

CANADA

EXECUTIVE SUMMARY AND RECOMMENDATIONS

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

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EXECUTIVE SUMMARY

INTRODUCTION

In this submission, Amnesty International (AI) summarizes its concerns and recommendations laid out in detail in AI's full briefing prepared for the United Nations (UN) Human Rights Committee review of the sixth periodic report of Canada at its 114th Session from 7 to 8 July 2015. The points raised expand upon and present updates on AI's concerns presented in the organization's July 2014 briefing to this Committee in advance of the preparation of the List of Issues for the review of the periodic report of Canada, at its 112th Session from 7 to 31 October 2014. AI sets out its concerns within the framework set out by this Committee in the List of Issues prepared for this review.

IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS (ART. 2)

Canada's approach to implementing its international human rights obligations, including its obligations under the *International Covenant on Civil and Political Rights (ICCPR)*, continues to be inadequate. This shortcoming was recognized by 82 countries during Canada's second Universal Periodic Review in 2013 as well as numerous civil society organizations across Canada, who have all called for law reform to implement human rights treaty obligations in a transparent, effective, and accountable way. These include, *inter alia*, convening regular meetings of federal, provincial, and territorial ministers responsible for human rights in consultation with stakeholder groups and civil society organizations, accepting visits from special procedures in good faith and without delay, and enacting an *International Human Rights Implementation Act*.

LACK OF ACCOUNTABILITY STRUCTURES FOR SECURITY AND LAW ENFORCEMENT AGENCIES (ART. 2)

Despite numerous tragic reminders in Canada of the dangers of conducting national security activities without effective oversight, and the growing urgency of strengthening national security review and oversight as national security operations become increasingly integrated, Canada has not responded to the calls for improvements to review and oversight of Canada's national security and intelligence agencies, especially those made by Commissioner Justice O'Connor in the 2006 Inquiry into the Actions of Canadian Officials in relation to Maher Arar (Arar Inquiry). Existing review and oversight bodies lack resources and power to effectively monitor the conduct of executive agencies and Canada remains the only country among its closest national security "Five Eyes" allies not to afford to its parliamentarians at least *some* degree of oversight powers. Recently introduced anti-terrorism legislation, Bill C-51, dramatically increases the powers of executive agencies responsible for national security without any concomitant increase in review and oversight, in spite the protests of over 120 eminent Canadians, including former Prime Ministers and Supreme Court Justices, academics, and law professors.

MONITORING THE HUMAN RIGHTS CONDUCT OF CANADIAN OIL, MINING, AND GAS COMPANIES ABROAD (ART. 2)

Canadian mining companies lead the industry worldwide and now operate in every corner of the globe, including countries faced with armed conflict, grave human rights violations, and extreme poverty. There have been several allegations of serious human rights abuses committed by such companies against local populations in the course of their operations. Several lawsuits brought by victims of these abuses are underway in Canadian courts. Despite introducing a new Corporate Social Responsibility (CSR) Strategy which provides government incentives to companies which comply with CSR standards, Canada still refuses to establish an independent Ombudsperson to investigate human rights complaints against corporations operating abroad, leaving enforcement of CSR standards tenuous at best. Moreover, other non-judicial grievance mechanisms such as Canada's National Contact Point for the Organization for Economic Cooperation and Development

have proven to be failures. The reticence to adopt human rights standards for Canadian companies is exacerbated by a failure to anchor Canada's trade policies in a strong human rights framework.

STATE IMMUNITY ACT (ART. 2)

Individuals, including Canadian citizens and permanent residents, who have experienced human rights violations in other countries are unable to sue foreign governments for compensation in Canadian courts because the *State Immunity Act* bars such lawsuits. That Act should be amended in order to allow individuals access to redress for such human rights violations.

DEPORTATION TO TORTURE (ARTS. 6, 7)

The *Immigration and Refugee Protection Act (IRPA)* still allows, in exceptional circumstances, for *refoulement* to occur. The *IRPA* should be amended to incorporate the internationally-recognized absolute ban on deportation to torture.

