputy Ministers' Committee on International Human Rights and Domestic Law and Policy, involving a number of federal Deputy Ministers, which plays a role in dis-

cussing and coordinating these issues across the federal government. Again that process is not publicly accessible. There has been no ministerial level meeting on human rights in Canada for over fifteen years.

Amnesty International recommends that a meeting of federal, provincial and territorial ministers with responsibility for human rights issues be held in the coming year, with one express aim being to establish a publicly accountable and authoritative inter-governmental body to monitor compliance with Canada's international human rights obligations.

#### **Deeds to match words: Canada and international justice**

One area where Amnesty International has growing concern about the gap between Canada's international and national level record is the arena of international justice. Over the past decade huge strides have been made to tackle the impunity that has long been enjoyed by individuals who orchestrate and carry out serious human rights violations. Most notably, the International Criminal Court has now been established and will likely hear its first cases in the near future. Canada demonstrated firm and inspired leadership in the campaign to create that court and continues to be an ardent supporter.

However, the international justice project is premised on the principle that justice will be most often delivered in national level courts. International tribunals such as the International Criminal Court will only ever be able to deal with a small minority of the most serious cases. Through the principle of



### **REFORM OF THE UN COMMISSION FOR HUMAN RIGHTS: THE NEED FOR A STRONG GLOBAL HUMAN RIGHTS FORUM**

The UN Commission on Human Rights should be the centerpiece of the global human rights system, the pinnacle of multilateral determination and action to defend human rights. But sadly this body of 53 states, elected to three year terms, has increasingly become viewed as irrelevant and politicized. While many important initiatives do succeed, far too frequently it is politics and not human rights that sets the Commission's agenda.

The world needs a strong and effective Commission on Human Rights. Reform will not come easily, as many governments strongly resist increased scrutiny of their human rights performance. Canada has shown a willingness to advance a reform agenda and should back that up with visible political leadership at high levels of government. And Canada should demonstrate the depth of its commitment to reform by ensuring that its own approach to the Commission is guided by clear human rights principles and that politics are left to the side.



## FIGHTING IMPUNITY

Several years ago, Amnesty International informed the War Crimes Unit of the Canadian Department of Justice of allegations of war crimes and crimes against humanity against former members of the South Lebanese Army militia, including some currently living in Canada. Amnesty International also facilitated access to former prisoners from the Khiam detention centre who had been subjected to torture, some of whom also now live in Canada. When we presented these allegations in September 2002, we demanded that a thorough investigation be conducted and that, if conclusive, the Attorney General authorize prosecutions under the *Crimes Against Humanity and War Crimes Act* or Canada's *Criminal Code*. Amnesty International is concerned about the extremely slow pace at which the case is being assessed by the Department of Justice. This apparent reluctance to act is incompatible with Canada's commitment to fight impunity.

universal jurisdiction, governments are obligated to launch prosecutions of war criminals, torturers and perpetrators of crimes against humanity within their own courts, regardless of where the human rights violations may have occurred. Canadian law acknowledges this obligation, through both the *Criminal Code* and the *Crimes against Humanity and War Crimes Act*. But there has not yet been a single prosecution launched, other than a handful of World War II cases in the early 1990's.

Canada instead favours immigration remedies such as deportation when faced with the presence in Canada of an accused human rights violator. However, very often deportation leads to further human rights violations, as the individual concerned may now be at risk of torture or execution him or herself. In other cases it simply allows the individual to escape justice.

Canada's leadership in the fundamentally important effort to create a strong web of international justice will ultimately be compromised and undermined if it is not matched by an equivalent commitment to deliver that justice at home. Adequate resources and political will must be devoted to ensuring that prosecutions do go ahead and are preferred as a matter of policy and practice over immigration remedies.



