ACT FOR FREEDOM
AU NOM DE LA LIBERTÉ
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WHY WE MUST ACT

The Canadian Civil Liberties Association is a national organization that was constituted in 1964 to promote respect for fundamental human rights and civil liberties. Our work aims to defend and ensure the protection and full exercise of rights and liberties.

L’Association canadienne des libertés civiles est un organisme qui vise à défendre et à promouvoir la reconnaissance des droits et libertés. L’association intervient dans les débats publics, soumet des rapports de recherche, organise des conférences et des campagnes, évalue les politiques et actions gouvernementales et agit devant les tribunaux lorsque cela est nécessaire.

Since the mid 1960s, the Canadian Civil Liberties Association (CCLA) has been a leader in protecting fundamental freedoms. It aims at preventing abuse of power in all its forms. Over the years, the CCLA has spoken out on hundreds of issues, from film censorship to the rights of welfare recipients not to be harassed by government officials, from forced religious teaching in the schools to the rights of political groups to demonstrate in the streets.

The CCLA is active on national security issues such as the protection against torture and the respect for international human rights law. In its public safety portfolio, the CCLA works to ensure adequate police accountability, fairness in the criminal law process and the continued respect for the presumption of innocence. Throughout its history, the CCLA has acted in defence of freedom of expression, even and indeed particularly, for unpopular ideas. It has intervened for the protection of religious minorities, for freedom of the press and for freedom of association. Finally, the CCLA has also been at the forefront of the battle against discrimination.

Les travaux de l’ACLC invitent les Canadiens et Canadiennes à réfléchir et à agir pour assumer leurs responsabilités démocratiques: il s’agit de maintenir une vigilance pour assurer le maintien de nos droits et libertés.

Freedom requires vigilance. Practicing the habits of democracy by asking questions, demanding answers, speaking out, taking action, the CCLA is committed to sustaining a vibrant culture of human rights, civil liberties and democracy.
Welcome to the second edition of CCLA’s annual publication: *Act for Freedom*. This year’s edition continues the tradition started last year – a tradition of providing a variety of perspectives on important civil liberties issues that highlight our significant successes and our ongoing struggles. This year, we are fortunate that *Act for Freedom* is being released at the same time as the CCLA honours Canadian excellence in a number of areas. As important as it is to observe and speak out about the failures and deficiencies in our system, it is equally important to acknowledge and celebrate excellence and progress. We are fortunate that so many of our honourees have contributed to *Act for Freedom*. Their contributions underscore a number of different perspectives and perceptions on our Canadian democracy and all of its complexities, nuances and vulnerabilities. This edition also brings together pieces from the CCLA’s staff. They focus on the key civil liberties challenges we faced this year including demanding accountability for abuses during the G20, calling for the protection of vulnerable refugee claimants, ensuring protection of our privacy (both online and off), ensuring access to basic information collected and created by our government, and protecting us from excesses of government power in the name of “law and order” and national security. We are grateful to all of our contributors to this year’s *Act for Freedom* and we ask all of them, and you, to continue to join the CCLA in our various acts for freedom in the year ahead.

*John D. McCamus, Chair*

*Board of Directors*
It takes commitment and energy to sustain a free and democratic society: it demands that people participate in their governance, that they stay informed and that they maintain a certain vigilance with respect to their leaders. Since 1964, the Canadian Civil Liberties Association has kept its promise to Canadians to help protect and foster a democratic society that values liberty, equality and fairness, and respects the rule of law and individual and collective rights. The present issue of Act for Freedom – Au nom de la liberté is about democracy and what it means to the people whose accomplishments we have chosen to celebrate on June 21, 2011. We are indeed honoured that so many great Canadians accepted this recognition by the Canadian Civil Liberties Association.

Dans ce numéro d’Au nom de la liberté – Act for Freedom, nous célébrons notre démocratie. Tout d’abord, nos récipiendaires expliquent ce qu’ils et elles entendent par démocratie et ce que cela signifie pour eux et elles de vivre dans une démocratie. Dans un deuxième temps, le personnel de l’Association canadienne des libertés civiles décrit certains enjeux auxquels fait face présentement notre démocratie canadienne : entre autres, la protection de la vie privée dans un contexte de partage d’informations entre le Canada et les États-Unis ou d’une surveillance électronique accrue, l’équité procédurale pour les réfugiés, l’imputabilité pour les violations des libertés civiles dans le cadre du Sommet du G20 ou le droit d’avoir accès à l’information gouvernementale. Toutes ces questions méritent notre attention. L’Association, son personnel, ses donateurs et bénévoles, est fermement engagée dans la poursuite de son travail pour une démocratie canadienne à la hauteur de nos aspirations.

In the past year, the Canadian Civil Liberties Association has continued its work of asking probing questions of government and officials, providing help and representation to people treated unfairly, and presenting briefs to Parliamentary Committees in an effort to improve the protection of civil liberties in Canada. I want to thank our volunteers, our donors and our staff for their commitment to democracy. Merci.

Nathalie Des Rosiers
General Counsel – Avocate générale
THANK YOU TO OUR
EXCELLENCE IN THE ARTS

In 1992 and 1994 Mehta directed episodes of the ABC-TV series The Young Indiana Jones Chronicles.

Honours for Fire include runner-up for the Air Canada People’s Choice Award (1996 Toronto International Film Festival), the Federal Express Award for Best Canadian Film (Vancouver International Film Festival), two Silver Hugo Awards (Chicago International Film Festival), the Jury Award in Mannheim, and has been sold to 30 countries.

Earth received a standing ovation and critical acclaim when premiered at the 1998 Toronto Film Festival. It won the Prix Premiere du Public (1999 Festival du film Asiatique de Deauville, France) and the Critics’ Award (1999 Schermi d’Amore International Film Festival, Italy).

Initially, Water was to be shot in India, but Hindu fundamentalists created riots, burnt the sets and issued death threats forcing the film to stop production in early 2000. The
film was remounted and completed shooting in Sri Lanka in June 2004. *Water* has won festival awards in Sudbury, Edmonton, Italy, Valladolid, Bangkok and San Francisco, the Taormina Arte Awards for Cinematic Excellence in 2006, the Golden Kinnaree Awards for best picture (Bangkok International Film Festival), Best Director of a Canadian Film (2006 Vancouver Film Critics Circle), three Genie awards, and was nominated for Best Foreign Film (79th Annual Academy Awards).

*Bollywood/Hollywood* opened the Perspective Canada Program at the 2002 Toronto International Film Festival. It won the CineAsia "Best Director" Award in 2002, and has remained in the top 10 grossing English movies since its Canadian opening in 2002.

*Heaven On Earth*, premiered as a special presentation at the 2008 Toronto International Film Festival. It was awarded a Silver Hugo for Best Actress (Chicago International Film Festival), Best Screenplay (Dubai International Film Festival), the Youth Jury Award (Schermi d’Amore Film Festival, Italy), and the Audience Award (River to River Florence Indian Film Festival). Mehta’s latest film is a film adaptation of Salman Rushdie’s acclaimed novel *Midnight’s Children.*
Niv Fichman
Award-Winning Filmmaker

Niv Fichman has 30 years experience and over 200 feature films, documentaries, and television series to his name. His latest production, HOBO WITH A SHOTGUN starring Rutger Hauer, exploded onto the scene this January when it premiered and headlined the midnight section at Sundance. In 2010 he produced William Phillips’ comedic western GUNLESS, starring Paul Gross, Sienna Guillory and Dustin Milligan. He recently produced Fernando Meirelles’ adaptation of Nobel Laureate Jose Saramago’s BLINDNESS, written by Don McKellar and starring Julianne Moore, Mark Ruffalo, Danny Glover, and Gael Garcia Bernal; as well as Paul Gross’ World War I romantic epic PASSCHENDEAELE, top grossing Canadian film of 2008. Fichman has previously produced renowned directors such as Francois Girard, Olivier Assayas, Guy Maddin, Don McKellar, Peter Mettler, Peter Wellington, Kevin McMahon, Marc Evans, as well as his partners at Rhombus, Larry Weinstein and Barbara Willis Sweete. Feature films include THE RED VIOLIN, THIRTY TWO SHORT FILMS ABOUT GLENN GOULD, LAST NIGHT, THE SADDEST MUSIC IN THE WORLD, CLEAN, SNOWCAKE and SILK. Selected television projects include SLINGS & ARROWS, YO-YO MA: INSPIRED BY BACH, SEPTEMBER SONGS and LE DORTOIR. Awards include an Oscar for THE RED VIOLIN, seven Emmys and numerous Genies, Geminis, Golden Pragues as well as a Golden Rose of Montreux and a Prix Italia. In June 2007, Niv Fichman was named the Canadian Producer of the Year by the CFTPA.
Through my work as a filmmaker, I’ve been fortunate to travel the world, collaborating with artists, businesspeople and government officials in countries with wide ranging political structures. These experiences are constant reminders of how much I deeply value the core democratic values and individual rights that we are afforded here in Canada. The freedom and support I feel in Canada both as a citizen and an artist are truly unparalleled anywhere else in the world.
Sarah Polley
Award-winning Actress, Writer, Director