INTELLIGENCE GATHERING AND INFORMATION SHARING (ARTS. 6, 7, 17, 21)

In 2011 a Ministerial Direction was issued to the Canadian Security Intelligence Service (CSIS), the Royal Canadian Mounted Police (RCMP), the Canadian Border Services Agency (CBSA), and other government agencies and departments, which allows information to be shared with a foreign country, in exceptional circumstances, even when there is a substantial risk it would lead to torture, and for these agencies, again in exceptional circumstances, to use information likely derived from torture. The recently introduced Bill C-51 proposes new legislation, the *Security of Canada Information Sharing Act*, which encourages and facilitates increased sharing of information between federal government institutions on the basis of a very broad definition of activities that undermine the security of Canada and with virtually no safeguards to ensure that inaccurate, inflammatory, or irrelevant information is not shared.

EFFECTIVE REMEDIES FOR VICTIMS OF TORTURE AND ILL-TREATMENT (ARTS. 2, 7, 9, 24)

The Canadian government has refused to provide compensation and redress to Abdullah Almalki, Ahmad Abou Elmaati, and Muayyed Nurreidin, despite a judicial Inquiry conducted by former Supreme Court Justice Frank Iacobucci which found that Canadian authorities were directly and indirectly responsible for their rendition to and torture in Syria and in the case of Abou-Elmaati, also in Egypt. Despite numerous rulings from Canadian courts upholding Omar Khadr's human rights, including three unanimous Supreme Court of Canada judgements, the federal government continues to pursue legal challenges against him and refuses to redress the harms he has suffered.

CANADIANS DETAINED ABROAD (ARTS. 2, 6, 7, 9)

The government of Canada is inconsistent in advocating for the protection of the rights of Canadian citizens detained abroad. In some cases, the Canadian government has forcefully demanded that wrongfully imprisoned Canadian citizens and permanent residents be freed or that concerns about torture and ill-treatment be addressed. In other cases, such as those of Huseyin Celil, Bashir Makhtal, Ronald Smith, Khaled al-Qazzaz, and Mohamed Fahmy, the Canadian government has failed to intervene in any significant way. This has raised questions and concerns about possible discrimination, with some Canadians receiving greater government support than others.

FAILURE TO RATIFY THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE (ART. 7)

While Canada has ratified the UN *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and criminalized torture and ill-treatment in its domestic law, the government has yet to take any steps to ratify the 2002 *Optional Protocol to the Convention against Torture*. Canada should ratify the *Optional Protocol* without further delay.

VIOLENCE AGAINST WOMEN AND GIRLS (ARTS. 2, 3, 6, 7, 24, 26)

Violence against women and girls in Canada is not receiving adequate government attention. There has been little to no progress in reducing violence against women and girls in Canada. First Nations, Inuit, and Métis women and girls face the highest rates of violence. A 2014 report by the RCMP stated that 1,017 women and girls identified as Indigenous were murdered between 1980 and 2012. The homicide rate shown by RCMP figures is at least 4.5 times higher than that of all other women in Canada. Most recently, the Committee on the Elimination of Discrimination against Women issued a report concluding that Canada was responsible for “grave violations” of human rights due to its “protracted failure” to take sufficient action to stop violence against Indigenous women and girls. Canada has refused to change its current programs and policies, and despite virtually universal calls for a public inquiry into the murders and disappearances of Indigenous women and girls, has failed to develop a comprehensive national plan which would include taking such action.

Sexual harassment is also prevalent in Canada, highlighted by a number of high profile cases from Canadian institutions including the Canadian Broadcasting Corporation, Parliament, the RCMP, and the Canadian Armed Forces. In addition, Canada’s foreign policy continues to undermine the protection of sexual and reproductive rights in other countries.

REFUGEE PROTECTION: “IRREGULAR ARRIVALS” AND “SAFE COUNTRIES OF ORIGIN” (ARTS. 2, 6, 7, 9, 14, 26)

Adopted in the wake of arrivals in British Columbia of two ships carrying Sri Lankan refugee claimants in 2009 and 2010, Bill C-13 amended the *IRPA* to allow the Minister of Public Safety and Emergency to designate groups of migrants, including refugee claimants, as “irregular arrivals.” “Irregular arrivals” are subject to mandatory detention with more limited opportunities for review of their detention than individuals who arrive in a “regular” manner. Though the stated aim of the amendments is to target human smuggling operations, it leads to the detention of refugee claimants and victims of trafficking and smuggling. If refugee claimants are found to be inadmissible to Canada, they are automatically and permanently barred from accessing protection under the *Convention Relating to the Status of Refugees*, and may, at the discretion of the Minister of Citizenship and Immigration, be deported, even if it is found that they face a danger of *refoulement*.