## JUSTICE AND COMPENSATION: ACCOUNTABILITY FOR TORTURE

Criminal prosecutions are not the only means of ensuring that there is accountability for grave human rights violations such as torture. Torture survivors have a right to redress for what they have experienced. But when governments refuse to acknowledge their responsibility, this may mean that survivors of torture need to go to court to enforce their right to compensation. Houshang Bouzari, a Canadian citizen of Iranian origin, has turned to the Ontario court system and launched a lawsuit against the government of Iran for damages resulting from the torture he experienced when still living in Iran. Two levels of Court have so far ruled that Iran is shielded from accountability by Canada's *State Immunity Act*. The Canadian government has actively argued in court that Iran should in fact be able to rely on state immunity. Mr. Bouzari has applied to the Supreme Court of Canada for leave to appeal this decision. No matter the outcome, Canada should reform Canadian law to ensure that state immunity is not available as a defence for governments or individuals who have committed serious international crimes such as torture.

# The Fundamental Human Rights of Indigenous Peoples

“...The most pressing human rights issue facing Canadians.”<sup>19</sup>

With those words, Canada acknowledged to the United Nations Human Rights Committee that there is much more that needs to be done to safeguard the fundamental human rights of Indigenous peoples in Canada. UN human rights bodies have consistently highlighted how vital that challenge is and have made numerous recommendations to Canada as to measures that should be taken. Most of those recommendations remain unimplemented, as do the bulk of recommendations regarding the plight of Indigenous peoples that have been made by federal and provincial commissions and inquiries. Meaningful and concrete action to address the pervasive human rights violations experienced by Indigenous peoples across Canada is long overdue.

Earlier in this report, Amnesty International has highlighted one particularly disturbing human rights issue facing Indigenous peoples, the violence and discrimination experienced by Indigenous women. In confronting that violence and discrimination, governments must take specific and concrete steps to reform policing and justice systems, but also to address longstanding systemic racism and inequities that have marginalized Indigenous

peoples and left them vulnerable to a range of human rights abuses.

Beyond Canada, around the world Indigenous peoples face violence, widespread discrimination, dispossession and impoverishment. Indigenous peoples are routinely excluded from decisions vital to their well-being and to the survival of their unique ways of life. Unjust and illegal dispossession of their lands and resources has often severely undermined the health and livelihoods of Indigenous peoples and eroded the foundation of their distinctive cultures.

The range of issues related to the protection of the human rights of Indigenous peoples is vast. Here, Amnesty International urges that Canada move forward on three specific fronts, as part of a concerted – and urgently needed – effort to improve the human rights situation of Indigenous peoples, in Canada and worldwide.

## **How much longer? A just resolution for the Lubicon Cree**

The recognition and protection of the land rights of Indigenous peoples is critical to the enjoyment of a wide range of interconnected rights, including the rights to health, education and culture. Unfortunately, as was clearly

acknowledged in the 1996 report of the Royal Commission on Aboriginal Peoples, the affirmation of aboriginal and treaty rights in the Canadian constitution has not been translated into secure protection of the land base essential to the enjoyment of those rights. The case of the Lubicon Cree is a case in point.

The Lubicon, an Indigenous nation of approximately 500 people living in northern Alberta, have never surrendered their rights to their traditional lands. The Lubicon were simply overlooked when treaties were negotiated with other Indigenous peoples in the region over a century ago. Since the mid-1970's, the Lubicon have seen the land on which they depend transformed by logging and large-scale oil and gas extraction – developments to which they have never consented. The Lubicon say their health, their way of life and their culture itself have been devastated as a consequence. In 1990, the UN Human Rights Committee ruled that the failure to resolve the longstanding dispute about the land rights of the Lubicon Cree in northern Alberta was at the heart of ongoing, serious violations of the human rights of the Lubicon people.<sup>20</sup>

Earlier this year, the government reiterated that it “remains firmly committed to a just settlement of the land claim of the Lubicon

<sup>19</sup> Concluding observations of the Human Rights Committee, Sixty-fifth session, CCPR/C/79/Add.105, 7 April 1999, para. 8.

<sup>20</sup> UN Human Rights Committee, Communication No. 167/1984: Canada, *Ominayak and the Lubicon Lake Band v Canada*, CCPR/C/38/D/167/1984, 10 May 1990.

Lake Indian Nation.”<sup>21</sup> However, as of November, more than one year had passed since the last talks between the Lubicon and federal negotiators. How much longer must the Lubicon wait for justice? Their human rights are on the line.

