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# DEFENDING RIGHTS FOR ALL?

A HUMAN RIGHTS ASSESSMENT  
OF YEAR ONE OF THE  
TRUDEAU GOVERNMENT

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## COVER IMAGES



*Top photo*

SUCCESS: 35,000 Syrians resettled to Canada



*Bottom photo*

FAILURE: government allows development projects to proceed without Indigenous consent

## GRADING SYSTEM



**GREEN** Recommendation has been met.



**AMBER** Underway, but incomplete.



**ORANGE** In progress, but with uncertainty or concern



**RED** Serious concerns or no progress.

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# DEFENDING RIGHTS FOR ALL?

## A HUMAN RIGHTS ASSESSMENT OF YEAR ONE OF THE TRUDEAU GOVERNMENT

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In many wrenching ways 2016 has been a very tough year for human rights protection around the world. Conflicts marked by utter contempt and disregard for the safety of civilians have raged on in far too many countries, including Syria, Iraq, Yemen and South Sudan. At a time when we have needed the very best from world leaders, international diplomacy and the UN have often seemed to make things worse, not better. Closed borders and enforcement measures have continued to be the dominant response to the most serious global refugee crisis the world has faced in seventy years. Human rights defenders on every continent have endured increasing restrictions, threats and violence, simply because they stand up for rights and justice. And, human rights have come under attack in high profile elections and referendums in numerous countries – including the United States, the United Kingdom and Hungary – where politicians have pandered to and fueled fear, racism, xenophobia, misogyny, homophobia and transphobia.

By any measure, our world desperately needs more governments prepared to be strong and vocal human rights champions both at home and abroad.

With an eye to the openings and opportunities a new government brings, on International Human Rights Day, December 10, 2015, *Amnesty International's 2016 Human Rights Agenda for Canada, Defending Rights for All*, called for action to reverse a steady decline in Canada's human rights standing over several years.<sup>1</sup> We welcomed Prime Minister Trudeau's December 10th Human Rights Day message affirming that, "the Government will continue advocating against injustice and discrimination and safeguarding human rights and freedoms both here and abroad."<sup>2</sup> *Defending Rights for All* offered 59 recommendations for action, both immediate and long-term, to do just that; to bolster Canada's human rights record at home and strengthen our efforts to improve human rights protection around the world.

One year later, Amnesty International is assessing the government's progress in advancing these recommendations. *Defending Rights for All* presented recommendations in three broad

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<sup>1</sup> *Defending Rights for All* is the fourteenth annual Human Rights Agenda for Canada published by Amnesty International since December 10, 2000.

<sup>2</sup> Statement by the Prime Minister on Human Rights Day, December 10, 2015. <http://pm.gc.ca/eng/news/2015/12/10/statement-prime-minister-human-rights-day>.

categories: immediate steps for year one, adopting new approaches and longer-term action. This assessment considers progress with respect to 30 of these recommendations, including all 20 that were suggested for the first year of the new government. The other ten recommendations assessed were selected so as to represent a broad array of issue areas.

The Trudeau government has made important progress across a range of human rights issues, both domestically and internationally. Of the 30 recommendations assessed, 7 have been fully implemented and another 5, while incomplete, are well underway. A further 12 are in progress but face uncertainty or a degree of concern. Amnesty International has identified 6 recommendations for which there are serious concerns or where there has been no progress.

There is clearly a new embrace of the language of human rights, including enthusiastic expressions of support for the Charter of Rights and Freedoms and Canada's international human rights obligations. The government's commitment to diversity, inclusion and pluralism has in particular led to a major change of policy and approach with respect to women's human rights, gender equality, LGBTI rights and refugee protection. Promise of respect for the rights of Indigenous peoples in both Canadian and international law has set a sorely-needed new tone. Canada has substantially boosted its engagement within the multilateral human rights system and has shown greater attention to human rights concerns in many of our bilateral relationships with other countries.

The Trudeau government has made important progress across a range of human rights issues, both domestically and internationally.

In many areas of government, there has been a notable new openness to engagement with civil society and the public. Many areas of law and policy have been the subject of consultations, parliamentary hearings and study over the course of 2016, including several that were highlighted in *Defending Rights for All*. 2017 will be a decisive year for progress with respect to those pressing human rights concerns, as consultations wrap up and reforms move ahead.

There have, at the same time, been two deeply troubling concerns. First, there is a growing gap between the stirring promises of a new relationship with First Nations, Inuit and Métis peoples and the failure to uphold their rights in the face of a powerful resource development agenda, as typified for example by federal support for British Columbia's Site C dam. Second, more broadly, when money is on the table, human rights commitments have not been so readily forthcoming, whether with respect to international trade agreements, accountability for Canada's extractives companies abroad, or Canadian arms sales.

