

2026 ICCPR review for Canada – ICLMG comments

I am writing on behalf of the International Civil Liberties Monitoring Group (ICLMG), a national coalition of Canadian civil society organizations that was established in the aftermath of the rushed adoption of the Anti-terrorist Act of 2001. The coalition brings together 45 NGOs, unions, professional associations, faith groups, environmental organizations, human rights and civil liberties advocates, as well as groups representing immigrant and refugee communities in Canada. Our mandate is to defend civil liberties and human rights in the context of the so-called 'War on Terror'.

As per our mandate, we will be commenting on national security and counter-terrorism legislation and actions in Canada since 2021.

The National Security Act of 2017

To start, we'd like to comment on paragraph 10 of the List of Issues Prior to Reporting:

10. With reference to the Committee's previous concluding observations (para. 10), please provide information on the National Security Act of 2017 and its compatibility with provisions of the Covenant. Please specifically address concerns over the authority that the Act grants to national security agencies to engage in mass surveillance, as well as about the lack of due process protections within the legislation, including facilitating the withholding of information necessary to mount a defence against an individual's inclusion on the no-fly list.

Although the National Security Act of 2017 included a provision mandating that it should be reviewed 5 years after its adoption, that review has yet to take place.

One area of concern is the so-called "threat reduction powers" granted to CSIS in the Anti-terrorism Act, 2015, and slightly modified with the National Security Act of 2017. These powers allow CSIS to engage in undisclosed activities against individuals or entities to reduce the threats to Canada's national security. The fact that these may be done in secret, including action that may violate rights protected under the Canadian Charter of Rights and Freedoms and under the ICCPR, raises serious concerns of due process, government secrecy and the undermining of fundamental freedoms.

In 2023, the National Security and Intelligence Review Agency (NSIRA) reported¹ in that CSIS engages in farming out threat reduction measures to third parties, such as private companies, and using this as a reason to avoid considering whether they need to obtain a warrant. This is especially concerning, given that CSIS and the federal government have downplayed concerns with CSIS' threat reduction powers because, they said, the powers have not reached the point of being so invasive that they require a warrant (as mandated by the National Security Act of 2017).

¹ ICLMG, Feds must immediately suspend CSIS threat reduction powers following latest watchdog report, <https://iclmq.ca/nsira-csis-threat-reduction/> (2023)

Other troubling revelations in NSIRA's report include:

- A lack of clarity and specificity in the information disclosed to third parties that CSIS was leveraging to take a threat disruption action
- Concerns that CSIS is not appropriately taking into account the impact of threat disruption measures on the individuals targeted as well as their families
- That NSIRA was unable to properly assess the outcome of threat reduction measures carried out by third parties, because CSIS' "reporting system was inadequate or that these reports were improperly filed or non-existent"
- That CSIS is employing threat reduction measures outside of Canada that may violate Charter Rights, but that this was beyond the scope of this NSIRA report
- The government continues to censor the number of threat reduction measures requested by CSIS and those carried out. This information poses no threat to national security and should not be redacted from NSIRA reports (while this is not an NSIRA finding, the government censorship is revealed through what is redacted from the report).

Furthermore, in the past five years, multiple court rulings and reviews² have found that CSIS has misled the courts and withheld important information from judges when applying for warrants, including that information used in support of these warrants was obtained illegally.

In addition to these unresolved issues with CSIS, the National Security Act of 2017:

- Preserved overly broad information sharing rules
- Granted sweeping new surveillance powers to both the CSE and CSIS, including the collection of metadata, vaguely defined "publicly available information," and the incredibly broad category of "unselected information" (which essentially means any information)
- Introduced new powers to give CSIS agents or designated individuals immunity for committing crimes in the line of their work (including working with human traffickers³)
- Failed to prohibit the use and sharing, in all circumstances, of information linked to mistreatment and torture
- Allowed the CSE to engage in broad and powerful new "active cyber operations" with little oversight, creating the risk of retaliation as well as attacks from leaked new cyber-weapons.

² Federal Court, Canadian Security Intelligence Services Act (CA) (Re), (2020 FC 616): https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/482466/index.do#_Toc45630178 [2020 FC 616]; Federal Court, In re motion for reconsideration of the Court's Order in Peshdary v AGC (2018), (2020 FC 137): <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/460406/index.do>; NSIRA, Review arising from Federal Court's Judgment in 2020 FC 616: https://nsira-ossnr.gc.ca/wp-content/uploads/FCJ-2020_EN-12357.pdf. [NSIRA 2020]

³ ICLMG, "We need answers and accountability from Prime Minister Trudeau and CSIS on Canada's role in the Shamima Begum affair", Sept 1, 2022. Online: <https://iclmg.ca/we-need-answers-on-begum-affair/>

The No-Fly List

For years, parents of children whose names are on, or are similar to names that are on, the Canadian No-Fly List tirelessly advocated for a solution. With the National Security Act of 2017, the government put in place a system that allows people to apply for a redress number to confirm they are not the person of the same or similar name on the No-Fly List. Although an important development, it does not in any way fix the overall issues with the No-Fly List, including the discretionary and secret process for listing someone, as well as the secrecy and withholding of the information used to put someone on the list, resulting in the continuing denial of due process for those listed. Moreover, information sharing agreements with the United States mean that those flying to or out of Canada and flying over the US (the vast majority of flights to and from Canada) are subject to screening by the US No-Fly List, compounding due process, privacy and right to mobility issues. This is exacerbated by reports that flights that travel close to US airspace are also screened, and that there have been cases of travellers also denied boarding on Canadian domestic flights due to the US No-Fly List (in violation of the information sharing agreements).

