

November 20, 2015

The Right Honourable Justin Trudeau, P.C., M.P.

Prime Minister of Canada

House of Commons

Ottawa, Ontario, K1A 0A6

Email: justin.trudeau@parl.gc.ca

Re: The Urgent Need for Debate on Bill C-51's Legacy

Dear Prime Minister,

Recent events in France have left people around the world, including Canadians, understandably shaken. It is difficult to see our friends suffering, and to imagine their lives under attack. However, as we look toward how we can best help our stricken friends, we are also calling on you to lead our country in helping Canada stay true to its values.

As you quite rightly [said](#) just last week, “Governments have a responsibility to keep their citizens safe while defending our rights and freedoms. And that balance is something that the Canadian government and indeed all governments around the world will be focusing on.”

The recent events in France are a stark reminder of the need for effective security legislation. However, it is in times of adversity that the challenge of upholding our values is greatest. Former Bill C-51, the *Anti-Terrorism Act, 2015*, represents precisely the type of disproportionate and excessive response to adversity that a truly democratic country must avoid. The new powers, mandates, and crimes it established continue to pose a direct and ongoing threat to Canadian innovation, political discourse, freedom of expression, privacy, and civil liberties more generally — without providing increased or effective security.

Your government has made a commitment to address some problematic elements of Bill C-51, and we are encouraged by that pledge. However, we are concerned by indications that you will seek to introduce a Bill C-51 reform package before engaging in public consultations. The case for Bill C-51 has never been made to the public, and Canadians have not yet been provided with an opportunity to provide meaningful input regarding its faults. Such consultation must precede any further legislative initiatives.

Bill C-51's one-sided expansion of Canada's security powers was adopted without any regard to the many long-standing and well documented problems in Canada's already permissive security regime. These problems, which span information-sharing, flight restrictions, intelligence oversight, foreign intelligence mandate creep, vaguely defined state powers, and proceedings lacking constitutional protections, to name a few, have already caused serious harm to Canada. Not least amongst these harms is the torture of innocent Canadians, including Maher Arar, whose wrongful imprisonment and torture in

Syria is directly attributable to overly permissive information sharing mechanisms that Bill C-51 expanded. Instead of addressing these problems, many of Bill C-51's provisions directly compounded them.

It is little surprise that hundreds of organizations, academics, independent experts and entrepreneurs, as well as over 300,000 concerned Canadians, have spoken out against Bill C-51. Despite the significant and sustained opposition to the Bill's introduction and adoption from all elements of Canadian society, the previous government failed to engage in meaningful consultation on its provisions. In fact, the government has yet to make a credible case for *any* of its elements. An informed and democratic debate must begin with a public explanation of the government's rationale for Bill C-51, demonstrating why Canada's pre-Bill C-51 security apparatus was insufficient, and justifying changes to that apparatus.

Canadians remain concerned with Bill C-51's legacy. Its constitutionality is in question and many of its elements are currently being challenged in court. In the last week alone, more than 10,000 Canadians have sent you emails inviting you to take part in a public conversation about Bill C-51. A proportionate legislative approach to security – one that does not unduly impact our civil liberties – is necessary if Canadians' trust in our government and justice system is to be restored. Finding the proper approach to security requires a meaningful public consultation on the various elements of Bill C-51, and of Canada's approach to security in general. It is clear that Canadians want to participate in formulating a balanced solution.

As civil society groups and experts with a vested interest in the outcome of this process, there are three phases that we believe are essential for an effective, credible, and fruitful public consultation process that we hereby ask you to adopt:

- 1 **Government position statement:** An informed and democratic debate must begin with a public explanation of the government's rationale for Bill C-51. Such a document must clearly demonstrate how Canada's pre-Bill C-51 security apparatus was inadequate, and justify any changes introduced by Bill C-51 that the government seeks to retain. It should also outline any anticipated impacts on civil liberties and explain why these are justified.
- 2 **Public consultations:** The Canadian public remains gravely concerned about the implications of Bill C-51. Through a national online consultative process, members of the Canadian public should be given adequate opportunity to have their voices heard and acted upon, prior to the tabling of new legislation.
- 3 **Consultation with experts and stakeholders:** Once the government has made the case for its vision of security reform, it must undertake an open and unbiased public consultation with civil society groups, academics, businesses, and other stakeholders on the basis of the Government's position statement and plans to move forward, again prior to the tabling of new legislation. It is only through meaningful engagement with stakeholders that the government can hope to address security in a manner that appropriately respects civil liberties. In light of the sweeping and fundamental nature of the changes imposed by Bill C-51, such consultation must occur before the parliamentary reform stage begins.

Democracy requires robust debate, as does any bona fide attempt to address security. You have assured Canadians that you want to govern in a more participatory and transparent manner. To rebuild public trust after Bill C-51 we need to restore a democratic dialogue that is more collaborative and generates results that are constitutional and consistent with Canadian values. We urge you to set the proper tone for a truly participatory democracy by committing to an open public debate on Bill C-51 as a precondition to the tabling of any legislative changes.

In light of last week's tragedies, it is more critical than ever to ensure that we have effective, thoughtful, and measured legislation in place. We hope that you will act quickly to advance these public consultations and address the legacy of C-51 – an urgent issue for all of us. As we look to move forward, we hope that you will invite us to work together, and ensure that we get this right.

We believe that we are better as a country when we work together. We look forward to working with you to build a better Canada.

Yours sincerely,

The undersigned individuals and organizations

CC: [Hon. Ralph Goodale](#), Minister of Public Safety and Emergency Preparedness, P.C., M.P.

[Hon. Harjit Sajjan](#), Minister of National Defence, P.C., M.P.

[Hon. Jody Wilson-Raybould](#), Minister of Justice, P.C., M.P.

Signatories:

BC FIPA

British Columbia Civil Liberties Association

Canadian Civil Liberties Association

Canadian Internet Policy & Public Interest Clinic (CIPPIC)

Canadian Journalists for Free Expression (CJFE)

CAPA

Centre for Free Expression, Ryerson University

Centre for Law and Democracy (CLD)

CIAPP

Council of Canadians

FACIL

Free Dominion

International Civil Liberties Monitoring Group

Keepers of the Water

Leadnow

Ontario Civil Liberties Association (OCLA)

OpenMedia

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Privacy International
The Student Coalition for Privacy
United Steelworkers
Voices-Voix
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