



The Honourable Jason Kenney
Premier of Alberta
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September 10, 2019

Dear Premier Kenney,

RE: Human rights concerns regarding the Government of Alberta's "Fight Back Strategy"

Amnesty International is writing this Open Letter in response to the "Fight Back Strategy" that has been launched by your government, specifically the establishment of an energy "war room" devoted to defending the oil and gas industry in Alberta and a public inquiry into the foreign funding of groups who oppose or criticize energy developments in the province.

Amnesty International is deeply concerned that these initiatives undermine and violate a range of Alberta's human rights obligations, under the Canadian Charter of Rights and Freedoms and international law, including freedom of expression, freedom of association, the rights of Indigenous peoples and gender equality. The Fight Back Strategy also risks setting back the province's responsibility to advance comprehensive action to address the human rights impacts of the global climate crisis.

Amnesty International is also gravely concerned that these initiatives, and the rhetoric surrounding them, feeds into a worsening climate of hostility towards human rights defenders – particularly Indigenous, women, and environmental human rights defenders – exposing them to intimidation and threats, including threats of violence.

As a result, Amnesty International is calling on your government to take immediate steps to ensure that the energy "war room," the public inquiry, and other aspects of the "Fight Back Strategy" do not go forward in ways that violate or set back human rights. Specifically, we urge you to:

- Ensure that any initiatives to promote the oil and gas industry in Alberta are fully consistent with Alberta's international human rights obligations and the Canadian Charter of Rights and Freedoms.
- Actively and consistently promote and uphold the rights to freedom of expression, freedom of association and peaceful protest.

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- Retract any inflammatory statements made about human rights defenders and refrain from any accusations that directly or indirectly smear, stigmatize or could lead to threats and violence against them.
- Make clear that your government will hold all actors involved in the province's oil and gas industry – including companies, industry associations and advocacy groups supportive of the industry – accountable for their human rights responsibilities, in particular respecting the rights and safety of human rights defenders, Indigenous peoples and persons of all genders.
- Ensure that public funds will not be used in any way that leads directly or indirectly to the harassment, surveillance or criminalization of human rights defenders who oppose or criticize your government's energy agenda and its implications for the rights of Indigenous peoples and the global climate crisis.
- Refer all cases involving threats against human rights defenders targeted for their opposition to or criticism of the oil and gas industry to the Royal Canadian Mounted Police or municipal police forces for investigation.
- Work with human rights defenders, who have been threatened, to put in place measures they deem necessary for the protection of their human rights.
- Ensure that any government efforts to counter criticism of the oil industry in Alberta are consistent with the province's responsibility to address the rapidly mounting human rights impacts of the global climate crisis.

Premier Kenney, Amnesty International has documented the increasing prevalence of tactics similar to those included in the Fight Back Strategy being employed to restrict human rights defenders and civil society groups globally, including by labelling valid criticisms as lies and defamation and by denouncing financial and other support from sources or supporters in other countries.¹ Alberta should be at the forefront of denouncing such actions by other governments, not following their lead.

¹ Under international human rights law, although states can impose certain regulations on the right to seek and receive funding, laws that apply blanket restrictions on foreign funding are arbitrary. Such laws have been used to silence civil society organizations, particularly those critical of the state, in countries such as Ireland (through the *Electoral Act*), Algeria (through the *Law on Associations*), Hungary (through the *Law on Transparency of Organizations Supported from Abroad*), and Belarus (through the *Law on Associations*) (see: Amnesty International, "Laws Designed to Silence: the Global Crackdown on Civil Society Organizations," 21 February 2019 AI Index: ACT 30.9647/2019 at 23-24).

CONTEXT

Human rights cannot be realized without an open and safe space for civil society which is free from unjustified government interference and controls. A strong democracy and regard for civil liberties are essential to the human rights of people in Canada. Democracy flourishes when civil society groups and individuals can openly discuss and advocate with respect to such vital matters as environmental protection, including the indisputable scientific evidence of the mounting climate crisis. Human rights obligations require that government policy and actions be directed towards ensuring that civil society is able to play an active role in encouraging robust debate on public policy and political decisions.

The energy “war room” is expressly intended to aggressively promote the merits of the oil and gas industry, but without recognition of legitimate countervailing concerns about the health, social and environmental impacts of large-scale oil and gas development in Alberta, including the industry’s substantial contribution to carbon emissions.² From that perspective, your government’s decision to target individuals and civil society groups who seek to advance that other view by expressing concern about the province’s oil and gas industry and its impact on the environment is a direct threat to democracy.