Sarah Polley has been writing and directing in Canada since 1999 when she made her directorial debut with the short films, *The Best Day of My Life*, and then wrote, directed and produced, *Don’t Think Twice*, starring Tom McCamus and Jennifer Podemski. In 2001, she wrote, directed and co-produced, *I Shout Love*, starring Kristen Thomson, who won an Actra Award for her performance in the short. The film also won a 2003 Genie Award for Best Live Action Short Drama. In 2002, Sarah wrote and directed *The Harp*, one of the episodes of *The Shield Stories* for television.
In 2007, Sarah wrote and directed *Away From Her*, starring Julie Christie, Gordon Pinsent, and Olympia Dukakis, adapted from the Alice Munro short story “The Bear Came Over the Mountain.” In addition to two Academy Award nominations (Best Adapted Screenplay, Best Actress), *Away From Her* garnered a long list of awards including the London Critics Circle Film Award (British Actress of the Year), Los Angeles Film Critics Association (New Generations Award), National Board of Review (Best Actress), National Society of Film Critics (Best Actress), New York Film Critics Circle (Best First Film, Best Actress), Online Film Critics Society (Breakthrough Filmmaker, Best Actress), as well as from Central Ohio, Dallas-Forth Worth, Phoenix, Portland, Robert, San Diego, San Francisco, Sarasota, Sedona, Toronto, and Washington film critic associations. Additionally, *Away From Her* earned a Chlotrudis Award for Best Adapted Screenplay, SAG Award (Best Actress), Golden Globe (Best Actress), seven Genie Award including Best Picture, Best Actor, Best Actress, Best Director, Directors Guild of Canada (Best Feature Film, Best Direction) and Best Feature Film from the Writers Guild of Canada.

Polley is currently in post-production for *Take This Waltz*, her original screenplay which she directed, starring Michelle Williams, Seth Rogen, and Luke Kirby, which shot this past summer in Toronto. Sarah is also completing work on her first feature length documentary, *The Dark Room.*
Rohinton Mistry
Author, Winner of the Giller prize

ROHINTON MISTRY is the author of a collection of short stories, Tales from Firozsha Baag, and three internationally acclaimed novels. His first novel, Such a Long Journey, was shortlisted for the Booker Prize, and won the Governor General’s Award, the Commonwealth Writers Prize for Best Book, and the SmithBooks/Books In Canada First Novel Award. It was made into an acclaimed feature film in 1998. A Fine Balance was winner of the Giller Prize, the Commonwealth Writers Prize for Best Book, the Los Angeles Times Fiction Prize, the Royal Society of Literature’s Winifred Holtby Award, and Denmark’s ALOA Prize. It, too, was shortlisted for the Booker Prize, as well as the International IMPAC Dublin Literary Award, The Irish Times International Fiction Prize, and the Prix Femina. In 2002, A Fine Balance was selected for Oprah’s Book Club. Family Matters, published in 2002, was shortlisted for the Man Booker Prize, the International IMPAC Dublin Literary Award, and the James Tait Black Memorial Prize. It won the Kiriyama Pacific Rim Book Prize for Fiction and the Canadian Authors Association Fiction Award. The Scream, a story, was published in a special limited edition of 150 copies (illustrations by Tony Urquhart), followed by a trade edition in 2006. All proceeds from both editions go to World Literacy of Canada. Born in Bombay, Rohinton Mistry has lived in Canada since 1975. He was awarded the Trudeau Fellows Prize by the Pierre Elliot Trudeau Foundation in 2004, and was the recipient of a Guggenheim Fellowship in 2005. He was elected Fellow of the Royal Society of Literature in 2010. His work has been published in thirty-one languages.
Canadian democracy: some random thoughts, belabouring the obvious, because the obvious is often obscured by over-familiarity.

Democracy, by its very nature, is forever a work-in-progress; Canadian democracy is no different. While the rights and freedoms we enjoy are the envy of many in the world, it would do well to remember that a work-in-progress is also vulnerable to regression.

From time to time, Canadians, fed up with political bickering and parliamentary shenanigans, yearn for a strong leader who will put an end to it all. We should be careful what we wish for—confusion, debate, even chaos, are part of democracy: get rid of the one, and we could end up losing the other.

Democracy is not always subverted or undermined by monsters endowed with fangs, claws, horns and cloven hooves. Soft-spoken, bespectacled, cardigan-wearing well-meaning individuals, perhaps espousing the virtues of “common sense” or “the values of hardworking families” are just as capable of diminishing it.

One of the dangers of democracy is the tyranny of the majority. Worse still is the tyranny of a minority masquerading as the will of the majority, thus adding insult to injury.

The Charter of Rights and Freedoms should fill every Canadian with pride and gratitude. But this inspiring document can only be as noble and just as the individuals who interpret it.
Nina Arsenault is a multi-talented transgendered artist and actress who has worked in live theatre, television, film, video art, photography and national print journalism. She is particularly known for her autobiographical works which are fiercely honest, unapologetically sensational, and crafted with a deep love for beauty and drama. Her tour de force one woman play The Silicone Diaries continues to sell out theatres across Canada while receiving standing ovations and rave critical reviews. She is a frequent lecturer at Canadian universities in areas as diverse as sexuality studies, sociology, visual art, theatre and fashion communications. Nina has been honoured with The Unstoppable Award from the Pride Committee of Toronto and David Miller for continuing to challenge and illuminate our culturally accepted notions of gender and sexuality. She has portrayed Barbie for the Mattel Corporation at the plastic doll’s official 50th birthday party, and she was one of the key note speakers at Moses Znaimer’s conference of avant-garde thinkers IdeaCity. In 2012 Intellect Books (UK) is publishing TRANS(per)FORMING Nina Arsenault: Body of Work, Body of Art, a lengthy scholarly examination of Nina’s work and her influence in Canada and abroad. She is currently developing a long form video called Ophelia/Machine and continues to work with Buddies in Bad Times Theatre, Canada’s home for queer culture.
Living in a Canadian democracy means we have the freedom to express ourselves. This is vital for my survival on two levels.

Firstly, as a transgendered woman my gender identity and gender expression are protected as basic human rights. The important radical steps to explicitly protect the (often) most disenfranchised and disadvantaged portion of the population means that our legal system is setting a human rights standard for the world, declaring that every living being, no matter how different from the norm is a potentially important contributor to society. It also means that non-transgendered people have permission to explore, express and enjoy their identities beyond traditional gender stereotypes. Gender discrimination does not only hurt those who live gender-radical lives.

It limits everyone into more societally performed roles which restrict our access to the direct uninhibited experience of joy, pleasure, compassion and love.

Secondly, the freedom of expression means I can have a voice in culture. I am protected as an artist to create work that is philosophically challenging and emotionally complicated. It is in the avant-gard – the cutting edge – of thought that art lives to provoke.

This psychic space is sometimes uncomfortable, but it is where the complexities of the human experience are distilled. The voices of artists are the battle cries of resistance in a war against (predominantly American) cultural hegemony. The mass marketing of culture, driven by rampant capitalism, attempts to sells us versions of reality that are characterized by a polarity – either sensationalized with heightened fear and hopelessness or sedated into banal escapism. Inside this cultural schizophrenia the sacred role of the artist is to reconnect us with our empathy and a sense of the profoundness of life in rapidly changing times.
Joseph Boyden, a writer-in-residence and a graduate of the University of New Orleans’ MFA program in fiction, teaches both in the states and abroad. A Canadian of Irish, Scottish, and Metis heritage, Joseph has written a collection of stories, *Born with a Tooth*, and two novels, *Three Day Road*, and *Through Black Spruce*. *Three Day Road* has been translated, to date, into 15 languages. Isabelle Allende chose the novel for *The Today Show*’s book club, and Barnes & Noble selected it for their Discover Great New Writers Program. As an international bestseller and a continuing bestseller in Canada, the novel has won The Rogers Writers Trust Prize; McNally Robinson Aboriginal Book of the Year Award; Canadian Authors Association Book of the Year Award; The Libris Book of the Year Award; Amazon First Novel Award; the Festival America Readers’ Award, Vincennes, Paris; the Ontario Library Association Book of the Year, and France’s Prix Literaire. *Three Day Road* was short-listed for the Governor General’s Award and nominated by five libraries for the Dublin IMPAC Award long list.