In short, when it comes to defending rights for all there has been marked and important progress over the course of 2016. At the same time, however, Canada has failed consistently to provide, across the entire range of human rights, the principled leadership that Prime Minister Trudeau has promised and that now, more than ever, the world so desperately needs.



## YEAR ONE'S TO-DO LIST

Amnesty International presented the Trudeau government with 20 recommendations that could be carried out and completed over the course of 2016. Many relate to commitments the government had already made, in opposition, during the 2015 election campaign or upon coming to power. Some were included in Ministerial Mandate letters that were made public in November 2015 and also in the December 2015 Speech from the Throne. They are all reflective of serious human rights issues, many of which are of longstanding concern and have frequently drawn the attention of UN human rights review bodies.

### GRADING SYSTEM: HUMAN RIGHTS ASSESSMENT



**GREEN** Recommendation has been met.



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**RED** Serious concerns or no progress.



#### 1. Pursue generous resettlement and champion a coordinated global response to Syrian refugees.

- During the 2015 election campaign the Liberal Party promised to spearhead an effort to resettle 25,000 Syrian refugees to Canada by the end of 2015. The government recommitted to that pledge after the election, but soon indicated that it would not be possible to meet that target in the ten weeks between the election and December 31st. The resettlement program proceeded at an ambitious pace and over 35,000 Syrians had been resettled to Canada by November 20, 2016.<sup>1</sup> Canada's response stands as one of the few bright-spots in a world that has offered minimal resettlement opportunities to Syrian refugees. Five million Syrians now reside as refugees in neighbouring countries, particularly Turkey, Lebanon and Jordan.

<sup>1</sup> #WelcomeRefugees: Key Figures, <http://www.cic.gc.ca/english/refugees/welcome/milestones.asp>.



## 2. Ensure major development projects like the Northern Gateway Pipeline and the Site C Dam do not proceed without Indigenous consent.

- Despite strong public commitments to uphold the rights of Indigenous peoples as affirmed in treaties, the Constitution and international law, including the United Nations Declaration on the Rights of Indigenous Peoples, the federal government continues to allow major resource



The Site C hydro-electric dam would flood more than 100 square kilometers of the Peace River Valley and its tributaries, which include lands vital for First Nations in the area to exercise their cultures and subsistence.

development projects to proceed over the express opposition of Indigenous peoples. In July, permits were issued allowing construction of the Site C Dam to proceed in British Columbia, despite widespread opposition within First Nations communities.<sup>2</sup> Plans for the Northern Gateway Pipeline were put on hold, and eventually rejected, only after the Federal Court of Appeal overturned federal approval because of inadequate consultation with First Nations; not because of a proactive government policy to uphold the rights of Indigenous peoples. While the government did not seek further appeal to the Supreme Court of Canada in the Northern Gateway case, it has vigorously opposed the West Moberly and Prophet River First Nations legal challenge to the Site C dam, which is currently before the Federal Court of Appeal.<sup>3</sup> The government

has taken no steps to incorporate the standard of free, prior and informed consent in its regulatory process and the interim policy position of not revisiting approvals granted by the previous government has effectively enshrined government support for projects proceeding without consent.



## 3. Act on existing recommendations regarding murdered and missing Indigenous women.

- In September the National Inquiry into Missing and Murdered Indigenous Women and Girls was launched, after months of public consultations and negotiations among federal, provincial and territorial governments. The Inquiry's Terms of Reference extend to December 31, 2018.<sup>4</sup> There are urgently needed measures that are already well-known to government that can and should be acted on immediately, even as the Inquiry proceeds. These include eliminating gaps in funding for women's shelters serving First Nations, Inuit and Metis women and girls and improvements in gathering police data on the Indigenous identity of missing and murdered women. Responses to date, such as increased funding for First Nations shelters on reserves, have been inadequate to address well-known needs.

<sup>2</sup> *Trudeau government signals support for Site C dam, grants two permits*, July 29, 2016. <http://www.cbc.ca/news/canada/british-columbia/trudeau-government-issues-key-federal-permits-for-site-c-1.3700880>.

<sup>3</sup> *Neither Northern Gateway nor Ottawa will appeal federal court decision*, September 20, 2016. <http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/northern-gateway-wont-appeal-court-ruling-against-pipeline/article31964762/>.

<sup>4</sup> National Inquiry into Murdered and Missing Indigenous Women, *Terms of Reference*. <https://www.aadnc-aandc.gc.ca/eng/1470422455025/1470422554686>.



