

# CANADA

**Human rights abuses  
prevalent among vulnerable  
groups**

*Amnesty International  
Submission to the UN Universal  
Periodic Review, April-May 2013*

**AMNESTY  
INTERNATIONAL**



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## INTRODUCTION

In this submission, prepared for the UN Universal Periodic Review of Canada in April-May 2013, Amnesty International comments on Canada's implementation of its human rights obligations and on its engagement with UPR principles, such as consultation with civil society.

Amnesty International notes Canada's reluctance to ratify international human rights conventions or to adopt binding international standards on corporate accountability.

The organization also comments on the human rights situation facing Indigenous Peoples, the rising inequality of women and troubling trends regarding sexual violence against women, arbitrary detention and *refoulement* of migrants, as well as concerns regarding torture, and excessive methods of policing during protests.

## FOLLOW UP TO THE PREVIOUS REVIEW

There has been no public reporting by the Canadian government with respect to implementing the outcome of its 2009 Universal Periodic Review and there is no publicly available information indicating the status of the recommendations that were accepted and the commitments made by Canada. At the time of this submission, there have been no consultations with Indigenous Peoples and no meaningful dialogue with civil society groups to discuss the 2009 UPR or prepare for the 2013 UPR.

The system in place in Canada for coordinating and ensuring the implementation of international human rights obligations, including UPR outcomes, Concluding Observations and views of treaty bodies and recommendations made by the Special Procedures, is inadequate.<sup>1</sup> Numerous UN treaty bodies have called for an approach that is publicly accessible, broadly consultative, politically accountable and well-coordinated among various levels of government. Amnesty International has endorsed a widely supported submission calling for legislation to address this longstanding shortcoming.<sup>2</sup>

## NORMATIVE AND INSTITUTIONAL FRAMEWORK IN CANADA

### **International human rights instruments**

Canada has repeatedly committed to consider ratifying the Optional Protocol to the Convention against Torture, but has not done so.<sup>3</sup> Canada has not ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families; the Optional Protocol to the Convention on the Rights of Persons with Disabilities; and the Convention on the Protection of All Persons from Enforced Disappearances.

Amnesty International is concerned that Canada has not developed a plan of action for implementing the UN Declaration on the Rights of Indigenous Peoples.

### **Extra-territorial human rights protection and corporate accountability**

Canada has declined to adopt binding standards to govern corporate accountability for human rights outside Canada. UN treaty bodies have urged Canada to regulate the human rights impact of Canadian extractive companies abroad, particularly with respect to the rights of Indigenous Peoples.<sup>4</sup> Canada has also refused to institute a policy of carrying out independent human rights impact assessments of trade agreements.<sup>5</sup>

Canadian courts have generally accepted the position advanced by the government that the Charter of Rights and Freedoms does not apply extra-territorially.<sup>6</sup> Amnesty International is concerned that this restricts the extra-territorial implementation of Canada's international human rights obligations because treaties ratified by Canada can only be legally enforced in Canada through domestic legal instruments such as the Charter of Rights.

## **PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **INDIGENOUS PEOPLES**

#### **a) Policing**

An Ontario public inquiry into the 1995 police killing of Indigenous rights protestor Dudley George at Ipperwash Provincial Park reinforced the principle that force should be used only as a last resort and only in proportion to any threat to public safety. However, key inquiry recommendations remain unimplemented including, critically, the call for an independent assessment of the current provincial police policy for responding to Indigenous protests.<sup>7</sup>

#### **b) Indigenous child welfare**

In its 2009 UPR Canada accepted to “establish policies to improve healthcare and general welfare of Indigenous children.” Government action has run counter to that commitment.<sup>8</sup> In a Canadian Human Rights Tribunal hearing, the federal government argued that child welfare services delivered to First Nations children under federal jurisdiction should not be compared to services delivered to the general population under provincial jurisdiction for the purposes of a discrimination complaint, which has been supported by Amnesty International.<sup>9</sup> This position was rejected by the Federal Court; the government has appealed the decision.<sup>10</sup>

#### **c) Lands, territories and resources**

The Inter-American Commission on Human Rights has found that processes for legally recognizing Indigenous Peoples' customary land and resource rights in Canada do not meet international standards because redress is slow and interim protections are ineffective.<sup>11</sup> Canada objects to the right of free, prior and informed consent.<sup>12</sup> The government narrowly interprets the duty to consult as excluding the need to seek consent, and often fails to ensure Indigenous Peoples' concerns are accommodated. The UN Committee on the Elimination of Racial Discrimination has called on Canada to “implement in good faith the right to consultation and to free, prior and informed consent of Aboriginal peoples”.<sup>13</sup>