More powers, less accountability

Finally, while Canada's national security agencies continue to circumvent or break the law, and as the government continues to expand their powers through bills such as the Combating Foreign Interference Act (rushed through Parliament and adopted in June 2024) and the proposed Strong Borders Act (Bill C-2), the NSIRA and other review bodies have seen their small budgets cut by 15% over the next three years. The government has also yet to launch the Public Complaints and Review Commission, the first independent review body for the Canadian Border Service Agency and replacing the old review body for the RCMP, although the bill (C-20) that mandated its creation was adopted in October 2024.

Other counter-terrorism related issues that need to be addressed are:

The terrorist entities list

While ostensibly an instrument to protect the safety and security of people in Canada and internationally, the terrorist entities list is an arbitrary political tool that undermines freedom of association, freedom of expression and due process in the courts. Just like the No-Fly List, listed entities do not have access to the "evidence" used to place them on the list. Listed entities' assets are frozen and they cannot fundraise; severely limiting their capacity to defend themselves. The list's effectiveness as a national security tool has never been demonstrated in a manner that justifies its use.

Moreover, the list is often used in discretionary ways to further the geopolitical interests of Canada and its allies. Historically, it has served to deflect from state-enacted violence by governments on their own populations, and on people in other countries, through military action and repression by national security forces and police, as has been the recurring experience

during the long “War on Terror.” The list reinforces a double standard of allowing violence and the repression of civil liberties, in the name of fighting terrorism, on the part of Canada and its allies, while criminalizing reaction to that violence, or even peaceful criticism of that violence.

Amongst worrying development have been the several recent additions to the list of:

- Criminal gangs - seemingly to placate the United States current administration - going beyond the legal definition of terrorism in Canada’s Criminal Code.
- The Islamic Revolutionary Guard Corps (IRGC) - which, as we predicted, is already affecting Iranian people’s ability to immigrate to or re-enter Canada solely based on their conscription into the IRGC, and not on any criminal activity.
- Samidoun, an organization that supports and advocates for Palestinian prisoners. Many have decried this listing as an attempt to chill free expression in support of Palestinians and against Israel’s occupation and genocide.

Delayed Justice for Hassan Diab

Canadian citizen Hassan Diab continues to live in limbo as the Canadian government refuses to commit to refusing a potential second extradition request from France after he was declared guilty and sentenced to prison for life following an unfair trial in absentia in France in April 2023.⁴ Significant concerns exist that his rights were undermined during his extradition hearings, that the Canadian government failed to adequately support him during his incarceration and trial in France; and that he continues to face threats of re-extradition and has also been threatened, lost employment and suffered significant mental distress.

Canada’s complicity in torture⁵

1. **Canada must stop the deportation to torture proceedings against Mohamed Harkat once and for all.** December 2025 marked 23 years since Mohamed Harkat was arrested and put under a security certificate despite never having been charged with, let alone convicted, of any crime. Security certificates rely on secret evidence that has never been revealed to Mr. Harkat or his lawyers, and he faces possible refoulement to torture.
2. **Canada must repatriate all Canadians, and mothers of Canadian children, detained in northeast Syria in life-threatening conditions akin to torture.** UN experts have called for states to repatriate their nationals in accordance with international law. The situation is much more urgent as thousands of detainees held for years without charge or access to any form of judicial review are now being transferred to Iraq. Amnesty International has pointed out that Iraq remains a country rife with arbitrary detention, torture, a systemic failure to conduct fair trials, and execution in so-called national security cases.⁶

⁴ See all facts supporting his innocence here: <https://icimg.ca/icimg-reiterates-its-support-for-hassan-diab/>

⁵ More details on all cases here: <https://icimg.ca/canada-must-end-its-complicity-in-torture/>

⁶ For more details about this issue, please refer to the Stop Canadian Involvement in Torture submission: <https://static1.squarespace.com/static/6151c20044f08f51ac3f5b5f/t/6984b93eff38a11574f95ddb/1770305854621/2026+Let+s+ICCP+submission%2C+Periodic+Review+of+Canada%2C+Arbitrary+Detention%2C+Torture%2C+.pdf>

3. **Canada must settle the lawsuit to the satisfaction of Abousfian Abdelrazik and provide redress for Canada's role in his torture.** In his ruling on Mr. Abdelrazik's 2009 court case against the Canadian government (*Abdelrazik v Canada*, 2009 FC 580), Justice Zinn found the Canadian government had violated Mr. Abdelrazik's constitutional rights, that Canadian national security agents were implicated in Mr. Abdelrazik's imprisonment, denounced the UN terrorist blacklist, and pointed to Foreign Affairs Minister Lawrence Cannon's disregard of due process. Currently, Mr. Abdelrazik is suing the Canadian government to obtain compensation and an apology for Canada's role in the human rights violations and injustice he has endured.

Thank you for your consideration.

International Civil Liberties Monitoring Group
communications@iclmg.ca