#### 4. Reverse the cuts and ensure access to essential health care regardless of immigration status.

- The federal government first postponed and then withdrew an appeal of a 2014 Federal Court ruling that had overturned cuts to the federal program that provides health care to refugees and refugee claimants. Health care coverage was restored in April, 2016.<sup>5</sup> The renewed coverage does not, however, extend essential health care to all individuals in Canada, regardless of their immigration status, a step that the UN's Human Rights Committee<sup>6</sup> and Committee on Economic, Social and Cultural Rights<sup>7</sup> both pressed Canada to take in 2015 and 2016 reviews of the country's human rights record.



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Amnesty International has called on the government to ensure all individuals in Canada have access to essential healthcare, regardless of immigration status.



#### 5. Take high-level action on behalf of Canadians and others experiencing rights violations abroad.



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Canadian citizen Dr. Homa Hoodfar was a prisoner of conscience imprisoned in Iran for 112 days. She returned home to Canada on September 29, 2016.

- There has been a notable increase in government willingness more consistently to take high-level action on behalf of Canadian citizens, permanent residents and other individuals with close Canadian connections who are experiencing human rights violations in other countries. The releases of Canadian citizens Homa Hoodfar in Iran and Kevin Garrett in China, as well as the lifting of travel restrictions on Canadian permanent resident Khaled Al-Qazzaz in Egypt all came after senior government interventions. Other serious cases of concern continue, including Huseyin Celil in China, Bashir Makhtal in Ethiopia, Raif Badawi in Saudi Arabia and Saeed Malekpour in Iran, all of whom have been imprisoned for many years.

<sup>5</sup> *Refugee health care benefits restored April 1, but concerns over access remain*, April 1, 2016. <http://www.cbc.ca/news/politics/refugee-health-care-benefits-restored-april-1-but-concerns-over-access-remain-1.3516713>.

<sup>6</sup> Human Rights Committee, *Concluding observations: Canada*, UN Doc. CCPR/C/CAN/CO/6, August 13, 2015, para. 12.

<sup>7</sup> Committee on Economic, Social and Cultural Rights, *Concluding observations: Canada*, UN Doc. E/C.12/CAN/CO/6, March 23, 2016, para. 50.

- The government has indicated it will soon launch a review of consular policy and practice and that proposals made jointly by Amnesty International and the Fahmy Foundation for strengthened measures for protecting Canadian citizens and other individuals with close Canadian connections who experience serious human rights violations abroad will be carefully considered during that review.<sup>8</sup>



## 6. Accede to the Optional Protocol to the Convention against Torture and the Arms Trade Treaty.

- The government announced on May 2, 2016 that Canada will take steps to accede to the 2002 Optional Protocol to the UN Convention against Torture, an important torture prevention treaty that institutes national and international prison inspections. Consultations have been launched with provincial and territorial governments. No timeline or deadline for those consultations has been announced publicly.
- The government had indicated an intention to accede to the UN Arms Trade Treaty by December 31, 2016. However, consultations with respect to the necessary accompanying law reforms have been slower than expected and the government has indicated it will not be complete by the end of 2016. It is not known when the process will wrap up or when accession is likely to occur.



Canada has announced it will take steps to accede to the Optional Protocol to the UN Convention Against Torture.



## 7. Bring forward legislation to protect rights of transgender individuals.

- The government introduced Bill C-16, to amend the Canadian Human Rights Act and the Criminal Code to protect against discrimination and hate crimes on the basis of gender identity or gender expression in April. Bill C-16 was passed by the House of Commons on November 18, 2016 and is now before the Senate. After seven ultimately unsuccessful private members bills with respect to the rights of transgender individuals, this is the first time government legislation has been introduced.

<sup>8</sup> Amnesty International and Fahmy Foundation, *Protection Charter: Principles to Guide Canadian Law and Policy Reform Towards Stronger and More Effective Canadian Government Action to Defend the Rights of Canadian Citizens and Individuals with Close Canadian Connections*, January 2016, <http://www.amnesty.ca/sites/amnesty/files/CanadaProtectionCharter26January16.pdf>.



## 8. Ensure adequate funding for First Nations children's services on reserve.

- In February the government announced it would not appeal the Canadian Human Rights Tribunal ruling that longstanding underfunding of child protection on First Nations reserves constitutes discrimination.<sup>9</sup> The decision to end the years of legal wrangling with respect to such an important human rights issue was very welcome. However the government did not take immediate remedial action as explicitly called for in the Tribunal decision. There have been further hearings and directions from the Tribunal ordering the government to take action.<sup>10</sup>



## 9. Revise Muskoka Initiative to include funding for the full range of sexual and reproductive health services.

- The former government's 2010 Muskoka Initiative with respect to maternal, newborn and child health (MNCH) was not grounded in a strong gender equality framework. Public statements and other communications from Minister of International Development Marie-Claude Bibeau indicate an intention to reframe the Muskoka Initiative around human rights and gender equality. Minister Bibeau has affirmed that "women and adolescent girls must be able to make decisions about their own reproductive health and the timing and spacing of their pregnancies. This is a human right that is essential for advancing gender equality." Organizations receiving funding for MNCH projects abroad have been encouraged to promote and ensure access to "the full range of sexual and reproductive health services and information."<sup>11</sup>



## 10. Launch consultations and conduct a credible review of human rights impacts of the Canada-Colombia Free Trade Agreement.

