The Right Honourable Justin Trudeau  
Prime Minister of Canada  
80 Wellington Street  
Ottawa, Ontario  
K1A 0A2  
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

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 Committee (SIRC)

Paul Champ
Human rights lawyer
Champ & Associates

Hélène Laverdière, MP
NDP Critic for Foreign Affairs
Member of Parliament, Laurier – Sainte-Marie
House of Commons

Elizabeth May, OC, MP
Leader of the Green Party of Canada
Member of Parliament, Saanich – Gulf Islands
House of Commons
Alex Neve  
Secretary General  
Amnesty International Canada

Stephen Lewis  
Former Ambassador of Canada to the United Nations

Eileen Olexiuk  
Retired Diplomat  
Deputy Head of Mission, Afghanistan

Nipa Banerjee  
Senior Fellow at University of Ottawa School of International Development and Global Studies, former Head of Canada’s aid program in Afghanistan

Gar Pardy  
Former Ambassador  
Global Affairs Canada

Daryl Copeland  
Former Ambassador, Global Affairs Canada  
Senior Fellow, Canadian Global Affairs Institute  
Policy Fellow, Montreal Centre for International Studies (CERIUM)

Amir Attaran  
Professor, Faculty of Law  
University of Ottawa

Micheal Vonn  
Policy Director  
British Columbia Civil Liberties Association

François Crépeau, FRSC  
Director, McGill Centre for Human Rights and Legal Pluralism  
Hans & Tamar Oppenheimer Professor in Public International Law  
Faculty of Law, McGill University

Craig Scott  
Professor of Law  
Osgoode Hall Law School

Sukanya Pillay  
Executive Director & General Counsel  
Canadian Civil Liberties Association

Monia Mazigh  
National Coordinator  
International Civil Liberties Monitoring Group

Samer Muscati  
Director, International Human Rights Program  
Faculty of Law, University of Toronto

John Packer  
Director, Human Rights Research and Education Centre  
University of Ottawa

Jennifer Llewellyn  
Viscount Bennett Professor of Law, Schulich School of Law  
Dalhousie University

Nicole Barrett  
Director, International Justice and Human Rights Clinic  
Peter A. Allard School of Law, University of British Columbia

Bruce Campbell  
Visiting Fellow, Faculty of Law  
University of Ottawa

Karen Busby  
Professor of Law and Director, Centre for Human Rights Research  
Faculty of Law, University of Manitoba
Payam Akhavan
Professor of Law, McGill University
Former UN prosecutor at The Hague

Pearl Eliadis
Human rights lawyer, full member of Centre for Human Rights and Legal Pluralism
McGill University

Janine Lespérance
Executive Director
International Commission of Jurists
Canada

Frank Chalk
Professor of History & Director, Montreal Institute for Genocide and Human Rights Studies
Concordia University

Matt Eisenbrandt
Legal Director
Canadian Centre for International Justice

Kyle Matthews
Senior Deputy Director, Montreal Institute for Genocide and Human Rights Studies
Concordia University

Barbara Jackman
Refugee/Human Rights Lawyer
Jackman, Nazami & Associates

A. Wayne MacKay
Professor of Law and Yogis and Keddy Chair in Human Rights Law, Schulich School of Law
Dalhousie University

Fannie Lafontaine
Canada Research Chair on International Criminal Justice and Human Rights Co-director, International Criminal and Humanitarian Law Clinic
Laval University

Julia Grignon
Assistant Professor Co-director, International Criminal and Humanitarian Law Clinic
Laval University

Kent Roach
Professor and Prichard Wilson Chair in Law and Public Policy Faculty of Law, University of Toronto

Reg Whitaker
Distinguished Research Professor Emeritus York University

Olabisi D. Akinkugbe
Assistant Professor of Law, Faculty of Law University of New Brunswick

J. Donald C. Galloway
Professor of Law
University of Victoria

Dean Peachey
Professor
University of Winnipeg

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