Bill C-31 also allowed for the designation of groups of refugee claimants who are nationals of countries that are considered to be “safe countries of origin.” Individuals coming from such countries are subject to a fast-tracked refugee claim process with less procedural protections, including access to an appeal before the Refugee Appeal Division.

IMMIGRATION DETENTION – INDEFINITE DETENTION, DETENTION OF CHILDREN (ARTS. 2, 6, 7, 9, 14, 26)

There is no maximum period of time that individuals found to be inadmissible to Canada or failed refugee claimants who cannot be removed from Canada can be held in detention pending their deportation. Some individuals – such as Michael Mvogo of Cameroon – are being held, without charge, for several years at a time. Moreover, immigration detention of children is not limited to exceptional circumstances and the best interests of the child are not always considered.

REFUGEE AND MIGRANT HEALTH

In 2012, the government of Canada made sweeping cuts to the Interim Federal Health Program (IFHP), which funds health services for refugee claimants and refugees in Canada. The cuts resulted in many refugees and refugee claimants losing access to necessary and essential health care services and medication. In July 2014, the Federal Court of Canada declared these cuts to be unconstitutional, finding them to be “cruel and unusual” and discriminatory. Canada is appealing the judgment. Canada also refuses to provide health care to migrants without legal status. This

issue is subject to a petition before this Committee in the case of *Nell Toussaint v Canada*.

SECURITY CERTIFICATES AND SPECIAL ADVOCATES (ARTS. 2, 6, 7, 9, 14, 26)

Non-citizens can be arrested, detained, and ordered deported from Canada pursuant to security certificates issued under the *IRPA*. While the Supreme Court of Canada has upheld the constitutionality of the use of special advocates whose role it is to represent the interests of individuals named in security certificates in secret hearings, serious concerns about fairness and due process remain. Moreover, in Bill C-51, Canada has sought to further restrict special advocates' access to evidence in national security-related proceedings.

THE *SECURE AIR TRAVEL ACT* (ARTS. 2, 12, 14, 26) AND LISTING OF TERRORIST ORGANIZATIONS (ARTS. 2, 14, 22)

Similar concerns regarding fairness and due process standards, as well as concerns over freedom of movement, also apply to the new *Secure Air Travel Act* introduced by Bill C-51, which will establish the system for overseeing the administration of Canada's so-called "no-fly" list. There are also fairness concerns about the process to review the listing of organizations as terrorist organizations.

REVOCAION OF CITIZENSHIP (ARTS. 2, 14, 26)

The *Strengthening Canadian Citizenship Act* gives the federal government new powers to revoke Canadian citizenship in some cases when individuals are convicted of specified serious crimes. The new provisions distinguish between Canadians who have no other nationality and individuals who carry one or more nationalities in addition to their Canadian citizenship. There are concerns that this new scheme creates a two-tier citizenship and fails to uphold international standards that guarantee fair hearings.

SOLITARY CONFINEMENT (ARTS. 2, 6, 7, 9, 10, 14, 26)

Solitary confinement continues to be prevalent in Canada. Canada has refused to implement a ban on solitary confinement for individuals suffering from mental illness, despite the recommendations of the recent coroner's inquest into the death of Ashley Smith, who, after being held in "administrative segregation" for almost four years, died by self-inflicted strangulation under the watch of guards and supervisors.

RECOGNIZANCE WITH CONDITIONS: DETENTION WITHOUT CHARGE (ART. 9, 14)

Bill C-51 introduces two significant and worrying changes to Canada's scheme for recognizance with conditions, which allows law enforcement officers to detain without charge individuals suspected of planning to commit terrorist acts. The threshold for obtaining a recognizance with conditions is lowered significantly, while the maximum length of time a person can be detained is increased to seven days.

IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE (ARTS. 2, 6, 7, 9, 10, 14, 26)

In March 2015, the federal government introduced Bill C-53, which would allow the imposition of life sentences without the possibility of parole to offenders convicted of certain offences, including some first-degree murders, terrorist activity, high treason, taking up arms against Canada, or helping an enemy at war with Canada. The Bill would bar any review to consider these prisoners' rehabilitative progress and their potential to reintegrate successfully into society, contrary to international standards on the treatment of prisoners.