- In May, the fifth annual report<sup>12</sup> assessing the human rights impact of the Canada-Colombia Free Trade Agreement was released, in compliance with a requirement in the implementing legislation. Reports prepared by the previous government in 2012 through 2015 were deeply disappointing with regard to both a lack of meaningful consultation to gather relevant input, and the absence of content regarding human rights concerns in Colombia. While the 2016 review included more opportunities to gather input from civil society organizations in Canada, reported on some of the concerns heard and acknowledged ongoing serious human rights violations in Colombia, the review process

<sup>9</sup> *Federal government won't appeal ruling that found it discriminated against children on reserves*, February 22, 2016. <http://www.cbc.ca/news/politics/federal-government-not-appeal-children-reserves-1.3458969>.

<sup>10</sup> First Nations Child and Family Caring Society of Canada, *Federal Government's failure to comply with Three Legal Orders to End Racial Discrimination Against 163,000 First Nations Children and their Families*, Submission to House of Commons Standing Committee on Finance, September 19, 2016. <https://fncaringsociety.com/sites/default/files/Standing%20Committee%20on%20Finance%20-%20EN.pdf>.

<sup>11</sup> Letter from Minister of International Development and La Francophonie Marie-Claude Bibeau to organizations receiving Canadian funding for MNCH projects abroad, September 12, 2016.

<sup>12</sup> *Annual Report Pursuant to the Agreement concerning Annual Reports on Human Rights and Free Trade between Canada and the Republic of Colombia*, July 20, 2016. [http://www.canadainternational.gc.ca/colombia-colombie/bilateral\\_relations\\_bilaterales/rep-hrft-co\\_2015-dple-rapp.aspx?lang=eng](http://www.canadainternational.gc.ca/colombia-colombie/bilateral_relations_bilaterales/rep-hrft-co_2015-dple-rapp.aspx?lang=eng).

remained deeply flawed and avoided scrutiny of Canadian investments in Colombia promoted by the CCOFTA. As in previous years, the report did not look at, let alone evaluate, human rights concerns linked to Canadian extractive projects in Colombia, including their effects and gendered impacts on vulnerable sectors of Colombian society such as Indigenous peoples, Afro-descendent communities and subsistence farmers, amongst others.



### 11. Review the Trans-Pacific Partnership (TPP) in line with UN human rights recommendations.

- Amnesty International has made submissions to both the Minister of International Trade and the House of Commons Standing Committee on International Trade highlighting the need for human rights safeguards before Canada considers ratifying the TPP, including regular comprehensive, expert and independent human rights impact assessments of the deal. There has been no response to those submissions, requests to meet have not been granted and there has been no indication that the TPP’s human rights implications are being reviewed, let alone addressed.



### 12. Conduct and publicly release a human rights assessment of Saudi Arabia arms deal.

- Not only did the government decline to cancel approval of a \$15 billion contract to sell Canadian-manufactured light armoured vehicles to Saudi Arabia, in April export permits were issued allowing the deal to go ahead. Neither the former or current government has released an assessment of the human rights impact of the deal, citing commercial confidentiality as the reason. Human rights concerns in Saudi Arabia related to the use of light armoured vehicles have mounted and the Saudi-led coalition that has intervened in the conflict in Yemen has faced growing condemnation for frequent war crimes and other grave human rights violations.



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Abdullah Almalki is one of three Canadian citizens whose cases were addressed in the Iacobucci Inquiry after they were detained by Syrian military intelligence and brutally tortured between 2001 and 2004.

### 13. Appoint an Independent Expert to ensure redress in cases of security-related rights violations.

- Longstanding lawsuits seeking redress for national security-related human rights violations remain outstanding. Mediation with respect to the cases of Abdullah Almalki, Ahmed Abou-Elmaati and Muayyed Nureddin, based on the 2008 report from a judicial inquiry conducted by former Supreme Court of Canada Justice Frank Iacobucci has not been successful and the case is headed for full trial. While the new government has not pursued opposition to Omar Khadr’s release on bail, there has been no settlement of his lawsuit, based in part on Charter of Rights violations confirmed in unanimous 2008 and 2010 Supreme Court of Canada judgements. No steps have been taken to appoint an Independent Expert to resolve these and similar outstanding cases.