The federal government must make a firm commitment to the fair and timely settlement of outstanding land and treaty disputes that put the enjoyment of fundamental human rights in jeopardy. This includes the earliest possible settlement of the Lubicon land dispute that will provide for full realization of the human rights of the Lubicon Cree. The federal government should also confirm its commitment to the principle in international law that no decisions affecting the rights of Indigenous peoples shall be taken without their free, prior and informed consent.

### **Police and Indigenous peoples: the need for oversight and accountability**

Over the past few years, Amnesty International has expressed concern about a number of cases where it appeared that police had acted inappropriately, even illegally, or had resorted to excessive force, when dealing with Indigenous people. Some of those instances have now received greater public scrutiny, such as the recently concluded commission of inquiry into the 1990 freezing death of Neil Stonechild in Saskatchewan, and the Ontario public inquiry into the 1995 killing of Dudley George by a police officer, currently underway in Ontario. One common theme that emerges is the inadequacy of current oversight and public complaints procedures for ensuring that there is a reliable and impartial means to investigate allegations of police wrongdoing,

including cases involving Indigenous peoples.

In 2000, the UN Committee against Torture recognized that this was a shortcoming in Canada’s justice system and urged the government to create an independent body which would receive and investigate allegations of torture or ill-treatment by police. The Committee highlighted the particularly important role such a body would play in responding to complaints made by Indigenous peoples.<sup>22</sup> Canada has not yet acted on that recommendation. In October of this year, the Stonechild Inquiry called on Saskatchewan to “review and improve procedures established to deal with complaints from members of the public about inappropriate police conduct.”<sup>23</sup> In response, the provincial Attorney General has indicated that there should be a proposal for reforming Saskatchewan’s complaints process sometime in the spring of 2005.<sup>24</sup>

Amnesty International welcomes the recent developments in Saskatchewan and underscores the importance of all jurisdictions following suit. The federal government should take the lead and, working with provincial and territorial governments, launch a review of public complaints procedures across the country, to examine their accessibility and effectiveness, to identify police forces that are not subject to the jurisdiction of a public complaints process, and to highlight reforms needed to ensure that public complaints procedures are responsive to the situation of Indigenous peoples.

### **Global protection of the human rights of indigenous peoples: towards an International Declaration**

In an effort to address the critical human rights problems faced by Indigenous peoples around the world, the UN human rights system has been working for close to twenty years to develop a declaration that would establish minimum global standards relating to the human rights of Indigenous peoples. The current draft of such a declaration affirms that Indigenous peoples and individuals are free and equal to all other peoples and individuals in dignity and rights. Consistent with Indigenous cultures, traditions and laws, the draft also elaborates rights that are predominantly collective in nature. These rights include the right of Indigenous peoples to control their own lives and futures, the right of Indigenous peoples to maintain and develop their unique cultures and ways of life, and the right of Indigenous peoples to control and benefit from their traditional lands, territories and resources.

Now, as the UN’s International Decade of the World’s Indigenous People draws to a close on December 31 of this year, it is time to achieve what has for far too long eluded Indigenous peoples, a strong and effective international human rights instrument elaborating their fundamental human rights. Canada has an important role to play. A strong Declaration will help to affirm and strengthen the protection of the rights of Indigenous peoples in Canada and around the world. Canada must work closely with Indigenous peoples’ organizations and other governments to ensure that, before the International Decade ends this December, real progress is made towards the adoption of a strong and effective Declaration.

<sup>21</sup> Letter to Amnesty International from Paul Bresee, Chief of Staff to the Minister of Indian Affairs and Northern Development, 13 May 2004.

<sup>22</sup> Conclusions and Recommendations of the Committee against Torture: Canada, U.N. Doc. CAT/C/XXV/Concl.4, 22 November 2000, para. 6(e).

<sup>23</sup> Commission of Inquiry into Matters Relating to the Death of Neil Stonechild, October 2004, pg. 213.

<sup>24</sup> Media Statement, Release of the Report of the Commission of Inquiry into Matters Relating to the Death of Neil Stonechild, 26 October 2004.

