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On International Affairs / Sur les affaires internationales

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The Right Honourable Justin Trudeau
Prime Minister of Canada
80 Wellington Street
Ottawa, Ontario
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June 7, 2016

RE: Need for Commission of Inquiry on Canada's Transfer of Afghan Detainees to Torture

Dear Prime Minister:

We write to you today to urge you to launch a Commission of Inquiry into Canada's policies and practices relating to the transfer of hundreds of detainees to Afghan authorities during Canada's military mission in that country.

There is overwhelming evidence that, during this mission, many of the detainees transferred – notwithstanding very clear and credible risks of torture – were indeed tortured. Canadian diplomats documented incidents where detainees were beaten with electric cables, rubber hoses or sticks; given electric shocks; forced to stand for long periods of time with their hands raised above their heads; punched or slapped; and threatened with execution or sexual assault. No one knows exactly how many detainees who were in Canadian custody were tortured, disappeared or died under Afghan custody – partly due to the lack of a rigorous monitoring regime for the conditions of detainees, and partly due to the cloud of secrecy the previous government relentlessly maintained over this matter. By exposing hundreds of Afghans to such high risks of torture, Canada failed utterly to prevent the torture of many of them, thus flouting one of the most basic legal and moral obligations: the prohibition of torture, enshrined in customary international law, international human rights treaties, international humanitarian law and Canada's own *Criminal Code*.

The previous government systematically blocked all efforts to investigate what happened. Citing operational security concerns, it refused to provide uncensored information to the public, Parliament, the Federal Court, and the Military Police Complaints Commission (MPCC). It also thwarted an investigation by the House of Commons Special Committee on Afghanistan, first by refusing to disclose documents and then by shutting down the committee when the Conservatives won a majority in 2011. The House approved a December 1, 2009 motion: "That, in the opinion of the House, the government should, in

accordance with Part I of the *Inquiries Act*, call a Public Inquiry into the transfer of detainees in Canadian custody to Afghan authorities from 2001 to 2009.” This motion was ignored.

When some heavily censored documents were finally released, the Honourable Stéphane Dion stated in a press conference: “[w]hen you read these documents, you will have questions to ask to your Prime Minister and your Ministers.” On another occasion, Mr. Dion asked in Parliament if the previous government was “opposing an inquiry because it is afraid of having to answer to Canadians.” And the Honourable Ralph Goodale lambasted the government for having “stonewalled all inquiries, judicial proceedings, parliamentary committees and requests for documents – as if they had something terrible to hide.” Mr. Prime Minister, we agree with Mr. Dion and Mr. Goodale. This is unfinished business of the most serious kind: accountability for alleged serious violations of Canadian and international laws prohibiting perpetration of, and complicity in, the crime of torture.

As a result of the previous government’s stonewalling, there were no lessons learned, and no accountability. In a future military deployment, the same practices could reoccur. A public inquiry would serve to authoritatively investigate and report on the actions of all Canadian officials in relation to Afghan detainees, and to review the legal and policy framework that attempted to justify these actions. Based on this review, the Commission would issue recommendations with a view to ensuring that Canadian officials never again engage in practices that violate the universal prohibition of torture.

Thank you in advance for your attention to, and consideration of, this grave matter. We look forward to receiving your response at your earliest convenience.

Yours respectfully,

Peggy Mason

President, Rideau Institute
Former Ambassador

The Right Honourable Joe Clark, P.C.
Former Prime Minister of Canada

Ed Broadbent

Former Leader of Canada’s New
Democratic Party, and former Member of
Parliament

Honourable Ron G. Atkey

Former Minister of Employment and
Immigration, First
Chair of the Security Intelligence Review
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NDP Critic for Foreign Affairs
Member of Parliament, Laurier – Sainte-
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House of Commons

Elizabeth May, OC, MP

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Member of Parliament, Saanich – Gulf
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Former Ambassador of Canada to the
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Omar Sabry
Human rights researcher and advocate
Author of report titled *Torture of Afghan
Detainees: Canada's Alleged Complicity
and the Need for a Public Inquiry* (Rideau
Institute/CCPA Sept 2015)

cc. The Honourable Rona Ambrose, Leader of the Conservative Party of Canada
The Honourable Thomas Mulcair, Leader of the New Democratic Party
Rhéal Fortin, Leader of the Bloc Québécois