CANADIAN SECURITY INTELLIGENCE SERVICE – NEW POWERS OF THREAT REDUCTION (ARTS. 2, 6, 7, 9, 10, 14, 17, 18, 19, 21, 22)

Bill C-51 expands CSIS powers well beyond the Service's current mandate of collecting, analysing, and reporting to government information and intelligence concerning activities that may pose threats to the security of Canada. Under the new law, where there are reasonable grounds to believe that an activity constitutes a threat to the security of Canada, CSIS is authorized to take any measures to reduce the threat. Measures CSIS can take may violate human rights, including the prohibition on torture and ill-treatment, as long as it is authorized by a Federal Court judge. It is extremely worrying that this Bill expects the judiciary, which is entrusted with the vital responsibility of upholding the Canadian Constitution, including the *Canadian Charter of Rights and Freedoms*, to authorize the violation of human rights.

EXCESSIVE USE OF FORCE BY THE POLICE DURING PROTESTS (ARTS. 2, 7, 9, 19, 21)

Mass arrests and other associated infringements of various human rights protections at the time of the 2010 G20 protests in Toronto, the 2012 Quebec student protests, and a number of Indigenous protests remain unaddressed. The government of Quebec has not taken any steps to implement the recommendations of the commission set up to look into events surrounding the student protests.

In 1995, the Ontario Provincial Police (OPP) deployed a force of approximately 200 officers, including snipers, to respond to the occupation of Ipperwash Provincial Park by a small group of First Nations protesters. The situation escalated, resulting in one man, Dudley George, being killed by a police sniper. The report of the subsequent Ipperwash Inquiry endorsed the OPP's policy framework adopted after Ipperwash, but also called for the province of Ontario to adopt a "peacekeeping" model as official policy across all relevant departments, and to carry out an independent assessment to determine how effectively the framework has been adopted by the OPP. Ontario has yet to fully implement the Ipperwash recommendations, and new confrontations in 2007 and 2008 between the OPP and community members of the Tyendinaga Mohawk Territory indicate that the lessons from Ipperwash have not been fully and consistently incorporated into OPP responses. Police are not being held sufficiently accountable for upholding their own framework for policing Indigenous protests or broader police standards.

RESTRICTING FREEDOM OF EXPRESSION FOR CIVIL SOCIETY ORGANIZATIONS AND HUMAN RIGHTS DEFENDERS (ARTS. 2, 18, 19, 22)

The federal government has waged an attack on freedom of expression in Canada through a range of measures, including surveillance, punitive funding cuts, and threats of loss of charitable status targeting individuals and organizations with positions and programming that runs counter to government policy on issues such as women's equality, the rights of Palestinians, Indigenous rights, and environmental protection and corporate social responsibility in the extractive sector. Government watchdogs and civil servants who have spoken out about issues such as nuclear safety, RCMP oversight, prisoner transfers in Afghanistan, the rights of veterans, and the national census have been dismissed or publicly vilified by senior members of government.

CRIMINALIZING EXPRESSION (ARTS. 2, 6, 9, 14, 18, 19, 20, 22)

Bill C-51 also aims to create a new criminal offence of advocating or promoting the commission of terrorism offences in general. The Bill's use of concepts such as "advocating" and "promoting" indicates that the offence is intended to include conduct broader than the already-existing crimes of inciting or threatening terrorism. The new offence does not contain any of the defences found in other areas where expression is criminalized, and lowers the threshold for the criminalization of reckless expression. This offence will inevitably chill legitimate academic debate, policy discussions,

and public discourse with respect to terrorism, national security, and foreign relations, and actually impede existing counter-radicalization efforts being engaged by authorities like the RCMP.

FIRST NATIONS CHILD WELFARE SERVICES (ARTS. 2, 24, 26, 27)

The federal government's funding of child and family services in First Nations communities is at least 22 percent less per child than what provincial governments dedicate for child protection services in other, predominantly non-Indigenous communities. The persistent underfunding has limited the child and family services available in many First Nations communities to the point that the removal of children and their families, meant to be strictly a last resort, has all too often become the only option available when families are not able to provide adequate care.