# No Trade-off: Human Rights is the Key to Security

The World Trade Centre attacks, war in Iraq, the Bali bombing, the hunt for Osama Bin Laden, the bombings in Madrid's train stations, Guantanamo Bay, the terrible carnage at the school in Beslan, Russia: these are tumultuous and volatile times. In the face of terrifying terrorist attacks, and also within the insidious web of counter-terrorism, human rights are very much on the line. Yet at a time when governments should be embracing fundamental human rights principles without hesitation, Amnesty International is concerned that they have adopted laws and pursued policies that undermine those critical standards. Human rights do not stand in the way of security. Quite the contrary: sustainable, genuine global security will only be achieved through a world in which basic rights and freedoms are universally protected and enjoyed.

The debate about security and human rights has played out at international and national levels right around the world. It has been manifest in heavy-handed ways as some governments blatantly adopt the security rhetoric as an excuse to intensify longstanding campaigns against political

opponents or ethnic and religious minorities. Or it has been more subtle as governments have simply side-stepped their human rights obligations through the use of secret detention centres, resort to extraordinary rendition and the creation of legal fictions that international law does not apply at all. These challenges to the authority of multilateral human rights standards and institutions risk eroding the very fabric of a universal human rights system. In that erosion, global security will only be made more tenuous.

Canada has a crucial role to play in reinforcing the centrality of human rights in the global security agenda. Canada's own national security laws and practices must live up to its international human rights standards. This necessitates a clear accounting of Canada's potential role in the cases of a number of Canadian citizens who have been detained abroad in the context of vague security allegations; it also means moving forward with long-overdue reforms to the security certificate process that is part of Canada's immigration system. Additionally, in bilateral exchanges and in multilateral settings, Canada's interna-

tional voice must be firm: human rights can never take a back seat to security.

## **Unanswered questions: has Canada turned a blind eye to torture abroad?**

In November 2003, Canadian citizen Maher Arar told a shocked Canadian public about the details of his year-long nightmare of arbitrary arrest, deportation, detention without charge or trial, and torture that began when he was taken aside while transiting through JFK airport in New York City, and culminated in imprisonment in abysmal conditions in a Syrian jail cell which he came to call "the grave."

In February 2004, Canadian citizen Muayyed Nureddin told Canada about his experience of arrest, detention without charge, and torture, again in Syria. A number of other Canadians who have similarly been the subject of unspecific security-related accusations, have made further serious allegations of arbitrary detention and torture in Syria and Egypt, including Abdullah Almaliki, and Ahmed Abou El-Maati. Canadian citizen Arwad Al-Boushi remains imprisoned in Syria, where he has

languished for over two years, seemingly held on the basis of his involvement in a Syrian opposition movement twenty-five years ago. Again there are credible reports that he has been subjected to torture.

One troubling question that emerges in all of these cases is that of Canada's role. Has Canada done all that it can to advocate on behalf of these prisoners? Has Canada acted decisively in the face of credible allegations of torture? Have Canadian law enforcement or security agencies played any direct or indirect role in the circumstances that have led to any of these instances of serious human rights abuse? Those questions are receiving an airing at the public inquiry into the case of Maher Arar, currently underway. However, the vast majority of the sittings of that hearing to date have been held *in camera*, fuelling a deepening concern that the government is not prepared to lift the shroud of secrecy as to its actions in any of these cases. And the inquiry has no mandate to inquire more widely into any of the other cases, leaving in abeyance their search for answers.

The Canadian government took a strong stand for transparency and accountability in establishing the public inquiry into the Maher Arar case. The government should now ensure that the inquiry truly will be open to the public, except when the dictates of national security strictly require otherwise. As well, the government should establish an independent process for the investigation and review of allegations made by other Canadian citizens of possi-

ble Canadian involvement in human rights violations they have suffered in other countries. That process should have the power to recommend compensation and criminal prosecution as warranted.

The Arar inquiry is not yet complete and there has been no independent investigation of the other cases. Nonetheless, it is already abundantly clear that Canada should develop a human rights protocol to guide its security and information-sharing relationships with other countries. Those relationships must be defined and conducted in ways that scrupulously guard against the possibility of Canada's exchanges with other countries either directly or indirectly leading to human rights violations. Amnesty International urges the government to develop such a human rights protocol without delay and apply it to the full range of Canada's security partnerships, to avoid a repeat of such cases in the future.