*Through Black Spruce* has been on the Canadian bestseller list since its debut on September 13, 2008. It won Canada’s most prestigious literary prize, the ScotiaBank Giller on November 11, 2008, as well as the Libris Book of the Year and Author of the Year awards. To date, *Through Black Spruce* has been published internationally in a dozen languages.

He is a contributing writer for Canada’s *Maclean’s* and *Zoomer* magazines and has published and continues to publish fiction and nonfiction in a variety of places, including *Spirit Magazine*, *Black Warrior Review*, *Walrus*, *Driven*, and *Globe and Mail*. His work has been anthologized in *PEN International, Penguin Anthology of Contemporary Short Stories* and elsewhere. Joseph was awarded an honorary doctorate from Nipissing University in June, 2009.
Seven Short Musings on Canadian Democracy

1. The word “democracy” confuses me. I admit this freely. Where I live, people use this word with abandon. They attack their opponents with claims that the other is “undemocratic” for wanting universal healthcare or equal rights. These people use the word “democracy” as a weapon, like it’s a sharp knife meant to cut the ears from those who they claim won’t listen.

2. Canadian democracy is watching Gord Downie writhe onstage, releasing the inner demons so awkwardly, so fluidly, in front of all of us, releasing the same pain that each of us has always secretly wished to publicly release.

3. Democracy, I guess, is inviting world leaders to sit around a fake lake built indoors downtown in your most populous city just to show them how natural, how beautiful, your country is.

4. It’s obvious to me that democracy is best described with lots of adjectives: tragic, heroic, stupid, advantageous, bitter, bright, halting, keen, apathetic, brutal, beautiful, dramatic, exorbitant, maddening, truthful, thankful, honest, simple.

5. My mother, Blanche, should be made the patron saint of democracy. While you might say to yourself that parents are inherently totalitarians and dictators, ask any of Blanche’s eight children and we’ll all agree that she always considered our opinions. All of us always had a voice. Most importantly, every decision my mother ever made was for our good and for our well-being.

6. Canadian democracy reminds me of some of my most regrettable weaknesses: it is inherently lazy and must constantly be harangued to get working; it always seems to show up late; it can be most boastful when it’s least deserving to be; it doesn’t always play well with others; it must constantly fight freezing up when the details overwhelm.

7. And, maybe, democracy to a five year-old Cree boy in Fort Albany, Ontario, means catching his first pike and then letting it go. The boy lets this fish free in the hope that one day when they are both bigger, this pike will be caught again and feed those who need it more.
EXCELLENCE IN
PUBLIC ENGAGEMENT
Droits
Equality
Liberty
Egalité
Right to Vote
Freedom of Expression
LGBT Rights
Privacy
Liberté
Prohibition on Torture
LGBT Rights
Freedom of Expression
Droits
Non-Discrimination
Freedom of Expression
Non Torture
Rights
Droit de vote
Janice Stein O.C.
Director, Munk School of Global Affairs

Janice Gross Stein is the Belzberg Professor of Conflict Management in the Department of Political Science and the Director of the Munk School for Global Affairs at the University of Toronto. She is a Fellow of the Royal Society of Canada and an Honorary Foreign Member of the American Academy of Arts and Sciences. Her most recent publications include Networks of Knowledge: Innovation in International Learning (2000); The Cult of Efficiency (2001); Street Protests and Fantasy Parks (2001), and Canada by Mondrian (2006). She is the co-author, with Eugene Lang, of the prize-winning The Unexpected War: Canada in Kandahar. She was the Massey Lecturer in 2001 and a Trudeau Fellow. She was awarded the Molson Prize by the Canada Council for an outstanding contribution by a social scientist to public debate. She has received an Honorary Doctorate of Laws from the University of Alberta, the University of Cape Breton, and McMaster University. She is a member of the Order of Canada and the Order of Ontario.
The right to express freely my opinions about the issues that confront our society is precious. In so many societies, that right may exist formally, but it is remains unprotected by the courts, it is violated by the political leadership, and there is tacit self-censorship and fear that inhibits citizens from participating in the life of their communities. In Canada, the right to free expression and to free assembly is the bedrock of our civic life, our capacity to organize for purposes that we choose, and our capacity to hold our leaders to account. It is the foundation of our individual and collective sense of political efficacy, the belief that sometimes we can make a difference.
Steve Paikin
Anchor and Senior Editor, “The Agenda”

Steve Paikin is anchor and senior editor of The Agenda with Steve Paikin, TVO’s flagship current affairs program, which airs weeknights at 8 p.m.

The program debuted on September 25, 2006. Its mission is to cover the provincial, national, and international issues viewers must know, to be well-informed citizens of Ontario at the dawn of the 21st century.

Previously, Paikin was co-host of Studio 2, which lasted 12 seasons, and Diplomatic Immunity, which lasted eight seasons, both on TVO.


Paikin has also produced several feature-length documentaries:

- Return to the Warsaw Ghetto, on the occasion of the 50th anniversary of the ghetto uprising (December 1993)
- A Main Street Man, on the life of former Ontario Premier William Davis (March 1996)
- Balkan Madness, on the disintegration of Yugoslavia (April 1994)
- Teachers, Tories, and Turmoil, on the Mike Harris government’s controversial education reform Bill 160 (June 1998)
- Chairman of the Board: The Life and Death of John Robarts, on the life of Ontario’s 17th premier (November 2001)
- 1985: The Year Ontario Politics Changed Forever, on the occasion of the 20th anniversary of the end of the 42-year Progressive Conservative dynasty (June 2005).
Without meaning to sound overly pretentious, perhaps the main reason I chose journalism as a career was to make a modest contribution to our democracy in Canada.

I’ve always believed that a well-informed citizenry is an absolute prerequisite to having accountable governments and public institutions. It’s one of the reasons why so many of us were so troubled by what transpired on that weekend in June 2010, when our city witnessed what many people considered to be a significant overreaction by some members of the Toronto Police Service, combined with a particular lack of interest or oversight by our political leaders.

What thousands of people saw in Toronto that weekend shouldn’t have happened. And we all need to be eternally vigilant to ensure it doesn’t happen again.
Marie Clarke Walker was born to be a union activist.

Coming from a family where both her mother and father have deep roots in the labour movement, Marie is the first woman of colour to be elected as an Executive Vice-President of the Canadian Labour Congress as well as the youngest-ever elected CLC officer.

Her mother is a retired trade union activist and feminist originally from Jamaica who remains involved in the struggle for equality and social justice for all workers. Marie’s father is a lawyer in Barbados who has represented workers all his life.

During her childhood in the Caribbean and Canada, Marie participated in many community activities. She learned as much about the issues of social justice by being at demonstrations and picket lines as she learned in the classroom. Marie’s passion for social justice was further developed when she spent time in Grenada working with the Ministry of Education on a number of programs including youth reconstruction programs during her summers.

Those early experiences informed her working life, starting her career working in a home for the aged, later with adults and children with developmental disabilities and then as a counsellor and family-support worker in Toronto.

Marie faced workplace racism, experiences that led to her developing a peer mediation anti-racism program for use in elementary schools and a renewed union activism.

Marie rose rapidly through the ranks of the Canadian Union of Public Employees, eventually becoming CUPE Ontario’s Equity Vice-President and her union’s first-ever national Diversity Vice-President, before being first elected as a CLC Executive Vice-President in 2002.
Democracy in Canada means to me that every voter, citizen and resident, is respected and has the right to fair and equal opportunity, equal access and the right to choose the government that best reflects their values. As Canadians, we are able to freely vote for the political party which best reflects our ideas and ideals. While our parties are not always victorious, our parliamentary system provides the opportunity for healthy debate of different perspectives as well as the opportunity to influence the decision our governments make.

Up until recently, I believed that the system, while not always fair still allowed for protest and dissent. However, I was proven wrong in June 2010 when thousands of armed police bullied and beat innocent people who were invoking their democratic right to protest.

I believe it is our obligation to continue to fight for a fair and just system. We have a responsibility to change the systemic inequalities that make it very difficult for some communities of people to flourish. We owe it to our children to make sure that Canada fulfils its promise to be a model democratic society.
From May 1, 1968 until July 1, 2009, Mr. Borovoy was the General Counsel of the Canadian Civil Liberties Association (CCLA). Prior to that, he worked for an organization sponsored by organized labour to fight racism in the community at large.