**d) Water** There continues to be a grave crisis regarding the right to water within First Nations communities.<sup>14</sup> A government-appointed expert panel concluded this is primarily because the government has failed to provide adequate resources “to ensure that the quality of First Nations water and wastewater is at least as good as that in similar communities and that systems are properly run and maintained”.<sup>15</sup> Planned government spending for First Nations water systems does not cover all highest risk systems, including many communities with little or no water and sewage.<sup>16</sup> Amnesty International is concerned that proposed legislation establishes regulations for First Nations water quality without providing new resources.<sup>17</sup>

## WOMEN'S HUMAN RIGHTS

### **a) Violence against Indigenous women**

Canada has been criticized by numerous UN treaty bodies for failing to respond adequately to the disproportionately high levels of violence faced by Indigenous women. Because police do not consistently record whether the victims of violent crime are Indigenous, there are no reliable, disaggregated statistics.<sup>18</sup> Amnesty International considers that there is an overdue need for a comprehensive and coordinated national action plan, consistent with the severity and pervasiveness of the threats facing Indigenous women.

### **b) Safety, security and equality**

Rates of physical and sexual assault against women remain unchanged over the past decades, while rates of reporting are decreasing. 87% of the victims of sexual assault and 71% of victims of spousal homicide are female.<sup>19</sup> Amnesty International notes with concern that Canada no longer publishes comprehensive data on violence against women. There has been virtually no progress in addressing serious economic,<sup>20</sup> employment<sup>21</sup> and other inequalities faced by women in Canada, which often increase vulnerability to intimate partner violence.

### **c) Women prisoners**

The UN Human Rights Committee, the Canadian Human Rights Commission and a 1996 public inquiry have raised concerns about the human rights of women prisoners held in federal prisons, particularly Indigenous women and those with mental health issues. Amnesty International is concerned that Canada has not established an independent oversight body for federally-sentenced women prisoners, including a process for independent adjudication of involuntary segregation decisions.

### **d) Retrogression**

In 2006 the word “equality” was removed from the mandate of the governmental department, Status of Women Canada; the criteria for funding was changed to preclude support for research and advocacy; 43% of its budget was cut; 12 out of 16 regional offices were closed; and approximately 50% of staff were laid off. Amnesty International is deeply concerned that this sets back important programming with respect to women’s human rights.

## REFUGEES AND MIGRANTS

### **a) Arbitrary detention and loss of appeal rights**

Amnesty International is concerned that new legislation<sup>22</sup> authorizes the Minister of Public Safety to designate certain categories of refugee claimants as “irregular arrivals” and subject them to a range of sanctions including mandatory and unreviewable detention for a minimum period of 14 days, with subsequent reviews only once every

six months.<sup>23</sup> The new Act removes the right of appeal for “irregular arrivals” and for claimants who come from countries of origin designated as “safe”.<sup>24</sup> This constitutes discrimination with respect to access to justice and places refugees at heightened risk of removal to persecution.<sup>25</sup>

**b) Denial of healthcare**

Changes to the Federal Interim Health Program limit the access to health-care services for accepted refugees and most refugee claimants to “urgent and essential” care,<sup>26</sup> and for refugee claimants who come from designated “safe” countries of origin, to those conditions that pose a risk to public health and safety.<sup>27</sup> Amnesty International is concerned that refugee claimants will face discrimination in accessing basic health care services and will often be unable to obtain necessary medical services.

**c) *Non-refoulement***

The Human Rights Committee and the Committee against Torture have repeatedly called on Canada to revoke legal provisions allowing the removal of a person to a risk of torture in circumstances where the person is found to pose a security risk. Amnesty International is concerned that the provisions contravene the absolute nature of the protection against *refoulement* in cases involving torture.

## COUNTER-TERRORISM

**a) Torture of Canadian nationals abroad**

The Human Rights Committee, the Committee against Torture and public inquiries in 2006<sup>28</sup> and 2008<sup>29</sup> have all raised concerns about the role of Canadian officials in the torture of Canadian nationals abroad. Amnesty International is concerned that Canada has not implemented a recommendation to establish a comprehensive review and oversight mechanism for Canadian agencies involved in national security. Canada provided an official apology and \$10.5 million in compensation to Maher Arar<sup>30</sup> in 2007, but has refused to provide an apology and compensation to three other men, who have been forced into protracted litigation.<sup>31</sup>

**b) Torture and intelligence activities**

The Minister of Public Safety has instructed the Canadian Security Intelligence Service, the Royal Canadian Mounted Police and the Canadian Border Services Agency to make use of information from foreign sources that may have been obtained by torture and to share information even when doing so would give rise to a risk of torture “in exceptional circumstances where there exists a threat to human life or public safety.”<sup>32</sup> Amnesty International is concerned that the policy contravenes international obligations, including the UN Convention against Torture.