#### **Fair trials in Canada: the need to reform the security certificate process**

Under Canada's *Immigration and Refugee Protection Act*, non-citizens can be arrested, detained and deported pursuant to a security certificate, on the basis of evidence that they are never given an opportunity fully to review, confront and attempt to refute. They have no opportunity to challenge key witnesses who have testified against them. In short, they are denied the bare minimums of what international human rights standards require by way of a fair trial and are effectively unable to mount a meaningful defence. Fair trial safeguards matter at

all times. They are particularly important in cases such as these, where there is often a very real likelihood that the individuals concerned will face serious human rights violations if deported, including torture and execution.

Six men<sup>25</sup> are currently in detention in Canada pursuant to immigration security certificates. Amnesty International believes that five of the individuals face a serious risk of torture if deported from Canada. We have urged Canada to refrain from any deportation that exposes an individual to serious violations such as torture and to launch fair criminal proceedings in Canada instead if there are concerns about an individual's possible involvement in terrorist or other illegal activities. It is time for the security certificate process to be reformed and brought into conformity with international fair trial standards.

#### **The three-year review of Canada's Anti-Terrorism Act must be comprehensive**

Pursuant to section 145 (1) of the *Anti-Terrorism Act*, the federal government is required to commence a comprehensive review of the Act's provisions and operation by December 18, 2004 (three years after the Act's coming into force.) Such a review is not only mandated by law, it is an important means of scrutinizing the human rights impact of the legislation. However, it is clear that anti-terrorism measures taken by Canada have been wider than the *Anti-Terrorism Act* itself. In fact there is very little evidence of the act being used at all.

<sup>25</sup> Hassan Almrei, Syrian, held since October 20, 2001; Adil Charkaoui, Moroccan, held since May, 2003; Mohamed Harkat, Algerian, held since December 10, 2002; Mahmoud Jaballah, Egyptian, held for 9 months in 1999, cleared of allegations, held again since August 2001; Mohammad Mahjoub, Egyptian, held since June, 2000; and Ernst Zundel, German, held since February, 2003.

Rather, the bulk of activity during the past three years involves action taken under other statutes such as the *Immigration and Refugee Protection Act*, as well as allegations of extra-territorial operations against Canadian citizens such as the concerns that are coming to light in the context of the Maher Arar inquiry. There have also been substantial intrusions into the privacy rights of Canadians.

Canada should ensure that the upcoming review is wider in scope than simply the operation of the *Anti-Terrorism Act* and encompasses the full range of anti-terrorism measures adopted, both federally and provincially.

### **Securing human rights at the international level**

Over the past several years, Amnesty International has been pressing governments to strengthen the means by which the international human rights system maintains scrutiny of counter-terrorism developments. At the UN Commission on Human Rights, an important resolution on the protection of human rights and fundamental freedoms while countering terrorism, reaffirms that states must ensure that measures to combat terrorism comply with their obligations under international law and that national authorities involved in combating terrorism are aware of these obligations. Pursuant to that resolution, a UN-appointed Independent Expert has been given a one-year mandate to make recommendations and provide assistance to states, as well as to assist in the prepa-

ration of a study to be presented to the UN General Assembly in 2004.

These are welcome developments, but more is needed. Amnesty International continues to be deeply concerned about the global impact on human rights by counter-terrorism measures by states. There is a pressing need to establish a more proactive mechanism within the UN human rights system to monitor, on a global basis, the relationship of human rights and counter-terrorism, including by undertaking missions to and interacting directly with relevant states. At the upcoming 2005 session of the UN Commission on Human Rights, Canada should work with other states towards the establishment of such a mechanism.



### **STOPPING THE SPREAD OF ARMS: PROMOTING HUMAN RIGHTS AND SECURITY**

The proliferation of small arms fuels violent conflicts and leads to human rights violations throughout the world. The governments of eight countries have expressed support for the draft *Framework Convention on International Arms Transfers*.<sup>26</sup> Amnesty International urges the Canadian government to actively support this initiative, which could make a huge contribution to preventing human rights violations.