Slated to be in operation imminently the energy “war room” will have a permanent office in Calgary, full-time government employees,³ and a budget of \$30 million to respond to what you have described as “every lie told by the green left.”⁴ Additionally, a \$2.5 million dollar public inquiry is underway, with a mandate to “inquire into anti-Alberta energy campaigns that are supported by foreign organizations”⁵ and make recommendations that will assist the Government of Alberta to “respond effectively to any anti-Alberta energy campaigns.”⁶ As described in the Public Inquiry’s Terms of Reference, “anti-Alberta energy campaign” means “any and all attempts to directly or indirectly delay or frustrate the timely, economic, efficient and responsible development of Alberta’s oil and gas resources and the transportation of those resources to commercial markets”.⁷

² Stephen Leahy, “This is the world’s most destructive oil operation – and it’s growing,” *National Geographic* (11 April 2019), online: < www.nationalgeographic.com/environment/2019/04/alberta-canadas-tar-sands-is-growing-but-indigenous-people-fight-back/>.

³ Chris Turner, “What is Jason Kenney’s ‘energy war room’ good for?” *MacLean’s* (21 June 2019), online: <macleans.ca/news/canada/what-is-jason-kenneys-energy-war-room-good-for/>

⁴ CBC News, “Jason Kenney vows to stop ‘the lies and the myths’ of anti-Alberta-oil groups” *CBC News* (22 March 2019), online: <www.cbc.ca/news/canada/edmonton/jason-kenney-fight-back-strategy-ucp-alberta-oil-1.5067861>.

⁵ Government of Alberta, “Public Inquiry into anti-Alberta energy campaigns,” 2019, online: “<https://www.alberta.ca/public-inquiry-into-anti-alberta-energy-campaigns.aspx>”

⁶ *Ibid.*

⁷ Province of Alberta, *Terms of Reference – Public Inquiries Act* OC 125/2019 (4 July 2019) at 1(b).

Amnesty International is concerned that the overriding intention and impact of both the public inquiry and the energy “war room” will inevitably be to target, discredit and silence individuals and groups who oppose or criticize the Alberta oilsands or related pipeline projects. You have clearly stated that you seek to shift public opinion towards greater support for Alberta’s energy industry, which is your prerogative. The concern arises however in the aggressive and intimidating rhetoric and references to plans to target so-called lies and defamation by the environmental movement.⁸

The proposed tactics will expressly extend beyond traditional government advertising and communication norms, with public service employees and external contractors employing strategic social media messaging to respond in real time about the “truth of [the] energy sector.”⁹ Amnesty International has extensively documented the impacts of aggressive social media tactics and campaigns, which frequently result in toxic bullying, harassment and threats that lead to real human rights harms, particularly for women, LGTQI individuals and members of racialized communities.¹⁰ We are concerned that private citizens will be emboldened by these tactics to justify the harassment of human rights defenders – both online and offline.

HUMAN RIGHTS CONCERNS

The threatening and punitive tone and intention of the “Fight Back Strategy” give rise to a range of serious human rights concerns.

- The right to freedom of association is threatened, including through an inappropriate and unjustified focus on alleged foreign-funding of environmental groups,
- The right to freedom of expression is at stake, notably the inevitable chill that will dissuade some groups and individuals from publicly expressing opinions that are contrary to your government when it comes to matters related to the oil industry and environmental protection.
- The approach your government is taking does not recognize the province’s vital obligation to advance reconciliation and safeguard the rights of Indigenous peoples.
- The strategy does not commit to urgently address the human rights impacts of the mounting global climate crisis.
- The inflamed debate that has been provoked by these and related initiatives has particularly exposed Indigenous and environmental women human rights defenders to heightened risk.

⁸ Lauren Krugel, “Alberta energy war room must avoid online morass, preaching to choir: experts,” *Global News* (16 June 2019) online: [cglobalnews.ca/news/5396579/alberta-energy-war-room-jason-kenney/](https://globalnews.ca/news/5396579/alberta-energy-war-room-jason-kenney/).

⁹ *Ibid.*

¹⁰ Amnesty International, “Toxic Twitter,” (March 2018), online: [amnesty.org/en/latest/research/2018/03/online-violence-against-women-chapter-1](https://www.amnesty.org/en/latest/research/2018/03/online-violence-against-women-chapter-1/).