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#### **14. Launch a comprehensive process to review Bill C-51 and other national security laws.**

- A public consultation with respect to Canada’s national security framework was launched in September, overseen by the Ministers of Public Safety and Justice as well as the House of Commons Standing Committee on National Security and Public Safety. A report from the review is expected in early 2017, laying the ground for legal reforms.




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#### **15. Repeal Bill C-24 Citizenship Act reforms.**

- In February the government introduced Bill C-6, to reverse Citizenship Act reforms that allowed for dual nationals to be stripped of Canadian citizenship on the basis of terrorism and other specified criminal convictions. Bill C-6 was before the Senate at the end of the year. The Bill does not, however, address due process concerns associated with stripping citizenship for other reasons, such as misrepresentation.




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#### **16. Abolish the designated country of origin list for refugee claimants.**

- The designated country of origin list for refugee claimants originating from so-called “safe” countries is problematic for many reasons. It should be repealed because it is discriminatory and violates the fundamental principle that refugee claimants should have their cases assessed on an individual basis. One troubling consequence of the list was addressed when the government announced in January, 2015 that it would no longer appeal a Federal Court decision that held that claimants from designated countries could not be denied access to the Refugee Appeal Division. The government has not yet indicated whether it is prepared to scrap the list in its entirety but has indicated a possibility that it is under review.




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#### **17. Restore the Court Challenges Program.**

- The Court Challenges Program (CCP) was, in the past, an important means of ensuring access to costly and complex human rights legal challenges for marginalized individuals and communities otherwise lacking the resources to do so. It was discontinued by the former government in 2006. The new government has committed to restoring the CCP and has recently concluded public consultations towards that goal. An announcement about a reinstated program is expected soon.



## 18. Unreservedly support UN resolutions on the rights to safe water and sanitation.

- In December, 2015 the UN General Assembly adopted a historic resolution unconditionally recognizing the distinct but related right to safe water and the right to sanitation.<sup>13</sup> Canada supported the resolution, and very importantly did not oppose or obstruct its adoption as had been Canada's position in similar international fora in past years. The resolution was adopted by consensus and did not go to a vote. Implementation of and compliance with the resolution will now require significant action and resources from federal, provincial and territorial governments, particularly to address longstanding concerns about glaring inequality in upholding these rights in First Nations communities.



Amnesty International has called on Canada to unreservedly support UN resolutions on the rights to safe water and sanitation



## 19. Co-sponsor the 2016 UN resolution calling for a global moratorium on executions.

- Despite being a firmly abolitionist country the Canadian government refused to co-sponsor five important UN General Assembly resolutions between 2007 and 2014 calling for a global moratorium on executions. Canada voted in favour of the resolutions but failed to join the more than 90 other countries who demonstrated leadership by co-sponsoring the resolution each time before it came to a vote. The refusal to co-sponsor cast doubt on the strength of Canada's opposition to the death penalty. In October, Canada did, for the first time, co-sponsor the resolution, which has come before the UN General Assembly again this year.



## 20. Amend policy to ensure clemency support for all Canadians sentenced to death abroad.

- In 2007 Canada reversed a longstanding policy of seeking clemency on behalf of Canadians sentenced to death in foreign countries, indicating that clemency would no longer be sought when the country in question was democratic and followed the rule of law. The clemency policy was restored in February with an announcement that the government will "undertake clemency intervention in all cases of Canadians facing execution."<sup>14</sup>

<sup>13</sup> United Nations General Assembly, Resolution 70/169: *The human rights to safe drinking water and sanitation*, adopted on December 17, 2015, UN Doc. A/RES/70/169.

<sup>14</sup> *Canada reaffirms commitment to human rights*, February 15, 2016. [http://www.international.gc.ca/media/aff/news-communicues/2016/02/15a.aspx?lang=eng&\\_ga=1.200664878.1488296917.1479154962](http://www.international.gc.ca/media/aff/news-communicues/2016/02/15a.aspx?lang=eng&_ga=1.200664878.1488296917.1479154962).



## OTHER RECOMMENDATIONS

In *Defending Rights for All*, Amnesty International put 39 further recommendations in front of the government reflecting areas where a change of approach is needed that places human rights at the centre of government action and also issues that require long-term law and policy reform which would likely not be completed in the first year but need to see meaningful progress. Amnesty International has selected a representative sample of ten of those recommendations for assessment, representing a range of the issues covered in the Human Rights Agenda.