**c) Immigration security certificates**

Amnesty International is concerned that reforms to the secretive immigration security certificate process do not ensure a fair trial. Non-citizens who are arrested pursuant to certificates and slated for deportation are prohibited from communicating with their “Special Advocate” once the Advocate is given access to secret evidence relied upon by the government, in violation of international fair trial standards.

**d) Omar Khadr**

Canadian citizen Omar Khadr was apprehended by US forces in Afghanistan in July 2002 when he was 15 years old. He was held in detention at Guantánamo Bay for close to ten years and was not accorded status as a child soldier. On 29 September 2012 he was

transferred to a Canadian prison, almost one year after he had become eligible for transfer further to an October 2010 plea agreement. Amnesty International is concerned that he has not been provided redress for the human rights violations he experienced at the hands of US and Canadian officials.

## **POLICING AND ADMINISTRATION OF JUSTICE**

### **a) Conducted Energy Devices (CEDs)**

Guidelines developed by the federal government in October 2010 governing the use of CEDs such as TASERS do not adopt a threshold of harm which would justify the use of a CED.<sup>33</sup> Amnesty International has called on Canada to amend the Guidelines to require that CEDs will only be used in situations involving an imminent threat of death or serious (potentially life threatening) injury which cannot be contained by less extreme options.

### **b) Policing of G8/ G20 protests**

Canada has consistently denied that there were any concerns related to the policing of the protests at the time of the G8/G20 Summits, despite the unprecedented number of arrests<sup>34</sup> and numerous credible allegations of abuse and ill-treatment at the hands of police and of inhuman prison conditions in the temporary detention centre. Amnesty International notes with concern that the federal and provincial governments have rejected calls for a comprehensive public inquiry to examine all aspects of the security operation, including the role of officials other than the police.

### **c) Student protests and Quebec emergency legislation**

Amnesty International is concerned that an emergency law enacted by the Quebec provincial government in response to mass student protests imposes harsh fines<sup>35</sup> and contains an unprecedented notice requirement which jeopardizes the right to peaceful demonstration and the rights to freedom of assembly and association. There are credible allegations of the use of excessive force by the police in response to the protests, including rubber bullets, tear gas and beatings, and potential arbitrary arrests in the context of mass arrests. Although the law was suspended in September 2012 following the election of a new provincial government, Amnesty International has called for an independent public inquiry and for full repeal of the law.

### **d) International justice**

Canadian law allows for the criminal prosecution of individuals accused of committing crimes against humanity, war crimes and torture abroad. However, only two such prosecutions have been launched.<sup>36</sup> Amnesty International is concerned that the government continues overwhelmingly to prefer deportation over prosecution. Amnesty International is also concerned that Canadian law bars torture survivors from obtaining redress against foreign governments responsible for their torture, through provisions of the State Immunity Act.

## **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

### **a) Legal enforcement**

Amnesty International is concerned about the lack of effective enforcement mechanisms for economic, social and cultural rights and the position advanced consistently in court by the Canadian government, urging an interpretation of the Charter of Rights and Freedoms denying protection of these rights.<sup>37</sup>

### **b) Action plans**

UN treaty bodies have raised concerns about high levels of poverty and homelessness

among vulnerable groups in Canada, including Indigenous Peoples, women, children, the elderly, persons with disabilities, immigrants and refugees, and racial minorities.<sup>38</sup> Amnesty International regrets that the federal government has not developed effective strategies or action plans to address poverty and homelessness.

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

### **Amnesty International calls on the government of Canada:**

#### *UPR follow-up*

- To develop and adopt an International Human Rights Implementation Act.

#### *Normative and institutional framework*

- To ratify the Optional Protocol to the Convention against Torture and initiate ratification processes for the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families; the Optional Protocol to the Convention on the Rights of Persons with Disabilities; and the Convention on the Protection of All Persons from Enforced Disappearances.
- To develop a plan of action for implementing the Declaration on the Rights of Indigenous Peoples;
- To establish and implement an effective regulatory framework for holding companies registered in Canada accountable for the human rights impact of all their operations;
- To adopt a policy of carrying out independent human rights impact assessments of all trade agreements;
- To recognize jurisdiction of courts to enforce extra-territorial application of human rights obligations.