FIRST NATIONS EDUCATION (ARTS. 2, 24, 26, 27)

As with child and family services, the federal government significantly underfunds schools on First Nations reserves when compared to provincial funding of schools in predominantly non-Indigenous communities. Inadequate and inequitable funding of First Nations schools has directly contributed to lower educational achievement and deprived First Nations students of the kind of language and cultural skills training needed to help undo the harms inflicted by colonial policies and programmes such as the residential school system.

INDIGENOUS LAND RIGHTS (ARTS. 1, 2, 26, 27)

The federal government has predicted that more than 600 major resource development projects will get underway across Canada in the next decade. Many of these projects have the potential to significantly threaten lands and waters that are vital to the cultures and economies of First Nations, Inuit, and Métis peoples. The federal government has not established adequate formal mechanisms to ensure that Indigenous peoples are meaningfully consulted and their rights appropriately protected when such projects affect their traditional territories. Despite rulings from the Supreme Court of Canada affirming that there are circumstances in which decisions should only be made with the consent of the affected Indigenous peoples, the federal government has persisted in denouncing the standard of free, prior, and informed consent set out in the *UN Declaration on the Rights of Indigenous Peoples* and in international human rights more broadly.

2010 INDIAN ACT AMENDMENTS: MORE FAILED REMEDIAL LEGISLATION (ARTS. 2, 26, 27)

The 2010 *Indian Act* amendments have not fully addressed the legacy of sex discrimination in the *Indian Act*. The new provisions introduced into the Act created different categories of status that grant equal access to benefits and services, but unequal ability to pass status on to descendants. The latest amendments still exclude a number of groups from status on the grounds of sex. As a result of these deficiencies, there is a petition pending before this Committee – *Mclvor v Canada*.

LACK OF CONSULTATION IN LEGISLATIVE DESIGN AFFECTING CANADA'S ABORIGINAL PEOPLES (ARTS. 2, 26, 27)

In 2012, the federal government introduced two omnibus budget bills which amended a number of statutes to grant the government greater discretion over which development projects would be subject to independent environmental assessment and eliminating federal assessments altogether for many types of projects. There was no consultation with Indigenous peoples' organizations prior to introducing the legislation. The arbitrary action was one of the key factors sparking the "Idle No More" movement and the high-profile hunger strike of Chief Theresa Spence of Attawapiskat. While in 2014 the Federal Court of Canada found that the government had breached its constitutional obligations to Indigenous peoples by failing to consult with First Nations prior to adopting these Bills, no remedial measures were ordered.

DISCRIMINATION ON THE BASIS OF GENDER IDENTITY (ARTS. 2, 26)

Bill C-279, which would add gender identity to hate crime provisions as a prohibited ground of discrimination in federal law, has passed at the House of Commons but has been stalled in the Senate, where it faces opposition from a number of government-appointed Senators. Despite the clear need for the protection Bill C-279 would provide, the Senators voted for an amendment that would allow discrimination on the basis of gender identity by exempting from the law's application any facilities that are restricted to one sex only, such as correctional facilities, washrooms, and changing rooms.

FAILURE TO ADOPT A HOUSING STRATEGY (ARTS. 2, 6, 26)

The Canadian government has steadfastly refused to adopt a human rights based housing strategy. A recent court case launched in Ontario sought a ruling that the federal and Ontario governments be required to develop and implement housing strategies. The Court of Appeal for Ontario upheld the lower court's decision that the matters were not justiciable, effectively denying the appellants, a number of homeless individuals, the opportunity of a hearing. Leave to appeal before the Supreme Court of Canada is being sought.

RECOMMENDATIONS

AI recommends that Canada:

IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS (ART. 2)

- Convene regular meetings of federal, provincial, and territorial ministers responsible for human rights, and initiate a process of law, policy, and institutional reform that would ensure effective, transparent, and politically accountable implementation of Canada's international human rights obligations. Such reforms should recognize the indivisibility of human rights and ensure the protection of all rights under the *Canadian Charter*, which is Canada's primary vehicle for implementing its international human rights obligations; and
- Take steps to facilitate in good faith and without undue delay the visits of Special Rapporteurs who have requested to conduct missions in Canada.