Among the actions that he orchestrated were the following: a delegation to the Ontario government which culminated in legislation against racial discrimination in housing; the closing of the Toronto libraries, which culminated in the withdrawal of a contested pornography bill; a public rally that helped to end certain powers intended for CSIS, and involvement in more than 90 court cases, including situations in which laws were struck down as unconstitutional.

In addition to many articles in newspapers and magazines, Mr. Borovoy has published four books, the first of which – When Freedoms Collide – was nominated for a Governor General's award. In addition to five honourary doctorates and a number of awards from various community organizations, Mr. Borovoy was appointed an officer of the Order of Canada in 1982.

He has also taught courses in the law faculties at Dalhousie University, the University of Windsor, and the University of Toronto. Earlier, he taught in the Faculty of Social Work at the University of Toronto, and more recently, in Glendon College at York University.
To me, the essence of Canadian democracy means the right of any of us to engage in public protest. Indeed, this right is the prerequisite of all our other rights. Consider the following:

- In the 1930s, Canada turned back a boatload of Jews fleeing the horrors of Nazism in Europe. No controversy ensued.
- In the 1970s, Canada not only welcomed, but also assisted, boatloads of Vietnamese fleeing the horrors of Communism in Asia.
- In the mid-1930s, a lawyer with a brilliant academic record was unable to find a job with a Toronto law firm. – He was Jewish.
- In the 1970s, that lawyer had become the Chief Justice of Canada: Bora Laskin.
- In the 1940s, job discrimination based on race or ethnicity was socially accepted and legally permitted.
- Today, such discrimination is socially disfavoured and legally restricted.
- 60 years ago, Canada employed capital and corporal punishment.
- Today, such penalties have been abolished.

During the intervals, Canadians spoke out, polemicized, organized, lobbied, and demonstrated. In short, we protested. None of this is to suggest that Canada has acquired Utopian virtue. Far from it. It is simply to acknowledge the progress we have made and the potential to make a lot more. Even though our right to protest is imperfect and inadequate, it enables us to forge ahead. For that above all, I am deeply grateful.
Powerful, dynamic and musical are words that describe six-time Canadian Champion and World Silver Medalist Joannie Rochette. Skating since she was 22 months old, she made her first mark on Canadian skating in 2000 and 2001 where she won the Novice and Junior titles. The following year, she claimed the bronze medal in her Senior debut, and in 2005 became a Canadian Champion.

A second-place finish at the 2003 Canadian Championships sent her to the World Championships, to which she has returned every year since. She has placed in the top 10 five times, and won the Silver Medal at the 2009 Worlds. She won several medals on the ISU Grand Prix Circuit, has qualified for the Grand Prix Final three times, and finished 5th place in the Olympic Games in Turin, Italy, in 2006.

At the 2010 Winter Olympics, Rochette inspired a nation with her display of strength and courage. After suffering a personal tragedy in the days leading up to the games, Rochette captured the bronze medal. Rochette was named Canada’s flag bearer for the closing ceremonies, and named co-recipient of the Vancouver 2010 Terry Fox Award. Joannie’s performance at 2010 Winter Olympics was nominated in the ‘Best Moment’ category at the 2010 ESPY Awards.

Since 2006, Joannie has been part of the Canadian Stars On Ice tour and a member of the Bell Champions team. She is sponsored by Bell, COLD-FX, General Mills, Danone and Molson. In 2010, Joannie began working with Birks, a luxury jeweler in Canada, as a Brand Ambassador and developed her personal jewelry collection. There is a street in Rochette’s hometown of Île Dupas, Quebec named in her honor.

In 2010, Joannie attended the “Women of Distinction” luncheon with U.S. first lady Michelle Obama. On July 1, 2010, Joannie and Her Royal Highness, Queen Elizabeth, were invited guests of the Canadian Government to celebrate Canada Day in Ottawa.
EXCELLENCE IN ADVOCACY
Earl Cherniak

Partner, Lerners LLP

One of Canada’s 25 most influential lawyers, 2010

EARL A. CHERNIAK, Q.C., is a partner at Lerners LLP. He has extensive trial and appellate experience in complex litigation involving a wide range of areas, including commercial disputes, constitutional challenges, arbitrations, insurance, securities, professional liability, product liability, aboriginal land claims and class actions and has written and spoken frequently at continuing legal education programs in Canada and the US. Mr. Cherniak is a Fellow of the ACTL (1982) and the IATL (1987), an elected bencher of the LSUC (1999-2007) and chair of its Proceedings Authorization Committee, past president of The AS(O). Mr. Cherniak was appointed Q.C. in 1974 and is a member of the Bar of Ontario. He received his Bachelor of Laws from Osgoode Hall (1960, Gold Medallist).
I grew up in a Canada where Canadians died on foreign battlefields to preserve us from an awful tyranny, but at the same time was a Canada where “None is too many” and citizens were interned because of their race.

In my lifetime, that Canada has been transformed by immigration from foreign shores, and building on its heritage and democratic institutions, has become a multiracial and multicultural society of freedom and opportunity that is the envy of the world. One only has to travel abroad, on this continent or any other, to appreciate how fortunate we are to live in this country. The challenge for the future is to keep it that way.
Roberta L. Jamieson is a Mohawk woman from the Six Nations of the Grand River Territory in Ontario. In November of 2004, Ms. Jamieson was appointed CEO and President of the National Aboriginal Achievement Foundation. NAAF is dedicated to realizing the potential of First Nation, Métis, and Inuit youth through scholarship assistance and other support.

Under her leadership, the Foundation has flourished. In her six years leading NAAF, support for Aboriginal youth has dramatically increased with NAAF doubling its previous total in bursaries and scholarship funding. NAAF has distributed approximately $43 million in support and helped over 11,000 students, with more than half of that support coming since Roberta’s 2004 appointment. She has extended the Foundation’s career fairs into the North, Quebec and the Maritimes and is Executive Producer of the nationally televised National Aboriginal Achievement Awards.

Ms. Jamieson has enjoyed a distinguished career of “firsts.” She was the first First Nations woman to earn a law degree; the first non-parliamentarian to be appointed an ex-officio member of a House of Commons Committee; the first woman to be appointed Ombudsman of Ontario; and in December 2001, she was the first woman to be elected Chief of the Six Nations of the Grand River Territory.

Ms. Jamieson was also Commissioner of the Indian Commission of Ontario and for ten years, Ombudsman of Ontario.

She has earned many awards, including the National Aboriginal Achievement Award (Law and Justice 1998), the Indigenous Bar Association’s highest award, Indigenous Peoples Council Award (IPC) and 18 honorary degrees. Ms. Jamieson is a Member of the Order of Canada.

She lives with her husband Tom Hill at their home at Six Nations of the Grand River Territory. They have a daughter Jessica and granddaughter Daisy.
Of course Canadian democracy was alive and well long before Europeans arrived in North America.

European settlers were amazed by the freedom and organized government of the First Nations here, since they had been accustomed to the Divine Right of kings and queens as the necessary organization of human society. Women not only “had the vote”, but played essential roles in government. Children’s rights, minority rights, civil rights were deeply rooted in society. The North American ideal of democracy became the subject of public debate, Rousseau’s essays – and revolution in the colonies and in France. The Great Law of the Iroquois Confederacy became the template for the U.S. Constitution at the Albany Congress. So here we are on June 21, the summer solstice, Aboriginal Day in Canada. Time to celebrate Canada’s indigenous nations and the origins of democracy in Canada!

Many of our political values greatly influenced the development of concepts of democracy in the United States in particular. While the then rebels were opposed to the actions of the King, they had little experience in democratic practice. Thus they met in Albany, New York, with leaders of the Iroquois Confederacy – including my own Mohawk Nation – to hear about such foreign concepts as a leader being the servant of the people, of the right of the voices of the people to be heard in decision-making. Some concepts of ordinary Iroquois practice took centuries until they were finally adopted – the full participation of women in decision making, for example, or more recently, the adoption of the concept of the rights of children. Other concepts await decisions of future generations – decision-making by consensus, for example, was partially adopted to reconcile the decisions of both houses in a bicameral political structure, each house still makes its decisions by majority rule, and selection of leaders in “democracies” is still left to “voting” rather than achieving consensus as is our practice. Another example still awaiting future consideration: in many indigenous societies, women have exclusive decision-making in certain areas such as when the use of force is permitted.
Marlys Edwardh C.M.
Partner, Sack Goldblatt Mitchell LLP
One of Canada’s 25 most influential lawyers, 2010

Marlys Edwardh is a senior partner at Sack Goldblatt Mitchell LLP. She is a graduate of Osgoode Hall Law School and received a Masters degree in law from Boalt Hall, University of California at Berkeley. Since being called to the Bar in 1976, Marlys has practiced in the fields of criminal, constitutional and administrative law. She has also served as counsel in a number of Royal Commissions of Inquiry, the latest being the Commission of Inquiry in the Actions of Canadian Officials in Relation to Maher Arar.