#### *Indigenous Peoples*

- To enact and implement laws and policies to ensure that approval of resource extraction activities is contingent on formal, rigorous and meaningful consultation with Indigenous Peoples and that development proceeds only with the free, prior and informed consent of those Indigenous Peoples whose rights are affected, consistent with international human rights standards. Indigenous Peoples whose rights to lands and resources are the subject of as yet unresolved disputes should receive the same protections;
- To work with governments across Canada to implement the Ipperwash Inquiry recommendations;
- To ensure that funding for First Nations child and family services agencies is equitable and adequate to meet the needs of First Nations children;
- To provide adequate resources to ensure that water and sanitation in First Nations communities meet the standards enjoyed by other people in Canada and to adopt urgent measures to address the needs of communities that have no potable water or sewage systems.



### *Women*

- To develop a comprehensive national plan of action for addressing violence against Indigenous women.
- To increase funding for the protection and promotion of women's human rights, including for the prevention and remedy of violence against women;
- To ensure social assistance rates are adequate to ensure that women can realize their rights to food and housing;
- To collect comprehensive, disaggregated data on violence against women, women's economic status, and unpaid work;
- To establish an independent oversight body for federally-sentenced women prisoners, including a process for adjudication of involuntary segregation decisions;
- To reinstate funding for advocacy and research on women's rights.

### *Refugees and migrants*

- To repeal the provisions on mandatory detention of designated foreign nationals;
- To entitle all refused refugee claimants to a meaningful appeal on the merits by the Refugee Appeal Division, without discrimination as to national origin or method of arrival;
- To ensure that refugees and refugee claimants have access to adequate health care, regardless of their nationality;
- To provide absolute protection against *refoulement* to torture.

### *Counter-terrorism*

- To implement the recommendation for review and oversight of national security activities from the Maher Arar Inquiry;
- To provide Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin with redress;
- To reform the immigration security certificate system to meet international fair trial standards;
- To replace the Ministerial Direction with a policy on intelligence and information sharing consistent with international standards;
- To ensure Omar Khadr receives redress for the human rights violations he has experienced.

### *Policing and administration of justice*

- To amend the Guidelines for the Use of Conducted Energy Weapons to require that CEDs will only be used in situations involving an imminent threat of death or serious injury;
- To thoroughly examine the role of players other than the police at the G8/G20 Summits;
- To withdraw the Quebec emergency laws and to conduct a public inquiry into the policing of Quebec student protests;
- To ensure that extradition or criminal prosecution will be pursued over deportation with respect to individuals accused of committing international crimes subject to universal jurisdiction;
- To amend the State Immunity Act to allow civil suits involving crimes that are subject to universal jurisdiction.

*Economic, social and cultural rights*

- To support legal enforcement of economic, social and cultural rights in domestic courts;
- To develop comprehensive national plans of action or strategies to address homelessness and poverty.

## ENDNOTES

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<sup>1</sup> See for instance: *Canada: Amnesty International Submission to the UN Universal Periodic Review: Fourth session of the UPR Working Group of the Human Rights Council*, February 2009 (AMR 20/004/2008).

<sup>2</sup> Empty words and Double Standards: Canada's Failure to Respect and Uphold International Human Rights, Joint Submission to the United Nations Human Rights Council in relation to the May 2013 Universal Periodic Review of Canada, October 9, 2012.

<sup>3</sup> Commitments were made for instance when Canada stood for election to the UN Human Rights Council in 2006 and again in responding to the 2009 UPR. However, there has been virtually no progress since that time.

<sup>4</sup> Committee on the Elimination of Racial Discrimination, Concluding Observations: Canada (March 2012), CERD/C/CAN/CO/19-20, p. 4.

<sup>5</sup> This is of particular concern with respect to a free trade agreement between Canada and Colombia, which entered into force on 15 August 2011.