LACK OF ACCOUNTABILITY STRUCTURES FOR SECURITY AND LAW ENFORCEMENT AGENCIES (ART. 2)

Establish robust oversight and effective review of agencies and departments engaged in national security activities. In particular, Canada should:

- Develop a model of integrated, expert, and independent review as proposed by Justice Dennis O'Connor in his 2006 Arar Inquiry Report;
- Ensure that all review and oversight bodies and processes have sufficient powers and resources to carry out their work effectively; and
- As part of an overall system of review and oversight, institute a robust system of parliamentary oversight of national security in Canada.

MONITORING THE HUMAN RIGHTS CONDUCT OF CANADIAN OIL, MINING, AND GAS COMPANIES ABROAD (ART. 2)

- Ensure legislated access to Canadian courts for victims of human rights abuses arising from the overseas operations of Canadian extractive firms;
- Ensure the creation of an extractive sector Ombudsperson, with the power to independently investigate complaints into human rights abuses and make recommendations; and
- Institute a policy of ensuring that all trade deals are subject to independent and comprehensive human rights impact assessments before they are concluded and at regular intervals after coming into force.

STATE IMMUNITY ACT (ART. 2)

- Amend the *State Immunity Act* to permit civil lawsuits in Canadian courts against foreign governments brought by individuals seeking redress for human rights violations that are subject to universal jurisdiction.

DEPORTATION TO TORTURE (ARTS. 6, 7)

- Amend the *IRPA* and incorporate the internationally-recognized absolute ban on *refoulement*.

INTELLIGENCE GATHERING AND INFORMATION SHARING (ARTS. 6, 7, 17, 21)

- Amend the Ministerial Direction with respect to intelligence gathering and torture to ensure full compliance with international human rights obligations.

EFFECTIVE REMEDIES FOR VICTIMS OF TORTURE AND ILL-TREATMENT (ARTS. 2, 7, 9, AND 24)

- Ensure prompt redress for Abdullah Almalki, Ahmad Abou-Elmaati, Muayyed Nureddin, and Omar Khadr for Canada's complicity or direct involvement in their human rights violations, as confirmed by the Iacobucci Inquiry and by the Supreme Court of Canada.

CANADIANS DETAINED ABROAD (ARTS. 2, 6, 7, 9)

- In keeping with obligations with respect to non-discrimination and equal treatment, intervene consistently and strongly on behalf of Canadian citizens and residents who have been detained abroad and whose human rights are violated by foreign authorities.

FAILURE TO RATIFY THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE (ART. 7)

- Ratify the *Optional Protocol to the Convention against Torture* without further delay.

VIOLENCE AGAINST WOMEN AND GIRLS (ARTS. 2, 3, 6, 7, 24, 26)

- Develop a comprehensive national plan to address violence against women in the country;
- Establish an independent public inquiry to examine violence against Indigenous women and girls with a view to developing and implementing a comprehensive national plan of action on violence and discrimination against Indigenous women and girls; and
- Improve Canada's foreign policy to ensure the protection of the full range of sexual and reproductive rights for all women.

REFUGEE PROTECTION: "IRREGULAR ARRIVALS" AND "SAFE COUNTRIES OF ORIGIN" (ARTS. 2, 6, 7, 9, 14, 26)

- Amend provisions governing "irregular arrivals" and "safe countries of origin" refugee claimants to comply with the principles of *non-refoulement*, non-discrimination, and prohibition of arbitrary detention set out in international human rights and refugee law or otherwise repeal those provisions; and
- Ensure that the categories of inadmissibility to Canada in the *IRPA* do not go beyond the grounds for exclusion from refugee status set out in the *Refugee Convention*.

IMMIGRATION DETENTION - INDEFINITE DETENTION, DETENTION OF CHILDREN (ARTS. 2, 6, 7, 9, 14, 26)

- Refrain from detaining refugee claimants and other migrants solely as a measure of immigration control other than in the most exceptional circumstances and then only for the shortest period of time possible immediately prior to detention;
- In all circumstances refrain from detaining individuals indefinitely;
- Never detain children and trafficking victims; and
- In cases where it is necessary to impose restrictions on movement to prevent absconding or to

ensure compliance with a removal order, use the least restrictive alternatives to detention available to achieve those objectives, and resort to detention only in the most exceptional of circumstances.