In February 2002, Marlys received an Honorary Doctorate from the Law Society of Upper Canada. In October 2002, she was awarded the G. Arthur Martin Criminal Justice Award by the Criminal Lawyers’ Association. In 2004 the Women’s Law Association bestowed on Marlys the President’s Award. In 2005 she also received the Award of Distinction from the Toronto Lawyers’ Association and the Dianne Martin Medal for Social Justice Through Law Award from Osgoode Hall Law School. In November 2005, Marlys received the Vox Libera Award from the Canadian Journalists for Free Expression. In June 2010 she received an Honorary Doctorate of Laws from Osgoode Hall. In July 2010, Marlys was appointed as a Member of the Order of Canada.

In addition to her legal practice, Ms. Edwardh’s memberships and affiliations include the following:
- Director and Vice President, Canadian Civil Liberties Association
- Special Advisor, Association in Defence of the Wrongfully Convicted
- Fellow, American College of Trial Lawyers
- Member, National Association of Criminal Defense Lawyers
- Member, Canadian Bar Association of Ontario
- Member, Law Society of Upper Canada
- Member, Criminal Lawyers’ Association
Democracy is often described as the very best of the worst forms of governance.

Democracy offers the hope that through the exercise of the franchise, our government will have been given authority to govern on the basis that it will hear and respond to our many voices. It offers the hope that the power of the state will be used to be inclusive and give effect to a vision of shared values and benefits. In this sense, democracy has a very significant ideological force in our society. However, it offers questionable benefits when it is seen only to promote a spread of liberal capitalism justifying the concentration of wealth in the hands of powerful elites. A civil society must ensure that democratic forms of government do not simply become a method of serving important economic interests. How we do this is the challenge of civil society.

Alexis de Tocqueville wisely cautioned that any democratic system needed a way to resist the tyranny of the majority. Canada has an elected form of government where 60% of Canadians voted against the current Harper majority. Surely we need to ask ourselves whether the form of democracy we have - the first past the post model instead of a version of proportional representation gives adequate expression to the many voices that are entitled to participate in the political institutions of this country. We also have chosen a form of government that includes a constitution which has embedded in it the fundamental precept of the rule of law. All persons are subject to it, and no one is above it. Our Charter of Rights guarantees many individual rights against state action. All of this can make us justly proud. However, we have no constitutional protection that has been extended to collective interests protecting the old, the poor, the homeless, or our First Nations who have yet to have a right to drink clean water. I guess this simply spells out that there is still much to do – but at least we can try to do it.
Lorne Waldman
Lorne Waldman & Associates LLP
One of Canada’s 25 most influential lawyers, 2010

Lorne Waldman LL.B. (Osgoode), LL.M (Toronto) practices exclusively in the area of immigration, refugee and human rights law, and has done so since 1979. Mr. Waldman appears very frequently at all levels of the courts in Canada where he has argued many of the leading cases in these areas such as:

- the representation of Mr. Maher Arar at the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar.
- Burns and Rafay, where he acted as counsel for the Senate of the Republic of Italy when it intervened before the Supreme Court of Canada;
- the two Charkaoui appeals and the second Khadr appeal where he acted for the Canadian Bar Association when it intervened before the Supreme Court of Canada;
- The representation of Amnesty International in the Gavrila Appeal to the Supreme Court of Canada where Amnesty International intervened in support of the position that a person’s refugee status must be recognized in an Extradition proceeding.

- The representation of CCLA as in intervener in the Divito case which dealt with issues related to section 6 of the Charter;

Mr. Waldman was appointed as a Special Advocate by the Minister of Justice in February 2008.

He is also several reference works, including Immigration Law and Practice, 2nd Edition (Butterworths), Canadian Immigration and Refugee Law Practice, 2007 Edition (Butterworths, 2006) and The Definition of Convention Refugee (Butterworths, 2001) and comments frequently in the media on immigration and national security matters.
Every day, in my law practice, I hear stories about torture, political persecution, and systematic abuse of human rights. As a result I am ever more conscious of how fortunate we are to live in a country where the Rule of Law prevails and where we the principles of fundamental justice are respected.

At the same time, I am acutely aware of the fragility of what we have here in Canada. We all accept the importance of national security and public safety. But, we cannot let our fears overshadow our respect for due process. Instead of dealing with the root causes of crime we propose to build super jails to house more offenders. For the sake of public safety, we are removing the discretion of the courts to exercise compassion. Fearing that we are being invaded by undesirable foreigners, we consider shutting the doors to refugees. For the sake of our security, we are being asked to accept laws that are harsher and more unforgiving when there is no evidence that any of these measures make us safer.

At the same time respect for our democratic traditions are being challenged in the name of expediency. Parliament is prorogued in order to avoid political accountability. Government Ministers mislead Parliament in order to avoid responsibility for controversial decisions. Ministers of the Crown challenge the independence of the Courts arguing that they are impeding the government’s ability to protect national security.

We are not on the doorstep of dictatorship, but we are on a path of fear and expediency that poses a challenge to our democratic institutions. We must always do all that we can to protect the Rule of Law. We must advocate for true democratic reform and protect our democratic institutions. That is why we must support the work of organizations like the CCLA.
Alex Neve O.C.
Secretary-General, Amnesty International Canada

Alex Neve believes in a world in which the human rights of all people are protected. He has served as Secretary General of Amnesty International Canada since 2000. In that role he has carried out numerous human rights research missions throughout Africa and Latin America as well as within Canada. He speaks to audiences across the country about a wide range of human rights issues, appears regularly before parliamentary committees and is a frequent commentator in the media. Alex is a lawyer, with a Masters Degree in International Human Rights Law from the University of Essex. He has served as a member of the Immigration and Refugee Board, taught at Osgoode Hall Law School, been affiliated with York University’s Centre for Refugee Studies, and worked as a refugee lawyer in private practice and in a community legal aid clinic. He is on the Board of Directors of Partnership Africa Canada, the Canadian Centre for International Justice and the Centre for Law and Democracy. Alex has been named an Officer of the Order of Canada and has received an honorary Doctorate of Laws degree from the University of New Brunswick.
I have always believed that, at its core, Canadian democracy must be about standing up and standing true for human rights – at home and abroad. In fact, for democracy to flourish fundamental principles of justice and equality must be at its very core.

For that to be so we need a democracy that is open and transparent; and is prepared to put protecting rights above scoring political points. That is a precious responsibility we all share and which I feel powerfully every time I join my voice with thousands of other Canadians clamouring for stronger human rights protections. I never feel more disappointed by and worried for our democracy than when rights violations are timidly or selfishly ignored. And I never feel more proud of and confident in Canadian democracy than when we find the wisdom and courage to confront injustice.
EXCELLENCE IN BUSINESS
Salah Bachir is a philanthropist, patron of the arts, entrepreneur, the Publisher of Cineplex Magazine and Le magazine Cineplex and the President of Cineplex Media, which represents 95% of cinema advertising in Canada.

When not at his day job, Bachir is an avid art collector and enthusiastic patron of mostly Canadian art. His diverse collection of more than 3,000 pieces features many works by Canadian artists such as Betty Goodwin, Stephen Andrews and Attila Richard Lukacs, as well as pieces by international icons. His Andy Warhol collection is particularly renowned. Bachir has donated pieces to the Art Gallery of Ontario (where a room was named in his honour), Oakville Galleries, Canada’s National Gallery, Rideau Hall and the Canadiana Fund. Pieces from his collection also grace the halls of the Cineplex Entertainment and Cineplex Media offices.

But to many, Bachir is best known as a philanthropist, having served on numerous boards and committees including those of the Canadian Film Centre, Art Gallery of Ontario, Luminato arts festival, Business for the Arts, Canadian Foundation for AIDS Research and The 519 Church Street Community Centre Capital Campaign. Bachir raised more than $6-million ($1-million from his own pocket) for The 519’s expansion project, and in 2010 the community centre’s new wing was named in his honour. He has also promoted equal rights for same sex couples, supporting Egale Canada and their “I Do’ Means the Same Thing Whether You’re Straight or Gay” campaign.