<sup>6</sup> This decision was made in 2008 in the context of a Federal Court challenge brought by Amnesty International to the practice of transferring battlefield detainees into the custody of Afghan officials despite substantial risks of torture. The Federal Court accepted the Canadian government's argument that the Canadian Charter of Rights and Freedoms does not apply to soldiers outside Canada: see *Amnesty International Canada v. Canada (Chief of the Defence Staff)*, 2008 FC 336, [2008] 4 FCR 546, available online at: <http://www.canlii.org/en/ca/fct/doc/2008/2008fc336/2008fc336.html>. The judgment was affirmed on appeal by the Federal Court of Appeal, and the Supreme Court of Canada subsequently denied leave to appeal: see *Amnesty International Canada v. Canada (Chief of the Defence Staff)*, 2008 FCA 401, [2009] 4 F.C.R. 149, available online at: <http://www.unhcr.org/refworld/docid/4b98f1832.html>; *Amnesty International Canada v. Canada (Chief of the Defence Staff)*, 2008 FCA 401, Desjardins, J.A., judgment dated December 17, 2008, leave to appeal to S.C.C. refused May 21, 2009.

<sup>7</sup> This was underlined by the Ontario Provincial Police response to protests in the Tyendinaga Mohawk Territory in 2007 and 2008 which involved the deployment of snipers and, in one incident, the drawing of handguns and levelling of high powered assault rifles at unarmed activists and bystanders. Amnesty International Canada. "I was never so frightened in my entire life": Excessive and dangerous police response during Mohawk land rights protests on the Culbertson Tract (May 2011), available at: <http://www.amnesty.ca/files/canada-mohawk-land-rights.pdf>.

<sup>8</sup> The First Nations Child and Family Caring Society of Canada. *Wen:de - We are coming to the light of day* (October 2005), pp.14, 44; Department of Indian Affairs and Aboriginal Development Canada and Assembly of First Nations, *First Nations Child and Family Services Joint National Policy Review* (June 2000); Parliamentary Standing Committee on Human Resources Development and the Status of Persons with Disabilities, *Building a Brighter Future for Urban Aboriginal Children* (June 2003); First Nations Child and Family Caring Society and KAIROS; Canadian Ecumenical Justice Initiatives, *Honouring the Child, Shadow Report to the UN Committee on the Rights of the Child* (October 2011).

<sup>9</sup> *Canada (Human Rights Commission) and First Nations Child and Family Caring Society v. Canada (Attorney General)* 2012 FC 445, available online at: <http://decisions.fct-cf.gc.ca/en/2012/2012fc445/2012fc445.html>. On a per child basis, federal funding for First Nations child and family services has fallen to less than 80 per cent of the level provided by provincial and territorial governments for services in predominantly non-Aboriginal communities: see *The First Nations Child and Family Caring Society of Canada. Wen:de - We are coming to the light of day* (October 2005), pp.14, 44; Department of Indian Affairs and Aboriginal Development and Assembly of First Nations, *First Nations Child and Family Services Joint National Policy Review* (June 2000). This is despite the higher costs of delivering such services in small and remote First Nations communities and the greater need among many First Nations communities. As a consequence, the removal of children from their families and communities, a measure intended strictly as a last resort, has become a commonplace response when First Nations families on reserve

face challenges in providing adequate care to their children. The federal government has itself acknowledged that Indigenous children are four to six times more likely than non-Indigenous children to be removed from their families for reasons such as neglect: see *Building a Brighter Future for Urban Aboriginal Children: Report of the Parliamentary Standing Committee on Human Resources Development and the Status of Persons with Disabilities* (June 2003), p.19.

<sup>10</sup> The Federal Court rejected the government's argument as "unreasonable" for it will lead to a situation whereby "First Nations people will be limited in their ability to seek the protection of Canada Human Rights Act if they believe that they have been discriminated against in the provision of a government service on the basis of their race or national or ethnic origin."

<sup>11</sup> Inter-American Commission on Human Rights (IACHR), *Report No 105/09 on the admissibility of Petition 592-07, Hul'qumi'num Treaty Group, Canada* (October 30, 2009), paras. 37-39.

<sup>12</sup> New guidelines for consultation with Indigenous peoples issued by the federal government in March 2011 remove the reference to obtaining consent found in the previous version and claim only that the Declaration on Rights of Indigenous Peoples' affirmation of the right of free, prior and informed consent "does not alter" Canada's legal obligations. Aboriginal Affairs and Northern Development Canada. *Aboriginal Consultation and Accommodation - Updated Guidelines for Federal Officials to Fulfil the Duty to Consult - March 2011*.

<sup>13</sup> Committee on the Elimination of Racial Discrimination, *Concluding Observations: Canada* (March 2012), CERD/C/CAN/CO/19-20, pp. 6-7.