### 1. Put human rights at the heart of Canadian foreign policy.

- A new Office of Human Rights, Freedoms and Inclusion was established within Global Affairs Canada in May. It was also announced that all heads of Canadian missions around the world “will make the promotion of human rights, freedoms and inclusion part of their core objectives and these priorities will be included in their annual performance commitments.”<sup>15</sup>
- After several years of what appeared to be increasing senior-level disinterest in and criticism of the international human rights system, the new government has substantially re-engaged with UN human rights bodies. Canadian funding for the Office of the UN High Commissioner for Human Rights has increased. Canada has received the first official visit from a High Commissioner in a decade. Foreign Affairs Minister Stéphane Dion delivered a speech at the March 2016 session of the UN Human Rights Council, the first by a Canadian Minister of Foreign Affairs in many years.<sup>16</sup>
- Canada was elected to the UN’s Commission on the Status of Women, successfully nominated a Canadian as a member of the UN Human Rights Committee, welcomed a visit to Canada by the UN Working Group on People of African Descent and prepared for an early 2017 visit by the UN Working Group on Human Rights and Transnational Corporations. Canada appeared before two UN human rights reviews during 2016, the Committee on Economic, Social and Cultural Rights in February and the Committee on the Elimination of Discrimination against Women in October and while there were disappointments with positions taken by the government during the reviews there was no repeat of frequent hostile or indifferent reaction from the previous government to the fact that the reviews were happening.
- In general, Canada’s efforts in various UN human rights settings were seen as positive over the course of the year. In particular there was a notable departure from previous refusal to support strong language with respect to sexual and reproductive rights and to object to or qualify references to the UN Declaration on the Rights of Indigenous Peoples.

<sup>15</sup> *Reinvigorating Canada’s human rights agenda*, May 17, 2016, <http://www.international.gc.ca/media/aff/news-communicues/2016/05/17a.aspx?lang=eng>.

<sup>16</sup> Secretary of State (Foreign Affairs and Consular) Lynne Yelich had addressed the Council in 2014.

- There has been a marked improvement in the degree to which human rights concerns are prioritized in bilateral relations, including substantial engagement with human rights defenders and other civil society actors during high-level government visits to other countries.
- Canada’s efforts with respect to human rights, however, are inconsistent and rely heavily on goodwill. There is no overarching policy or action plan to anchor human rights centrally in Canadian foreign policy. That becomes particularly apparent when economic interests collide with human rights. Human rights considerations are, for instance, virtually absent from trade policy and deliberations. It is also not clear what the “whole of government” human rights strategy is with respect to Canada’s expanding relationship with countries with troubling human rights records that are also seen to be strong trade and investment partners, such as China and Mexico. Canadian reluctance to criticize the Israeli government for serious human rights violations continues to be a concern.



## 2. Consult and launch a public inquiry into murdered and missing Indigenous women.

- After well over a decade of demands from families, Indigenous women’s organizations, civil society groups, UN human rights experts, human rights commissions, Premiers and foreign governments, the National Inquiry into Murdered and Missing Indigenous Women was established by the new government and launched on September 1, 2016. There were significant efforts to meet with families prior to announcing the scope and Terms of Reference of the Inquiry. While the announcement of the Inquiry was welcomed by affected families, Indigenous peoples’ organizations and supporters, important concerns raised during the preparation phase have not been adequately addressed.



A young child wears a sign demanding action to address the crisis of missing and murdered Indigenous women and girls at an annual vigil in Fort St John, British Columbia.

- The Inquiry’s Terms of Reference do not explicitly extend to examining the conduct of police agencies. Minister of Indigenous Affairs Carolyn Bennett has stressed that this is implicit and that there was no intention to limit the mandate of the Inquiry. Given the

urgent importance of the Inquiry being able to robustly review systemic concerns about the adequacy of police investigations and accountability, it is concerning that affected families and communities must rely on informal assurances from the Minister rather than an explicit provision in the Terms of Reference. Even more troubling, the only mechanism for unresolved cases to be re-examined is for the Commission to refer them back to the same police bodies that had carried out earlier investigations, regardless of any concerns over bias or the capacity of these police bodies. Families still seeking answers about their loved ones worry that they will not have any effective recourse.



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### 3. Embrace the UN Declaration on the Rights of Indigenous Peoples internationally.

- In a speech to the UN Permanent Forum on Indigenous Issues in May, Minister of Indigenous Affairs Carolyn Bennett announced that Canada is “now a full supporter of the Declaration without qualification.”<sup>17</sup> The statement of support is significant given that Canada aggressively opposed the UN’s adoption of the Declaration over the course of 2006-2007, and maintained that opposition until a low-key announcement of qualified support in 2010. Thereafter Canada had continued to qualify and distance itself from UN resolutions that referred to the Declaration. The indication that Canada’s support was “without qualification” was particularly welcome.



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### 4. Implement the UN Declaration on the Rights of Indigenous Peoples domestically.