Bachir has earned many honours for his charitable works. The Variety Club of Ontario gave him the Heart Award in 1996, he was voted Grand Marshal of Toronto’s 25th Annual Pride Parade in 2005, was named the Famous PEOPLE Players’ Man of the Year in 2008 and was awarded a Lifetime Achievement Award at the Toronto Pride Gala in 2009.
Tim Reid
President, Empire Club

With over 25 years experience in the Financial Industry, Tim is a co-founder of SIR Capital Corporation (formerly Strategic Investor Relations) where he remains President. Prior to co-founding SIR in 1999, Tim held the position of Canadian Director of Merchants Group International (MGI), a San Francisco based merchant bank catering to information technology companies located in Silicon Valley, California. At MGI, Tim raised capital for its U.S. client partners in Canada and established strategic partnerships with Canadian companies. Tim started in the Financial Industry with Pitfield Mackey Ross, then moved into the corporate and financial printing side with Grenville Management and Printing and Reid Graphics before going to MGI. Tim is President of The Empire Club of Canada and past President of The University Club of Toronto. Tim and his wife Kristen have three children.
I have always been a great proponent of democracy, but Canadian democracy is special. As president of the Empire Club of Canada I have come to appreciate Canadian democracy even more.

I have come to learn that many of its proponents seem to lack a clear understanding of what democracy, and especially democracy as we practice in Canada, should reflect. Let me explain by way of a recent experience in my role as president of the Empire Club.

Those who know me will attest to the fact that I am a passionate Canadian and think we all should be prepared to stand up for Canada and “wear it on our sleeves”. At an Empire Club luncheon, we were to have a presentation by a group representing one side of a particular environmental issue. Following this event, a group approached us wanting to express their view on the other side of this issue. I agreed, as long as they met the rules of the Club.

This decision resulted in us receiving many calls, e-mails, etc. from people that were opposed to us even entertaining the thought of giving this group a platform, let alone actually holding the event as we had planned it. Not surprisingly, most of the dissenters came from the ranks of those who presented at the previous luncheon. They were not open to us providing a forum for the presentation of the opposing view.

My point to them was that not only do we live in a democracy, but we live in Canada, and enjoy Canadian democracy. Therefore, both sides have a right to give express their views, no matter how radical or incorrect they may be viewed by the other. Since the opposing group agreed to abide by the Empire Club rules, we hosted the luncheon, in spite of the criticism. As usual, we sang “O Canada” and we still got flack from some. But in the end, thanks to the efforts of many, the event was a complete success.

To me that is democracy at its best. Canada enjoys a great democratic system of government and a great judiciary that are envied by most of the world. Sometimes, a few special interest groups want this system to be completely one-sided. While there may be occasions where our democracy may appear not to work perfectly, I am convinced that it can work very well indeed if we simply stand up for what we believe – a truly Canadian Democracy.
Purdy Crawford O.C.
*Counsel, Osler LLP*
One of Canada’s 25 most influential lawyers, 2010

Purdy Crawford is a native of Five Islands, Nova Scotia. He received his BA from Mount Allison University, his LL.B from Dalhousie Law School and his LL.M from Harvard Law School.

He pursued his legal career with Osler, Hoskin & Harcourt practising primarily in the corporate/commercial area. He left Osler to join Imasco as C.E.O. in 1985 – retiring as C.E.O. in 1995 but continuing as non-executive Chairman of Imasco Limited, CT Financial Services Inc. and Canada Trustco Mortgage Company until February 1, 2000.

He sits on the boards of several large public companies, both in Canada and the United States, including Allstream Inc., of which he is Chairman, Canadian National, Clearwater Seafoods Income Fund, Ganong Bros., Maple Leaf Foods, Emera Inc., Oxford Frozen Foods, Seamark Asset Management and Foot Locker Inc. He is a Governor of the University of Waterloo, Chancellor Emeritus of Mount Allison University and the Chairman Emeritus of The Atlantic Institute for Market Studies, an economic think-tank based in Halifax, Nova Scotia. Mr. Crawford is active in fund raising for several major charities. In 1996 Mr. Crawford was made an Officer of the Order of Canada. He also received the Canadian Council for the Advancement of Education Friend of Education Award in 1996 for his dedication to the advancement of learning over the years and in 1995 he was awarded the United Way Canada Volunteerism Award for outstanding contribution to Canadian society. In June 1997 he was inducted into the Business Hall of Fame of Nova Scotia. In 1999 he was honoured with a Fellowship in the Institute of Corporate Directors. In April 2000 he was
I want to record a few thoughts about the future of Canada.

We are so integrated with the U.S. in so many areas that it is not possible to talk about the future of Canada without talking, to some extent, about the future of the U.S. We have this close integration while still maintaining a very different culture. We live in a great country, one of the greatest in the world. With the right leadership in our governments, federal and provincial, we have incredible potential. Let me cite a few of Canada’s strengths:

- We have had balanced budgets at the federal and provincial level. This has been sidetracked as part of the recession and stimulus program with which I am in agreement. However, I am troubled that, at the federal level and in some of the provinces, all parties seem to take the position that there will be no tax increases to wipe out the deficit which is being created. It would please me much more if our political leaders called on all citizens to make the sacrifices necessary at the right time to wipe out the high deficit created by the stimulus program. To the extent this cannot be achieve by running more efficient governments, those of us who can afford to do so should be prepared to pay more tax to accomplish this.

- The stability of our economy during the major recession of the last few years has demonstrated, as never before, the importance of the steps that were taken earlier to get our economic house in order. Former Prime Minister, Jean Chretien and Finance Minister, Paul Martin deserve great credit for this. It is most important to recognize that this initiative was strongly supported by Canadians.

- Our pension system with its funding is the envy of the world – major debate is going on about this to improve its many deficiencies. About 40% of Canadians do not have pension coverage except for old age security and a needs supplement.

- Canada’s gross domestic product per capita is second in the world after the U.S. – our prosperity gap with the U.S. is quite wide and I remind you that “prosperity” for a caring country like Canada means greater public benefits for those in need. The United States is one of the most innovative countries in the world – the world’s greatest economic engine but, unfortunately, with this greatness, comes high excesses, as we have been seeing.

- In this recession our financial institutions have proved to be among the strongest in
the world. This is the result of our Canadian culture. This culture is reflected in our regulatory system and in the leadership within our governments and financial institutions. Many of you will remember how our financial institutions were being criticized by the media and financial analysts for not being aggressive enough in expanding abroad. In hindsight, however, their approach may well have been the right one.

Since the majority of our trade and other interchanges are with the United States, we cannot avoid being impacted in a major way with what happens in the U.S. We are therefore very dependent for our own prosperity upon a revival of the U.S. society. We should encourage this to happen and not “bad mouth” the U.S.

More and more we live in global community. This is inevitable and it is in our interest to have a broad enough perspective to understand this and recognize its value for Canada and for mankind. We must be proud of Canada and its wonderful multi-racial background but we must also recognize that there is no room for “my country right or wrong”. The great economist, Joseph Schumpeter, recognized the value of “creative destructivism”. We cannot live in isolation and be prosperous for long. There were riots in the United Kingdom when the single horse paths were replaced by stage coach roads and when the stage coaches were replaced by the steam locomotive and when sailing cargo ships were replaced by steam driven ships. There was a great company in Yarmouth, Nova Scotia, that was a world leader in shipping cargo by sailing ship. Those were the days of wooden ships and iron men. With a broader perspective that great company and many other great companies might have recognized the inevitable and been able to make the transition from sailing cargo ships to steam driven cargo ships.

All this change seems inevitable today and with the passage of time so will many of the changes taking place today. This is the importance of a broad perspective. If we can be on top of this in Canada, our tomarrows will be even greater. We must accept the globalization of our world and be a leader in its evolution.

Where do we go from here? We must get our economic houses back in order. If it takes tax increases to do so, so be it. We must expand our trade agreements around the world. The U.S. society will recover but it is in our interest over time to become less dependent upon the U.S. We must end the restrictions on trade among the provinces and territories, and we must attract more immigrants. I am proud that Canada is one of the most accepting countries of immigrants in the world. There are many more things that need to be done in Canada to help our unemployed and our underprivileged. I am only suggesting that relative to other countries we compare well but we need to do more.

Let me close by outlining why I am so hopeful for our tomorrows. Our dear friends in the U.S. would like things to be better. They would like their children to have improved life chances at birth, they would like their wives or daughters to have the same odds of surviving maternity as women in other advanced countries. They would appreciate full medical coverage at a lower cost; longer life expectancy; better public services and less crime. When told these things are available in other countries, such as Canada, but that they come with higher taxes and a more interventionist state, many of the same Americans respond “... but this is socialism – we do not want state interference and above all, we do not wish to pay more taxes”. (Some of the thoughts in this paragraph are taken from the book “What is Living and What Is Real in Social Democracy?” written by Tony Judt.) I say, with some pride, that we in Canada are prepared to accept higher taxes, where necessary, and what is called socialism (a limited interventionist state) for the greater good of our citizens.