Foreign Funding Accusations Violate Human Rights and are a 'Red Herring'

Premier Kenney, there are very serious human rights issues that arise from your government's targeting of the asserted foreign funding sources of human rights defenders concerned about oil and gas development and pipeline construction, including through language that undermines the legitimacy of their efforts by portraying them as "enemies."¹¹ These tactics echo the increasing prevalence of legislation and other measures in other countries used to restrict civil society groups and human rights defenders who may receive support from foreign sources.¹²

Threatening to impose funding restrictions or limiting a group's capacity to exercise their rights to freedom of association by securing funding or other support from foreign sources is a violation of human rights. As described in the UN *Declaration on Human Rights Defenders*, the right to freedom of association allows individuals to form groups for the defence of human rights and the environment. Under this international obligation, states are required to provide a legal framework that allows human rights defenders to do their work without undue interference.¹³ It also protects the right of organizations and citizens to access and receive funding from national and foreign sources. In fact, the UN Human Rights Council has stressed that an essential component of the right to association is a right to engage in fundraising.¹⁴

Quite simply, arguments about foreign funding are a red herring. Human rights and environmental concerns in any jurisdiction associated with the climate crisis are rightly a global concern and the response must transcend borders. Notably, if your government were to accept similar arguments by other governments that concerns over foreign funding should be allowed to restrict and shut down the work of human rights defenders and civil society, it would severely limit the ability of Alberta-based organizations to help address pressing global concerns in other countries, such as the current urgent imperative to protect the Amazon.

It is troubling that your government's focus on foreign funding appears to extend exclusively to critics of the oil and gas industry and not think-tanks and other organizations actively supporting the industry. Furthermore, the evidentiary basis for why concerns over "foreign funding" would

¹¹<https://globalnews.ca/news/5396579/alberta-energy-war-room-jason-kenney/>

¹² For instance, under Russia's "Foreign Agents" law, Russian non-governmental organizations who receive foreign funding are labelled as "foreign agents" – a term still associated with 'traitors' and 'enemies of the state' – if they engage in vaguely defined 'political activity'; This has had a chilling effect on civil society both in Russia and in other post-Soviet countries that have also introduced legislation to limit foreign funding (see: Amnesty International, "Laws Designed to Silence: the Global Crackdown on Civil Society Organizations," 21 February 2019 AI Index: ACT 30.9647/2019 at 20).

¹³ *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 8 March 1999, GA res.53/144, annex, 53 UN GAOR Supp, A/RES/53/144, art 13.

¹⁴ *Ibid.*

warrant this degree of public expenditure and attention and the risks entailed to civil liberties appears to rely on vague conspiracy theories about the hidden goals of US based foundations.¹⁵

Freedom of Expression and Association

Targeting individuals and groups opposed to or concerned about oil and gas development in Alberta raises red flags for the rights to freedom of expression and association. Under the *International Covenant on Civil and Political Rights* (ICCPR), freedom of expression protects the right to seek, receive, and impart information of any form.¹⁶ Individuals have the right to protest, lobby and speak freely against the actions of a government. Crucially, the right to freedom of expression applies not only to information viewed as favourable or inoffensive to the state, but also to those that go against a government's political goals. Similarly, the ICCPR also guarantees that, "everyone shall have the right to freedom of association with others."¹⁷

Freedom of expression and association are put at risk when those who disagree with Alberta's policies on oilsands, pipelines and climate change are explicitly targeted, because of their views and activities, through initiatives such as the public inquiry and the energy "war room". Already, opponents of oilsands development and pipeline projects are frequently described as traitors, saboteurs and enemies¹⁸ of Alberta's economy.

Much of the accusatory narrative that has accompanied the launch of the "war room" focuses on "uncovering the truth" and tackling "misinformation."¹⁹ Labeling information that does not align with your government's policies as 'false' and 'lies' leaves little room for dialogue, which is essential to the exercise of human rights and central to a healthy democracy. This is deeply troubling. Harassing and threatening individuals and groups because they promote views contrary to government has significant consequences for everyone's human rights in Canada.

Impact on Women and Indigenous Human Rights Defenders

Amnesty International is particularly concerned that the narrative associated with the launch of the energy "war room" has encouraged a climate that disproportionately impacts Indigenous women and other women human rights defenders, who are doubly targeted because of their gender and what they are advocating for. This is a similar pattern documented by Amnesty

¹⁵ *Supra*, note 9.

¹⁶ *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171, Can TS 1976 No 47 (entered into force 23 March 1976), art 19.

¹⁷ *Ibid.*, article 22.

¹⁸ Lauren Krugel, "Alberta energy war room must avoid online morass, preaching to choir: experts," *Global News* (16 June 2019) online: [<globalnews.ca/news/5396579/alberta-energy-war-room-jason-kenney/>](https://globalnews.ca/news/5396579/alberta-energy-war-room-jason-kenney/).

¹⁹ Adam MacVicar & Krugel, Lauren, "Kenney says higher risk tolerance, ability to act quickly key for Alberta energy 'war room'" *Global News* (11 June 2019), online: [<globalnews.ca/news/5366834/jason-kenney-ucp-energy-war-room/>](https://globalnews.ca/news/5366834/jason-kenney-ucp-energy-war-room/).