- Canada’s support for the Declaration at the UN has not been backed up by law or policy developments to implement it domestically. Implementation of the UN Declaration is the first measure named among “top priorities” set out in the mandate letter of the Minister of Indigenous Affairs and Northern Development.<sup>18</sup> A year after the mandate letters were released, there has been no indication of how the government intends to proceed with implementation. While in opposition, Liberal MPs had supported a private member’s bill calling for review and reform of Canadian laws to ensure their consistency with the standards set out in the Declaration, collaboration with Indigenous peoples in creation of a national implementation plan, and regular reporting to Parliament on progress toward implementation. A nearly identical private member’s bill – Bill C-262 – introduced before the current Parliament, has not been supported by the government nor has the government set out an alternative framework to meet these objectives.

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<sup>17</sup> Speech delivered at the United Nations Permanent Forum on Indigenous Issues, New York, May 10, 2016, <http://news.gc.ca/web/article-en.do?nid=1064009>.

<sup>18</sup> Minister of Indigenous and Northern Affairs Mandate Letter, <http://pm.gc.ca/eng/minister-indigenous-and-northern-affairs-mandate-letter>.



Canadian extractive companies are associated, directly and indirectly, with serious rights concerns related to their operations in countries around the world.



**5. Strengthen Canadian laws and policy regarding corporate accountability for human rights by appointing an Extractive Sector Ombudsperson, legislating access to courts in cases of corporate human rights harm, and enacting a National Action Plan for the UN Guiding Principles on Business and Human Rights.**

- Extractives companies have become increasingly associated, both directly and indirectly, with a range of serious human rights concerns related to their operations in countries around the world. Given that the majority of mining companies in the world are Canadian, there is urgent need for a strong Canadian legal and policy framework to increase their human rights accountability. During the 2015 election campaign the Liberal Party committed to “set up an independent ombudsman office to advise Canadian companies, consider complaints made against them, and investigate those complaints where it is deemed warranted.”<sup>19</sup> That commitment was not, however, taken up in any of the Ministerial Mandate letters and was not referenced in the 2015 Throne Speech. No consultations have been launched with respect to the possible establishment of an Ombudsperson. Similarly there has been no progress with respect to legislated access to courts or the development of a National Action Plan for the UN Guiding Principles.
- UN human rights reviews of Canada’s record in 2016 by the Committee on Economic, Social and Cultural Rights<sup>20</sup> and the Committee on the Elimination of Discrimination against Women<sup>21</sup> both called on the government to take measures to strengthen corporate human rights accountability.
- The government’s Corporate Social Responsibility Counsellor for the Extractive Sector has recently stated that the government is “seriously reviewing” the possible creation of an Extractive Sector Ombudsperson. A spokesperson for the Minister of International Trade has stated that the government is “assessing Canada’s corporate social responsibility approach and identifying ways to strengthen it” but has offered no specifics.<sup>22</sup>

<sup>19</sup> Canadian Network on Corporate Accountability, Parliamentary Report Card, <http://cnca-rcrce.ca/wp-content/uploads/2016/03/Parliamentary-Report-Card-Corporate-Accountability-for-Canadas-mining-oil-and-gas-sectors-sept-20151.pdf>.

<sup>20</sup> Committee on Economic, Social and Cultural Rights, Concluding observations: Canada, UN Doc. E/C.12/CAN/CO/6, March 23, 2016, para. 16.

<sup>21</sup> Committee on the Elimination of Discrimination against Women, Concluding observations: Canada, UN Doc. CEDAW/C/CAN/CO/8-9, November 18, 2016, para. 19.

<sup>22</sup> *Liberals ‘seriously’ considering mining ombudsperson, says federal corporate social responsibility adviser*, The Hill Times, November 16, 2016, <https://www.hilltimes.com/2016/11/09/feds-seriously-considering-mining-ombudsman-says-canadas-corporate-social-responsibility-envoy/86691>.



## 6. Include social, cultural and gender impacts in the assessment and regulation of resource development projects.

- There are longstanding concerns about the inadequacies of Canada's environmental assessment process, which is integral to decisions about pipelines, dams, mines and other large-scale development projects. These concerns intensified with measures adopted by the previous government, further weakening the process. The process must be enhanced to ensure the full and effective participation in the review of Indigenous peoples, consistent with their rights, and for comprehensive review of the social and cultural impacts of proposed projects, including a robust, intersectional gender-based analysis. Amnesty International's recent report, *Out of Sight, Out of Mind: Gender, Indigenous Rights and Energy Development in Northeast British Columbia, Canada*<sup>23</sup> underscores the troubling consequence of failure to ensure rigorous review of social, cultural and gender impacts of resource development projects.
- The Ministers of Indigenous and Northern Affairs, Environment and Climate Change, Fisheries, Oceans and the Canadian Coast Guard, and Natural Resources have been collectively mandated to review the environmental assessment process. That review is presently underway.