<sup>14</sup> A 2011 government audit concluded that 39 per cent of water systems in First Nations communities have major deficiencies that potentially threaten human health and the environment. The survey also found that 1,880 homes have no water service while another 15,451 (or 13.5 per cent of First Nations households), rely on trucked-in water (Neeqan Burnside Ltd., *National Assessment of First Nations Water and Wastewater Systems. National Roll-Up Report. Department of Indian Affairs and Northern Development* (April 2011), pp. i and ii, available at: <http://www.aadnc-aandc.gc.ca/eng/1313770257504>).

<sup>15</sup> Harry Swain, Stan Louttit and Steve Hrudehy, *Report of the Expert Panel on Safe Drinking Water for First Nations. Department of Indian Affairs and Northern Development* (November 2006), p. 50, available at: [http://www.afn.ca/uploads/files/volume\\_1\\_e.pdf](http://www.afn.ca/uploads/files/volume_1_e.pdf).

<sup>16</sup> Aboriginal Affairs and Northern Development Canada, *Fact Sheet - Risk Assessment of Water and Wastewater Systems in First Nations Communities*, available at <http://www.ainc-inac.gc.ca/enr/wtr/nawws/fsris-eng.asp>.

<sup>17</sup> Bill S-8: An Act Respecting the Safety of Drinking Water on First Nation Lands (June 2012), available online at: <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=5684992>.

<sup>18</sup> Statistics Canada, "Violent victimization of Aboriginal women in the Canadian provinces, 2009," Shannon Brennan, (17 May, 2011). As of March 2010, the Native Women's Association of Canada had documented the murder or disappearance of 582 Indigenous women and girls, mostly over the previous two decades (Native Women's Association of Canada, *What their voices tell us: Research findings from the Sisters in Spirit Initiative* (31 March 2010), p. i., available online at: [http://www.nwac.ca/sites/default/files/reports/2010\\_NWAC\\_SIS\\_Report\\_EN.pdf](http://www.nwac.ca/sites/default/files/reports/2010_NWAC_SIS_Report_EN.pdf)).

<sup>19</sup> 8.1% of women live in households with moderate or severe food insecurity, compared to 6.1% of men. Statistics Canada. "Household food insecurity, 2007-2008," Canadian Community Health Survey. Lone parent households have the highest rates of food insecurity in Canada. 82% of all lone-parent households are headed by women. Statistics Canada. *Table 111-0011 - Family Characteristics, by family type, family composition and characteristics of parents, annual (number unless otherwise noted)*, CANSIM (database).

<sup>20</sup> Mahoney Tina. "Women and the Criminal Justice System." *Women in Canada: A Gender-Based Statistical Report*. Statistics Canada, 2011. Against this backdrop it is of serious concern that

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government grants to address violence against women, through Status of Women Canada, have declined from \$17.5 million in 2007 to \$10.2 million in 2011. *Disclosure of Grant and Contribution Awards*. Status of Women Canada. <http://www.swc-cfc.gc.ca/account-resp/pd-dp/dgc-dsc/rep-rap-eng.html>.

<sup>21</sup> The Canadian gender pay gap is the fifth-largest among OECD countries. Table LMF1.5A: Average Annual Earnings of Females as a Percentage of Males by Level of Educational Attainment and Age Cohort, 2008 Or Latest Year Available." Education at a Glance, 2010. Organization for Economic Co-operation and Development. In Canada, women with full-time jobs earn 23% less than men. Ferrao, Vincent. (2010). "Paid Work." Women in Canada: A Gender-Based Statistical Report. Ottawa: Statistics Canada; "Full-Time and Part-Time Employment by Sex and Age Group." CANSIMtable: 282-0002. Ottawa: Statistics Canada, last modified: January 24, 2011. 27% of working women work part-time, compared to 12% of working men. Full-Time and Part-Time Employment by Sex and Age Group." CANSIMtable: 282-0002. Ottawa: Statistics Canada, last modified: January 24, 2011. This percentage has remained nearly unchanged over thirty years, from 26.1% in 1981 to 27% in 2011. In 2009, the Public Service Equitable Compensation Act removed pay equity for federal public servants from the domain of human rights and made it subject to "market forces." The Public Sector Equitable Compensation Act. (S.C. 2009, c. 2, s. 394).

<sup>22</sup> Legislative Summary: Bill C-31: An Act to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act, the Marine Transportation Security Act and the Department of Citizenship and Immigration Act (June 2012), available online at: <http://www.parl.gc.ca/Content/LOP/LegislativeSummaries/41/1/c31-e.pdf>.