International around the world, where women are differently and disproportionately targeted because of their peaceful activism.

Amnesty International is aware of women human rights defenders in Canada who have received explicit and disturbing threats of violence, including sexual violence. For instance, women involved in anti-pipeline campaigns – many of them Indigenous women – have been the target of online intimidation by social media campaigns, and many have reported receiving threats, including threats of violence and sexual violence.²⁰ This hostility is particularly concerning in light of the well-documented human rights concerns related to online harassment and abuse,²¹ as well as the disproportional levels of violence faced by Indigenous women in Canada.²²

Research by Amnesty International and others demonstrates the harmful, unintended consequences of energy development on Indigenous women and girls.²³ The Government of Alberta has a duty to prevent and mitigate these human rights impacts, and also has a duty to respect and protect the rights of the human rights defenders who raise concerns about the human rights impacts of energy development projects. In this context, particular care must be paid to ensure that public statements by government officials do not directly or indirectly enable violence towards anyone opposed to Alberta's energy agenda, recognizing the heightened vulnerability of Indigenous land defenders, particularly Indigenous women.

Reconciliation with Indigenous peoples is a Legal and Moral Imperative

Premier Kenney, "war room" tactics of this nature have particularly serious implications for advancing reconciliation with Indigenous peoples in the province. Reconciliation cannot and will not be achieved if the concerns and perspectives of large numbers of Indigenous activists and legitimate, unresolved issues pertaining to Aboriginal and Treaty rights are dismissed out of hand or categorized as unacceptable issues to be raised in public discourse.

Human Rights and the Global Climate Crisis

The global climate crisis is a human rights crisis which has grave and rapidly mounting impacts for every corner of our world.²⁴ Our country must do much more to respond and do so immediately and urgently.

²⁰ See, for example, the explicit targeting of Tzeponah Berman as an 'enemy' of the tarsands at the energy 'war room' press conference and the threats of violence and sexual assault that followed: Juliet O'Neil, "The campaign to silence Tzeponah Berman," (6 August 2019) *National Observer* online: < <https://www.nationalobserver.com/2019/08/06/news/campaign-silence-tzeponah-berman>>.

²¹ *Supra* note 10.

²² Amnesty International, "Building Hope, Addressing Injustice: Amnesty International's 2019 Human Rights Agenda for Canada," 8 April 2019, at 6.

²³ *Ibid.*

²⁴ Amnesty International, "Climate Change," <https://www.amnesty.org/en/what-we-do/climate-change/>.

As a country, Canada produces more per person greenhouse gas emissions than any other G20 economy.²⁵ By any measure, oilsands development in Alberta is a major source of global carbon emissions.²⁶ The province of Alberta has a responsibility to advance comprehensive action to address the global climate crisis and work with the federal government to lower Canada's greenhouse gas emissions and meet the global emissions target. This also means pursuing alternative energy sources that are less destructive to the climate.

Without significant further action, it is difficult to see how Canada will avoid contributing to catastrophic climate change, which in turn impacts fundamental human rights to life, health, housing, water and sanitation. A campaign that explicitly promotes the expansion of the fossil fuel industry and intimidates or threatens individuals and groups concerned about the connection between fossil fuels and the climate crisis is in direct opposition to these goals.

CONCLUSION

Premier Kenney, Amnesty International urges you to abandon your government's Fight Back Strategy as currently envisioned, including the "war room" and public inquiry. As we have outlined in this letter, we are concerned that it is an approach which violates and undermines human rights.

We look to the Government of Alberta to instead develop strategies and undertake action that maximize human rights protection, including of human rights defenders who may be critical of government policy; very specifically take steps to promote gender equality, the safety of women and the rights of and reconciliation with Indigenous peoples; and demonstrate firm determination that Alberta will play a meaningful and ambitious role in meeting Canada's vitally important carbon emission reduction obligations.

We would welcome an opportunity to meet with you to discuss Amnesty International's concerns and recommendations further.

Sincerely,



Alex Neve
Secretary General

²⁵ Canadians produce three times more greenhouse gas emissions than G20 average, *The Globe and Mail*, (14 November 2018), online: <https://www.theglobeandmail.com/canada/article-canada-found-to-produce-most-greenhouse-gas-emissions-per-person-among>.

²⁶ John Liggio et al., "Measured Canadian oil sands CO2 emissions are higher than estimates made using internationality recommended methods," *Nature Communications* 10 (1863), 2019, online: [nature.com/articles/s41467-019-09714-9](https://www.nature.com/articles/s41467-019-09714-9); and *supra* note 2.