Another area of concern for Amnesty International is the transfer of Canadian military and security materials to the United States. Those transfers are currently not subject to any meaningful control. No assurances are provided that the US will not subsequently transfer these arms to another country where the weapons may be used to commit human rights violations. Amnesty International believes that Canada should require permits or licenses for all military and security exports to the United States.

<sup>26</sup> As of November 18, 2004: Brazil, Cambodia, Cost Rica, Finland, Macedonia, Mali, the Netherlands, and the United Kingdom.

# Summary of Recommendations

## 1. PROTECTING THE RIGHTS OF WOMEN

- Address widespread violence and discrimination against Indigenous women in Canada by:
  - Funding comprehensive national research on the nature and scope of the violence.
  - Working with Indigenous women's organizations to put in place effective protocols for action on cases of missing Indigenous women.
  - Ensuring adequate funding for culturally appropriate support services for Indigenous women, such as shelters and counseling programs, in all regions of Canada.
- Continue and expand international leadership with respect to women's human rights.
- Ensure proper training and monitoring of application of guidelines dealing with refugee claims made by women.
- Launch a comprehensive process of consultation, involving all levels of government and women's equality-seeking organizations, to develop and adopt a national action plan for combating violence against women.
- Implement outstanding recommendations from the 2003 report of the UN Committee on the Elimination of Discrimination against Women.
- Adopt an approach to gender analysis of laws, policies and programs that is consistent across government.
- Establish specialized policing units to deal with cases of trafficked women and girls.
- Reform the Live-in Caregiver program, including by reconsidering the live-in requirement, to reduce the vulnerability of women to abuse and exploitation, and ensure that caregivers are covered by employment standards laws across the country.

- Adopt the recommendations from the recent Canadian Human Rights Commission report dealing with federally-sentenced women prisoners.
- Establish an independent oversight body for federally-sentenced women prisoners.

## 2. STRONG AND EFFECTIVE REFUGEE PROTECTION

- Enact necessary legal provisions to guarantee that no one will ever be expelled from Canada to face a serious risk of torture in another country.
- Implement the provisions of the *Immigration and Refugee Protection Act* which establish an appeal procedure for refused refugee claims.
- Refrain from implementation of the Canada/US Safe Third Country Agreement until US refugee law and practice fully conforms to international human rights and refugee law standards.
- Increase levels of financial support for UN agencies and humanitarian organizations that provide protection and support to refugees in Africa.
- Increase levels of resettlement of African refugees to Canada, including by ensuring that African refugees are more broadly able to access protection under the "source country" program.
- Launch a review of the private sponsorship process by the House of Commons Standing Committee on Citizenship and Immigration.

## 3. HUMAN RIGHTS IN A GLOBAL ECONOMY

- Entrench in law the obligation that companies must seek the free, prior and informed consent of Indigenous peoples before commencing or investing in commercial operations or economic development that impacts upon their fundamental rights.

- Continue to press for a regular and obligatory monitoring procedure as part of the *Kimberley Process Certification Scheme* for diamonds.
- Endorse the *Voluntary Principles on Security and Human Rights*.
- During Canada's term as chair of the group of 24 donor countries that provide assistance to Colombia, insist forcefully that Colombia comply with outstanding recommendations made by the UN High Commissioner on Human Rights.
- Work within the UN Commission on Human Rights towards the elaboration and adoption of strong and effective Norms regarding the human rights conduct of businesses.
- Launch a review of Canada's foreign policy with respect to China, to be conducted by the House of Commons Standing Committee on Foreign Affairs and International Trade.
- Enact changes to regulations under the *Textile Labeling Act*, requiring companies to disclose manufacturing locations in a publicly accessible database.
- Amend the *Public Sector Investment Board Act*, the *Canada Pension Plan Investment Board Act* and the *Pension Benefits Standards Act* requiring pension funds to disclose the extent to which they apply social, environmental and ethical considerations in making investment decisions.
- Ratify the *Convention on the Protection of the Rights of all Migrant Workers and Members of their Families*.
- Ratify the American *Convention on Human Rights* and other Organization of American States' instruments dealing with the death penalty, economic, social and cultural rights, torture, "disappearances" and violence against women.
- Exercise strong leadership to ensure that concerns about disarmament, policing and the administration of justice in Haiti are addressed.
- Actively support the establishment of an individual complaint process under the *International Covenant on Economic, Social and Cultural Rights*.
- Develop a comprehensive policy on the human rights crisis in Zimbabwe, championed by the appointment of a Special Representative.
- Convene a meeting of federal, provincial and territorial ministers with responsibility for human rights, with one express aim being to establish a publicly accountable and authoritative intergovernmental body to monitor and coordinate compliance with Canada's international human rights obligations.
- Champion a reform agenda for the UN Commission on Human Rights, backed up by a clear Canadian approach to the Commission that is guided by human rights principles and not political considerations.