<sup>23</sup> Bill C-31: An Act to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act, the Marine Transportation Security Act and the Department of Citizenship and Immigration Act (June 2012), available online at: <http://parl.gc.ca/HousePublications/Publication.aspx?Docid=5697417&file=4>, ss. 10, 23-25.

<sup>24</sup> Legislative Summary: Bill C-31: An Act to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act, the Marine Transportation Security Act and the Department of Citizenship and Immigration Act (June 2012), available online at: <http://www.parl.gc.ca/Content/LOP/LegislativeSummaries/41/1/c31-e.pdf>.

<sup>25</sup> Amnesty International is particularly concerned that some of the countries that are assumed to be likely candidates for designation as "safe" countries of origin, notably Mexico, are countries where torture continues to be widespread and commonplace.

<sup>26</sup> This excludes access to prescribed medications, dental and vision care, prosthetics, pre-natal care, psychological counseling for acute mental health conditions, and other health care services that may be necessary for the health and general welfare of vulnerable individuals who suffer from health deficiencies for reasons associated with their persecution and torture in their country of origin.

<sup>27</sup> Citizenship and Immigration Canada, "Interim Federal Health Program: Summary of Benefits" (July 2012), available online at: <http://www.cic.gc.ca/english/refugees/outside/summary-ifhp.asp>.

<sup>28</sup> Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, "Factual Background". Volume 1 available online at: [http://www.sirc-csars.gc.ca/pdfs/cm\\_arar\\_bgv1-eng.pdf](http://www.sirc-csars.gc.ca/pdfs/cm_arar_bgv1-eng.pdf) and Volume 2 available online at: [http://www.sirc-csars.gc.ca/pdfs/cm\\_arar\\_bgv2-eng.pdf](http://www.sirc-csars.gc.ca/pdfs/cm_arar_bgv2-eng.pdf). Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, "Report of the Events Relating to Maher Arar: Analysis and Recommendations", available online at: [http://www.pch.gc.ca/cs-kc/arar/Arar\\_e.pdf](http://www.pch.gc.ca/cs-kc/arar/Arar_e.pdf).

<sup>29</sup> Frank Iacobucci, *Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin* (Iacobucci Report). Published by Government of Canada, October 2008, followed by "Supplement to Public Report" in March 2010. *Iacobucci Report* available in hardcopy: <http://publications.gc.ca/site/eng/331864/publication.html>. Supplement to Public Report available online at: [http://dsp-psd.pwgsc.gc.ca/collection\\_2010/bcp-pco/CP32-90-1-2010-eng.pdf](http://dsp-psd.pwgsc.gc.ca/collection_2010/bcp-pco/CP32-90-1-2010-eng.pdf).

<sup>30</sup> Maher Arar, a Canadian citizen, was arrested in the United States in September 2002 while returning to Canada from a family vacation in Tunisia. He was subject to extraordinary rendition to Syria, via Jordan, in October 2002 where he was arbitrarily detained for close to one year and subject to torture on many occasions. Following his release and return to Canada a judicial inquiry exonerated Maher Arar of any criminal or terrorist involvement and documented numerous ways that Canadian actions and omissions contributed to the many human rights violations he experienced, including torture.

<sup>31</sup> Office of the Prime Minister of Canada, "Prime Minister releases letter of apology to Maher Arar and his family and announces completion of mediation process", 26 January 2007, Online at: <http://pm.gc.ca/eng/media.asp?id=1509>. See also: CBC News, "RCMP Chief apologizes to Arar for 'terrible injustices'", 28 September 2006, available online at: <http://www.cbc.ca/news/canada/story/2006/09/28/zaccardelli-appearance.html>. See also: CBC News, "Ottawa reaches \$10 Million Settlement with Arar", 25 January 2007, available online at: <http://www.cbc.ca/news/canada/story/2007/01/25/arar-harper.html>. All three opposition parties' representatives on the House of Commons' Standing Committee on Public Safety and National Security voted in favour of a report calling on the government to issue an apology, and compensation to Messrs. Al-Malki, Abou-Elmaati, and Nureddin. Testimony from the *Hansard* record of the House of Commons on 3 December 2009 shows opposition Members of Parliament Niki Ashton, Don Davies, Mark Holland and Mario Laframboise questioning the government about offering compensation or an apology, with no resulting government commitment to do so. See Official Report (*Hansard*) of the House of Commons, Volume 144, Number 123, 2nd Session of the 40th Parliament (3 December 2009), available online at: <http://www.parl.gc.ca/housechamberbusiness/ChamberPublicationIndexSearch.aspx?arpist=s&arpit=almalki&arpidf=2009%2f12%2f3&arpidt=2009%2f12%2f3&arpid=True&arpij=False&arpice=False&arpicl=&ps=Parl40Ses0&arpisb=Publication&arpirpp=100&arpibs=False&Language=E&Mode=1&Parl=41&Ses=1&arpicpd=4292108#Para1747408>.