Purdy Crawford June 21/2011
In Memoriam

Allan Blakeney O.C.  
1925-2011

“A principled pragmatist” with “a mixture of intellect, stamina and experience unusual in Canadian politics”; a “pan-Canadian statesman”. Thus does the biographer of Allan Blakeney encapsulate the qualities and impact of one of the most capable leaders to grace our nation’s political scene. Grounded in the Maritime Tory tradition, Mr. Blakeney embraced the co-operative impulses of social democracy and the egalitarian ethos of Saskatchewan people, congruent with his personal frugality and modesty.

As Provincial Treasurer and as Minister of Health he showed his mettle in times of financial stringency and the introduction of medicare. But it was as Premier of Saskatchewan that Allan Blakeney came fully into his own. He earned national admiration for sound, effective government. Convinced that public service is a high calling, he treated government administration as an exacting art. The political opinions of his senior public servants mattered far less to him than competence, professionalism and commitment.

Mr. Blakeney pursued a judicious balance of co-operatives, state ownership and the private sector which would best allow Saskatchewan people to control their economy and therefore their social destiny. When it came to constitutional issues, Allan Blakeney, profoundly understood, lucidly interpreted and ably practiced the subtle Canadian blend of parliamentary democracy, federalism and monarchy.

A man of unimpeachable integrity who has brought signal honour to the profession of politics.

Allan Blakeney was President of the Canadian Civil Liberties Association between 1998 and 2003.
In Memoriam

Keith Davey O.C. 1926-2011

The Honourable Keith Davey, O.C., was born and raised in Toronto and was a proud graduate of the University of Toronto.

Keith loved people. His sense of humour, warmth and generosity built friendships that lasted a lifetime. While Keith adored newspapers, the Blue Jays, breakfast at the Park Plaza, and calling Toronto “a World Class City,” politics was his passion.

Keith’s life was devoted to the Liberal Party of Canada. As National Director, he was instrumental in rebuilding the party in the early 1960s. Keith went on to lead many successful election campaigns for Prime Ministers Pearson and Trudeau. He mentored many young Liberals during his career – many of whom have gone on to be cabinet ministers, senators and organizers. His efforts earned him the nickname ‘the Rainmaker’ which became the title of his best selling 1986 memoir. Keith was named to the Senate in 1966 and became an Officer of the Order of Canada in 1999.

According to the Toronto Star, Keith was considered Canada’s first official media critic. His landmark 1970 report of the Special Senate Committee on Mass Media was the country’s first national accounting for the media. “Most people agreed that the freedom of the press presumes responsibility,” he wrote, “but few had really stopped to assess that responsibility.”

While politics was a passion, so too was his family. He was very happily married to Dorothy Davey for 33 years, as well as father of three, stepfather of two and grandfather of eight.

He passed away January 17, 2011.
ACT FOR FREEDOM
AU NOM DE LA LIBERTE

Droits
Equality
Liberty
Egalite

Right to Vote
Freedom of Expression
LGBT Rights
Privacy

vote
Liberte
Prohibition on Torture

Rights
Freedom of Expression
LGBT Rights

Non-Discrimination
Freedom of Expression

Torture

 droits
de vote
SHINE A LIGHT ON HOW WE’RE GOVERNED

By: Cara Faith Zwibel

It is often worth remembering what it means to live in a democracy. It may mean many things to many people, but one thing is clear—democracy is seriously threatened when information is withheld from the people.

The government lost Parliament’s confidence due to its unwillingness to share information about the cost of its proposals. In some ways, the government’s refusal to provide this information showed not only contempt for Parliament, but ironically, a lack of confidence in Parliament’s ability (and the ability of the Canadian people) to handle that information.

Ordinary Canadians are entitled to information about what our government is doing, what it proposes to do, and the short- and long-term impacts of those plans. Increasingly, however, Canadians are denied this information. This problem is not specific to the Harper government or the Conservative party. The federal Information Commissioner has repeatedly chastised government institutions for their poor access to information records, and in a recent study on the effectiveness of freedom of information laws in major Parliamentary democracies, Canada ranked last. Responses to requests for information are delayed, exemptions and exclusions under the legislation are overused, and there are serious allegations of political interference in the process of responding to “sensitive” requests. It is one thing for the government to ask us to trust its judgment about policy. It is quite another to deny us the information it uses to make those judgments. How are we expected to participate – to make informed choices – without information?

The current level of secrecy within our government is embarrassingly out of date. Democracies around the globe are undertaking open government initiatives, designed to sweep out the cobwebs, air out information, and get feedback and collaboration from members of the public. Canada is embarking on an open data initiative. This is a very positive development because it is time to move beyond studying the idea of open government, and to take action to achieve it in reality. Election times provide an ideal opportunity to demand that government’s doors are swung wide open and that they stay that way, but we should never stop demanding to exercise our right to know.

Cara Faith Zwibel is the Director of the Canadian Civil Liberties Association’s Fundamental Freedoms Program.
SMART ON CRIME DOES NOT MEAN MANDATORY MINIMUMS

By: Nathalie des Rosiers and Graeme Norton

Drug trafficking causes numerous social problems in Canada. We should encourage our governments to respond to these problems; however, this response ought not to include mandatory minimum sentences.

The forthcoming omnibus criminal law bill is expected to include mandatory minimum prison sentences for a range of offences, including some relatively minor drug crimes. Canadians should resist the facile argument that such sentences deter crime by sending a message to potential criminals. In reality, few people are aware of most mandatory sentences, and even fewer would change their behaviour on the basis of such sentences. The decision to engage in crime is not always a rational one and many people resort to criminal activity because they do not see any alternative or because they think they will not get caught.

Indeed, the American experience with mandatory minimum sentences tells us all we need to know. South of the border, the use of mandatory minimums for drug crimes has been a significant factor in raising prison populations to historical levels. An enormous number of non-violent offenders have been imprisoned and there has been no discernable impact whatsoever on drug crime. The human and financial costs of automatic incarceration have been enormous. As a result, many states are now abandoning this failed experiment by repealing mandatory sentencing laws.

Canada should not repeat the mistakes of our southern neighbours. Going down this road will mean putting more people in jail and devoting more public money to prison budgets. It is an expensive proposition that would redirect resources away from other sectors, such as healthcare and education, to prisons for no public benefit.

Besides their economic implications, mandatory minimum sentences also raise justice and fairness issues. The Canadian Civil Liberties Association has always opposed mandatory minimums because they strike at the core of our system of criminal justice, which is based on an individual assessment of blameworthiness. Mandatory minimum sentences prevent judges and other justice system participants from diverting offenders with addiction and mental health issues to places where their problems are more likely to be addressed. They also diminish the ability of the system to tailor the penalty to the circumstances of the crime and of the offender, which can lead to the imposition of excessive and unfair sentences. As the American experience indicates, bearing these significant human and financial costs will not result in the reduction of crime or the amelioration of its consequences.

Taking crime seriously does not mean implementing policies that have proven to be faulty. Canadians shouldn’t settle for inefficient and dangerous policies that look tough on crime but do nothing to address it. We need to insist on smart on crime policies that effectively address criminal justice problems, not create new ones.

Nathalie Des Rosiers is general counsel for the Canadian Civil Liberties Association.

Graeme Norton is the Director of the Canadian Civil Liberties Association’s Public Safety Program.
To fight terrorist activities of Al Qaida and the Taliban, the UN Security Council passed Resolution 1267 (1999). Related resolutions were passed over the next ten years, creating a sanctions regime commonly referred to as UN 1267. Notably, UN 1267 creates sanctions that target individuals. The sanctions include being publicly “listed”, being subject to a global travel ban and asset freezes, and being unable to receive funds from any sources including employers and lenders.

But what if a listed person is innocent of any terrorist activity and wrongly listed? What recourse does this person have?

UN 1267 has been criticized internationally for its failure to provide basic due process rights. People are given no notice before they are listed by the UN 1267 Committee. Criminal charges or convictions are not a prerequisite to listing. Individuals do not always know which State listed them, or why.

Without knowing sufficient reasons, how can an individual make an effective defence? And to whom? One Canadian judge (Justice Zinn of the Federal Court), and many international writers, have condemned the UN 1267 regime as being untenable under international law, because of the “denial of legal remedies” and failures of due process, natural justice, and fairness. In Europe, courts have struck down domestic legislation implementing UN 1267, because of the lack of due process.

With Resolution 1904 (2009) the UN 1267 Committee created an Office of the Ombudsperson, occupied since June 2010 by Canadian Kimberly Prost. Now, individuals, organizations or groups can submit delisting requests directly to the Ombudsperson. The Ombudsperson will then investigate by contacting relevant States and other parties, and then issue her recommendations in a report to the UN 1267 Committee.