#### **4. COMMITMENT TO THE GLOBAL HUMAN RIGHTS SYSTEM**

- Ratify the Optional Protocol to the UN *Convention against Torture and other forms of Cruel, Inhuman or Degrading Treatment or Punishment*.
- Investigate thoroughly the allegations of beatings in prison made by Albert Duterville.
- Ratify the Second Optional Protocol to the *International Covenant on Civil and Political Rights*.
- Devote adequate resources and political will to ensure that prosecutions are preferred as a matter of policy and practice over immigration remedies when dealing with cases of accused war criminals and perpetrators of crimes against humanity present in Canada.
- Move forward with investigations of allegations of war crimes and crimes against humanity against former members of the South Lebanese Army currently resident in Canada.

- Amend Canadian law to ensure that state immunity is not available as a defence in cases seeking compensation for serious international crimes such as war crimes, crimes against humanity, torture, extrajudicial executions, and “disappearances.”

## 5. THE FUNDAMENTAL HUMAN RIGHTS OF INDIGENOUS PEOPLES

- Firmly commit to fair and timely settlement of outstanding land and treaty disputes that put the enjoyment of fundamental human rights in jeopardy, including the situation of the Lubicon Cree.
- Enshrine in Canadian law the international legal principle that no decisions affecting the rights of Indigenous peoples shall be taken without their free, prior and informed consent.
- Launch a national review of procedures available for public complaints against police forces across the country to identify gaps and highlight reforms needed to ensure that complaints procedures are responsive to the situation of Indigenous peoples.
- Work closely with Indigenous peoples’ organizations and other governments to ensure that real progress is made towards the adoption of a strong and effective UN *Declaration on the Rights of Indigenous Peoples* before the end of the International Decade of the World’s Indigenous Peoples on December 31, 2004.

## 6. HUMAN RIGHTS AND SECURITY

- Ensure that the public inquiry into the case of Maher Arar is truly open to the public and that information is only withheld from the public when strictly necessary for national security reasons.
- Establish an independent process for the investigation and review of allegations made by other individuals of possible Canadian involvement in human rights violations suffered abroad.
- Develop a human rights protocol to guide Canada’s security and information-sharing relationships with other countries.
- Reform the security certificate process under the *Immigration and Refugee Protection Act* to conform with international fair trial standards.

- Ensure that the upcoming three-year review mandated under the *Anti-Terrorism Act* broadly encompasses the full range of anti-terrorism measures adopted federally and provincially.
- Work towards the establishment of a special mechanism within the UN Commission on Human Rights to monitor the global impact on human rights of counter-terrorism measures adopted by states.
- Actively support the draft *Framework Convention on International Arms Transfers*.
- Reform Canadian law to require permits or licenses for all military and security exports from Canada to the United States.





**Amnesty International (Canada)**

312 Laurier Avenue East

Ottawa, Ontario

K1N 1H9

[www.amnesty.ca](http://www.amnesty.ca)

1 800 AMNESTY

**Amnistie internationale**

**Section canadienne francophone**

6250 boul Monk

Montréal, Québec

H4E 3H7

[www.amnistie.qc.ca](http://www.amnistie.qc.ca)

1-800-565-9766