<sup>32</sup> A letter from the Minister instructs CSIS, "in exceptional circumstances where there exists a threat to human life or public safety ... to share the most complete information available at the time with relevant authorities, including information based on intelligence provided by foreign agencies that may have been derived from the use of torture or mistreatment." The letter goes on to state that "ignoring such information solely because of its source would represent an unacceptable risk to public safety." A corresponding Ministerial Direction lays out a number of criteria to be taken into account in making such a decision, including the nature and imminence of any relevant threat to national security, the importance of sharing the information and possible measures to mitigate the risk of mistreatment.

<sup>33</sup> Guidelines for the Use of Conducted Energy Weapons, October 15, 2010. Available online at: <http://www.publicsafety.gc.ca/prg/le/gucew-ldrai-eng.aspx>.

<sup>34</sup> Over 1000 individuals were arrested, which is the largest number in Canadian history.

<sup>35</sup> The legislation was enacted on May 18 2012 in response to months of peaceful protests by students related to provincial government plans to increase post-secondary tuition fees. For more information see *Bill 78: An Act to enable students to receive instruction from the postsecondary institution they attend* (18 May 2012): <http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2012C12A.PDF>.

<sup>36</sup> *Her Majesty the Queen v. Desire Munyaneza*, May 22, 2009, online at: [http://www.ccij.ca/programs/cases/index.php?DOC\\_INST=12](http://www.ccij.ca/programs/cases/index.php?DOC_INST=12); Jacques Mungwarere is the second person prosecuted under the *Crimes Against Humanity and War Crimes Act*. For more information regarding his case, see [http://www.ccij.ca/programs/cases/index.php?DOC\\_INST=11](http://www.ccij.ca/programs/cases/index.php?DOC_INST=11).

<sup>37</sup> The Attorney Generals of Canada and Ontario have recently brought a Motion to Strike an application for an order that Canada and Ontario must implement effective national and provincial strategies to reduce and eliminate homelessness and inadequate housing. The applicants rely principally on sections 7 (right to life) and 15 (non discrimination) of the *Canadian Charter of Rights*

*and Freedoms*. This motion, if successful, would bring the proceedings to an end and deny the Applicants a full hearing on the merits of the case: for more information see *Tanudjaja, et. al. v. Attorney General of Canada and Attorney General of Ontario*, Court File No. CV-10-40368, available online at:

<http://www.socialrights.ca/litigation/homelessness/Notice%20of%20Application%20Amended.pdf>.

See also *Gosselin v. Quebec (Attorney General)*, 2002 SCC 84; and *Toussaint v. Canada (Attorney General)* 2011 FCA 213.

<sup>38</sup> Committee on Economic, Social and Cultural Rights, Concluding Observations: Canada (May 2006), E/C.12/CAN/CO/4, para. 15; Committee on the Elimination of All Forms of Discrimination against Women, Concluding Observations: Canada (November 2008), CEDAW/C/CAN/CO/7, para. 39; Committee on the Rights of the Child, Concluding Observations: Canada (October 2012), CRC/C/CAN/CO/3-4, para. 67.

# ANNEX

## AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE<sup>1</sup>

*Canada: Briefing for the UN Committee on the Rights of the Child* (Index: AMR 20/006/2012).

*Canada: Briefing to the UN Committee against Torture* (Index: AMR 20/004/2012).

*Canada: Briefing to the UN Committee on the Elimination of Racial Discrimination* (Index: AMR 20/001/2012).

*Matching International Commitments with National Action: A Human Rights Agenda for Canada* (2012).

*Getting Back on the "Rights" Track: A Human Rights Agenda for Canada* (2011).

*Canada: "I was never so frightened in my entire life": Excessive and Dangerous Police Response During Mohawk Land Rights Demonstrations on the Culbertson Tract* (2011).

*No More Stolen Sisters: The Need for a Comprehensive Response to Discrimination and Violence Against Indigenous Women in Canada* (Index: AMR 20/012/2009).

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<sup>1</sup> All of these documents are available on Amnesty International's website:  
<http://www.amnesty.org/en/region/canada>



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