REFUGEE AND MIGRANT HEALTH (ARTS. 2, 6, 7, 26)

- Reinstating the Interim Federal Health Program and ensuring that all individuals in Canada, including refugee claimants, refugees, and migrants, have access to necessary health care.

SECURITY CERTIFICATES AND SPECIAL ADVOCATES (ARTS. 2, 6, 7, 9, 14, 26)

- Amend the security certificate procedure to address the concerns raised by the Committee against Torture and conform to Canada's international human rights obligations with respect to ensuring the right to a fair and public hearing before an independent and impartial tribunal; and
- Withdraw the provisions of Bill C-51 which will further restrict the ability of special advocates to access all information presented to the judge by the government against the individual named in the security certificate.

THE *SECURE AIR TRAVEL ACT* (ARTS. 2, 12, 14, 26)

- Amend Bill C-51 to ensure that any appeal procedures in the proposed *Secure Air Travel Act* provide the listed individual with meaningful access to the full information and accusations against them sufficient to mount an effective challenge to the listing.

LISTING OF TERRORIST ORGANIZATIONS (ARTS. 2, 14, 22)

- Ensure that organizations listed as terrorist entities under Canada's *Criminal Code* obtain access to a meaningful judicial process to review the reasons for the listing, including by having access to sufficient information in order to respond to allegations made against them, in conformity with international standards of trial fairness.

REVOCAION OF CITIZENSHIP (ARTS 2, 14, 26)

- Repeal the recent amendments to the *Citizenship Act* allowing for the revocation of citizenship; and
- Ensure that any decisions concerning the acquisition, deprivation, or revocation of nationality are conducted in accordance with the stringent due process standards set out in international human rights law.

SOLITARY CONFINEMENT (ARTS. 2, 6, 7, 9, 10, 14, 26)

- Limit administrative segregation, which is tantamount to solitary confinement, as a measure of last resort only, for as short a time as possible, subject to independent review, and only pursuant to authorization by a competent authority;
- Prohibit prolonged administrative segregation – that is, for more than 15 consecutive days; and
- Prohibit imposing administrative segregation on persons with mental or physical disabilities when their conditions would be exacerbated by such measures.

RECOGNIZANCE WITH CONDITIONS: DETENTION WITHOUT CHARGE (ART. 9, 14)

- Withdraw the provisions of Bill C-51 which grant authorities expanded powers to detain a person on the basis of a recognizance with conditions which significantly lower the threshold of suspicion and increase the maximum time for holding an individual in police custody without

charge.

IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE (ARTS. 2, 6, 7, 9, 10, 14, 26)

- Repeal Bill C-53 and ensure that any life sentence handed down by Canadian courts is accompanied with periodic reviews of that sentence with the prospect of release. Ensure that rehabilitation and reintegration remain the principal aims of the Canadian penitentiary system, such that inmates who have been socially rehabilitated and who no longer pose a danger to the public are paroled and reintegrated into society.

CANADIAN SECURITY INTELLIGENCE SERVICE – NEW POWERS OF THREAT REDUCTION (ARTS. 2, 6, 7, 9, 10, 14, 17, 18, 19, 21, 22)

- Withdraw in their entirety the provisions of Bill C-51 granting CSIS unprecedented new powers to act to reduce security threats, considering that:
 - These new powers are based on an existing and overly-broad definition of “threats to the security of Canada” and the danger that a wide range of protest activity that is not criminal would be susceptible to interference and disruption through these new powers;
 - Bill C-51 does not sufficiently circumscribe the particular measures that officers would be allowed to take to reduce threats, and leaves open the possibility of the violation of the rights to liberty, privacy, expression, association, peaceful assembly, and freedom from torture and ill-treatment;
 - Bill C-51 authorizes Federal Court judges to issue warrants approving CSIS activity that violates the *Charter* and international law; and
 - These powers are entrusted to security and intelligence officials who do not have the specific training, command structures, accountability, or public transparency required of law enforcement agencies.