## 7. Establish expert review and parliamentary oversight of national security agencies.

- In June the government tabled legislation to create a new National Security and Intelligence Committee of Parliamentarians. If adopted it would be the first time parliamentarians have had a mandate and powers to regularly review the work of national security agencies. Amnesty International has welcomed the proposal and made recommendations for strengthening the Committee's powers, in particular by ensuring Committee members would have full access to all necessary information.
- The government has not yet committed to strengthening independent, expert review of Canada's national security agencies. Existing review bodies have differing powers and are not allowed to carry out collaborative and integrated review. Some government departments and agencies with significant national security powers, notably the Canadian Border Services Agency, are not subject to any expert, independent review body.



## 8. Rein in solitary confinement to meet international human rights standards.

- Concerns have continued to mount across Canada about the frequent use of solitary confinement and the lengthy periods of time that prisoners are held in solitary confinement, particularly after revelations of the case of Adam Capay, held in solitary confinement for more than four years while held in



<sup>23</sup> <http://www.amnesty.ca/outofsight>

pre-trial custody in Thunder Bay, Ontario. Amnesty International is also aware of other cases of individuals, often Indigenous, who have been held for many months in solitary confinement.

- The government of Ontario has appointed Howard Sapers, the federal Correctional Investigator, to carry out a review of the use of solitary confinement in Ontario prisons.<sup>24</sup> Minister of Public Safety Ralph Goodale has announced that the government is examining reform proposals with respect to solitary confinement in federal prisons, including the possibility of setting a fifteen day limit on the length of time a prisoner could be held in solitary.<sup>25</sup>



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### 9. Phase in higher levels of refugee resettlement.

- Canada's remarkable effort to resettle over 35,000 Syrian refugees to Canada during 2016 has raised hopes and expectation of a longer-term commitment to higher levels of refugee resettlement to Canada. One of the many troubling aspects of the current global refugee crisis continues to be the very low response of the international community to UN appeals to resettle refugees who cannot remain in immediate countries of refuge because of ongoing risk and other vulnerability. Canada is well-placed to demonstrate strong leadership on this front, by maintaining generous levels of resettlement to Canada and working with other governments to encourage them to increase their resettlement commitments and capacity.
- Canada has established a number of partnerships with the UN High Commissioner for Refugees, academics and civil society and other governments, to assist other countries in studying Canada's approach to resettlement and expanding their own programs.
- The levels for refugee resettlement announced for 2017 open up higher levels of refugee sponsorship by private groups, in fact three times higher than the levels that existed before the unusually high numbers in 2016. However, government sponsorship has not increased, remaining at 7,500 with an additional 1,500 through joint private/government agreements.



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### 10. Carry out comprehensive review and reform of immigration detention laws and practice.

- Over the course of the year concerns have deepened about Canada's laws, policy and practice with respect to immigration detention. Information has come to light about individuals with mental health problems being detained, children being detained, people being held for lengthy and even indefinite periods, and clear indications that detention was often not a measure of last resort. At least three individuals have died in immigration

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<sup>24</sup> *Howard Sapers to head segregation review*, Toronto Star, November 8, 2016, <https://www.thestar.com/news/queenspark/2016/11/08/howard-sapers-to-head-segregation-review.html>.

<sup>25</sup> *Public safety minister works to reform solitary confinement use in prisons*, Globe and Mail, October 28, 2016, <http://www.theglobeandmail.com/news/national/public-safety-minister-works-to-reform-solitary-confinement-use-in-prisons/article32585274/>

detention over the course of the year.<sup>26</sup> These mounting concerns have underscored how consequential it is that the body responsible for immigration detention is not subject to expert, independent review.

- In August, Minister of Public Safety Ralph Goodale announced increased funding to improve immigration detention facilities and enhance alternatives to detention. Consultations were also launched “to expand the range of available alternatives to detention and reduce the number of minors in detention to the greatest extent possible.”<sup>27</sup> During a CBC interview in September, the Minister stated that the government is considering options for establishing independent oversight or supervision of the Canadian Border Services Agency.<sup>28</sup>

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<sup>26</sup> *Federal government reviewing immigration detention process after string of deaths*, CBC News, May 16, 2016, <http://www.cbc.ca/news/canada/toronto/public-safety-immigration-detention-1.3584700>.

<sup>27</sup> *Minister Goodale introduces new initiatives for a better, fairer immigration detention system*, August 15, 2016, <http://news.gc.ca/web/article-en.do?nid=1111659>.

<sup>28</sup> *More oversight of national security agencies coming, says Ralph Goodale*, The Current, CBC Radio, September 29, 2016, <http://www.cbc.ca/radio/thecurrent/the-current-for-september-29-2016-1.3783556/more-oversight-of-national-security-agencies-coming-says-ralph-goodale-1.3783693>.