EXCESSIVE USE OF FORCE BY THE POLICE DURING PROTESTS (ARTS. 2, 7, 9, 19, 21)

- Call an independent public inquiry into the conduct of police forces during the G20 protests in Toronto;
- Implement the Ménard Commission’s recommendations with respect to police response to public demonstrations, including recognizing the presumption of peaceful assembly, ending the use of excessive force and mass arrests, and conducting police training to ensure that all future conduct adheres to human rights standards set out in international law;
- Implement the recommendations of the Ipperwash Inquiry and conduct an independent assessment of how the OPP has adopted the Framework for Police Preparedness for Aboriginal Critical Incidents into its procedures and organizational culture; and
- Call an independent public review of the police response to the 2007 and 2008 Mohawk protests at Tyendinaga.

RESTRICTING FREEDOM OF EXPRESSION FOR CIVIL SOCIETY ORGANIZATIONS AND HUMAN RIGHTS DEFENDERS (ARTS. 2, 18, 19, 22)

- Cease actions and statements that vilify civil society, environmental, and human rights

organizations and that effectively penalise them for exercising the right to freedom of expression;

- Develop a plan of action for the implementation of the 1998 UN *Declaration on Human Rights Defenders*;¹ and
- Ensure that all voices have a meaningful opportunity to be heard and considered in good faith when proposed legislation such as Bill C-51 is debated in Parliament and at the Senate.

CRIMINALIZING EXPRESSION (ARTS. 2, 6, 9, 14, 18, 19, 20, 22)

- Refrain from unduly resorting to criminal law against expression;
- Withdraw the provisions in Bill C-51 creating the new criminal offence of advocating or promoting the commission of terrorism offences *in general*, which have the potential to both violate and cast a chill on freedom of expression, and have not been demonstrated to be necessary over and above existing offences of directly inciting, threatening, counselling, or conspiring to commit terrorist activities.

FIRST NATIONS CHILD WELFARE SERVICES (ARTS. 2, 24, 26, 27)

- Ensure that child and family services available to First Nations children living on reserves are comparable to those of other children living off reserve and sufficient to meet their needs.

FIRST NATIONS EDUCATION (ARTS. 2, 24, 26, 27)

- Take urgent measures to close the gap in funding for education of First Nations children living on reserves in order to ensure that the right to education is fulfilled without discrimination and that adequate remedy is provided for the harms done by past policies and programmes such as the Indian Residential School system.

INDIGENOUS LAND RIGHTS (ARTS. 1, 2, 26, 27)

- Ensure that the positions taken by government in negotiation or litigation over Indigenous land disputes are consistent with the obligation to respect, protect, and fulfil the rights of Indigenous peoples under Canadian and international law; and
- Recognize the right of free, prior, and informed consent of Indigenous peoples and fully incorporate FPIC into all laws policies, and practices related to extractive industries at home and abroad.

2010 INDIAN ACT AMENDMENTS: MORE FAILED REMEDIAL LEGISLATION (ARTS. 2, 26, 27)

- Take timely measures to ensure that s 6(1)(a) of the status registration regime introduced by the 1985 *Indian Act* and re-enacted by the *Gender Equity in Indian Registration Act* (Bill C-3) is interpreted or amended so as to entitle to registration those persons who were previously not entitled to be registered under s 6(1)(a) solely as a result of the preferential treatment accorded to Indian men over Indian women born prior to 17 April 1985, and to patrilineal descendants over matrilineal descendants, born prior to 17 April 1983; and
- Work with First Nation's women's organizations to eliminate any other sex discrimination in access to recognition of status under the *Indian Act*.

¹ UN General Assembly, *Declaration on Human Rights Defenders*, UN Doc A/RES/53/144.

LACK OF CONSULTATION IN LEGISLATIVE DESIGN AFFECTING CANADA'S ABORIGINAL PEOPLES (ARTS. 2, 26, 27)

- In cooperation with Indigenous peoples, develop a strategy for the full implementation of the UN *Declaration on the Rights of Indigenous Peoples*, and undertake any necessary reforms to bring Canadian laws and policies into line with its provisions.

DISCRIMINATION ON THE BASIS OF GENDER IDENTITY (ARTS. 2, 26)

- Reject the discriminatory amendments to Bill C-279 and enact it in its original form without delay.

FAILURE TO ADOPT A HOUSING STRATEGY (ART. 2, 6, 26)

- Adopt a national housing strategy that is consistent with international human rights principles; and
- Recognize the indivisibility of human rights and comply with its international human rights obligations by ensuring access to justice for Canada's homeless in recognizing the justiciability of their claims.



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