While creation of the Ombudsperson’s office is welcome, it does not go far enough in addressing the inherent flaws of the UN 1267 listing regime. There is no guarantee the Ombudsperson will receive complete or accurate information from States who support an individual’s listing. The UN 1267 Committee is not obliged to accept the
Ombudsperson’s recommendations. And refusals of the UN 1267 Committee are not subject to any judicial review process. In other words, a listed individual can still be denied due process and an effective remedy.

Currently one Canadian is on the UN 1267 list, Abousfian Abdelrazik. Listed in 2006 despite any criminal charge or conviction against him, he has tried for years to be delisted. A 2007 delisting request submitted by Canada on Mr. Abdelrazik’s behalf, was refused by the UN 1267 Committee without reasons.

Though there is speculation, it is uncertain which State requested that Mr. Abdelrazik be listed. Full reasons for his listing are unknown, though he has argued that his listing is based on faulty information procured from torture, contrary to Canadian and international law. Mr. Abdelrazik has filed a delisting application with the Ombudsperson, currently being investigated. Whatever the recommendations of the Ombudsperson, there is no guarantee the UN 1267 Committee will follow them.

The CCLA is opposed to the current UN 1267 listing process, and any listing process devoid of due process and procedural fairness.

If the UN 1267 regime continues, the CCLA believes there must be key changes. At a minimum, States who list individuals or seek their continued listing, must provide sufficient reasons, so an individual can provide a proper challenge. Individuals must have effective recourse to remedies, redress, appeal and/or judicial review. Listing itself must be periodically reviewed so that new exculpatory information or errors in the original listing process can be revealed. The CCLA agrees with international recommendations that any listing be “preventative and temporary”, and as such agrees with the proposed 36-month sunset clause: i.e. listing would expire in 36 months unless, after an effective review, the UN 1267 Committee decides to continue listing and provides sufficient reasons for this decision, with opportunity for review or appeal. Finally, individuals should be able to request the Ombudsperson to recommend humanitarian exemptions of the UN 1267 Committee.

The CCLA notes that without these amendments, the UN 1267 sanctions regime remains at odds with the foundational principles of the UN Charter –commitment to human rights including fairness and due process.

Sukanya Pillay is the Director of the Canadian Civil Liberties Association’s National Security Program
THE UNFINISHED G20 STORY

By: Nathalie Des Rosiers, General Counsel, Canadian Civil Liberties Association
James Clancy, National Director, National Union of Public and General Employees

There are events in Canadian history that have become symbols of the fragility of our democratic rights: the internment of Japanese Canadians during the Second World War or the imposition of the War Measures Act, to name a few. In our view, the policing at the G20 Summit in Toronto last summer will be remembered as one of them.

We know that over 1105 people were arrested, that less than 100 charges are proceeding, that peaceful protests were violently dispersed, that thousands of people were searched, that some people were assaulted, detained for extended periods of time, denied their right to a lawyer or insulted. However, we still do not know why such conduct was allowed to take place and why the right to protest peacefully was not fully protected.

Vandalism is condemnable but it does not give the right to the police to unleash brutal treatment on other peaceful protesters. The right to peacefully protest is an integral part of a democratic order and is as important as the right to vote. The government and security responses to the exercise of freedom of peaceful assembly is a test of whether a government is a democracy or an autocracy, as events around the world demonstrate. Violent disruptions of peaceful protests are unacceptable no matter where they occur.

In November 2010, the National Union of Public and General Employees and the Canadian Civil Liberties Association held public hearings on the policing of the G20 Summit. The purpose of these hearings was not to replace the public inquiry which we absolutely need, but simply provide a space for people to tell their story and to raise awareness about what happened at the G20. Many people came to describe what they had seen, what they experienced or make suggestions for improvements to public order policing. Many people described how their rights to peaceful assembly were breached, how they witnessed police abuse and how they were left wondering why this happened. There is no doubt that the scale of civil rights violations goes beyond the actions of a few misbehaving police officers: hundreds of police officers removed their badges, many told protesters that martial law had been declared, that protesters no longer had any rights and that they could be held at the detention centre for as long as necessary. The failure to train police officers properly, to instruct them on the need to respect and protect the right to peaceful assembly, the misleading information about the Public Works Protection Act – all this need to be investigated properly.
A public inquiry is needed. Although many shiver at the thought of spending more money on an enterprise that has already cost more than one billion dollars for a three day event, not doing it will be more costly. The G20 security effort was multifaceted: it involved police officers and security efforts from many police forces, from different provinces and from both the federal and provincial police. This renders the accountability mechanisms that we have which are jurisdictionally bound ill-suited for the exercise. Although many processes are now under way, their scope is limited by the mandate that they have. No one can look fully at the interplay between the RCMP and the provincial and municipal forces, no one has the capacity to assess whether there were communications, training or leadership failures that led to the large-scale violations. A federal-provincial public inquiry is needed so that the full story is told. Canadians deserve to know what went wrong and whether it could have been avoided. If we do not get to the bottom of this issue, the lack of trust will linger on.

Trust in public institutions and in the police are essential to a well-adjusted society. When police officers misbehave, they hurt their victims, they hurt the people who witnessed the illegal behaviour, they hurt themselves and the institution of policing, and they hurt all of us because it is in our name that they carry out their powers of arrest and detention. Police brutality affects us all: it is a betrayal of the rule of law as people bound to maintain the law abuse it. A public inquiry is an investment in better policing for the future, in ensuring that the right people are blamed for what went wrong and not the police officers who acted appropriately. Not knowing why orders were given to disperse the people quietly sitting at Queen’s Park, not knowing why police officers pulled off Mr. Pruyn’s artificial leg, why they pushed and shoved many bystanders, why horses were called, why rubber bullets were fired, why people were kettled for hours not knowing what to do, why people were arrested with tasers in their face while they were in their pajamas, why fire trucks did not come to extinguish the cars on fire, why a group of vandals were left free to continue their destruction while close to 20,000 police officers were in town, not knowing what went wrong is a disservice to us all.

The G20 was a moment of truth for Canadian democracy. The response to the security displayed at the G20, like the War Measures Act forty years ago, will be a turning point for our democracy: either we will emerge with stronger democratic institutions, regulatory regimes, accountability frameworks and better policing, or we will have tolerated mass violations of civil liberties with callous indifference.
Il y a des événements dans l’histoire du Canada qui sont devenus des symboles de la fragilité de notre droits démocratie: l’internement des Canadiens d’origine japonaise pendant la Seconde Guerre mondiale ou l’imposition de la Loi sur les mesures de guerre pendant la crise d’Octobre en 1971 pour n’en nommer que quelques-uns. À notre avis, le maintien de l’ordre pendant le Sommet du G20 à Toronto l’été dernier restera dans les mémoires comme l’un d’entre eux.

Nous savons que plus de 1105 personnes ont été arrêtées, que moins de 100 accusations sont devant les tribunaux, que des manifestations pacifiques ont été violemment dispersées, que des milliers de personnes ont été fouillées, que certaines personnes ont été agressées, détenues pendant de longues périodes de temps, privées de leur droit à un avocat ou insultées. Cependant, nous ne savons toujours pas pourquoi un tel comportement a été autorisé et pourquoi le droit de manifester pacifiquement n’a pas été pleinement protégé.

Le vandalisme est condamnable, mais il ne justifie pas un comportement policier brutal envers les autres manifestants pacifiques. Le droit de manifester pacifiquement fait partie intégrante d’un ordre démocratique et il est aussi important que le droit de vote. Les réponses du gouvernement et de la sécurité face à l’exercice de la liberté de réunion pacifique est un test qui détermine si un gouvernement est une démocratie ou une autocratie, comme les événements à travers le monde les démontrent présentement. Interrompre violemment une manifestation pacifique est inacceptable, peu importe où elle se produit.

En Novembre 2010, le Syndicat national des employées et employés généraux et l’Association canadienne des libertés civiles ont tenu des audiences publiques sur le maintien de l’ordre pendant le sommet du G20. Le but de ces audiences n’était pas de remplacer l’enquête publique dont nous avons absolument besoin, mais simplement de fournir un espace pour les gens pour raconter leur histoire et pour sensibiliser le public sur ce qui s’est passé pendant le G20. Beaucoup de gens sont
venus décrire ce qu’ils ont vu, ce qu’ils ont vécu ou pour suggérer des améliorations au maintien de l’ordre public. Beaucoup de gens ont décrit comment leur droit de réunion pacifique a été violé, comment ils ont été témoins d’abus policiers et comment ils se sont demandés pourquoi cela s’est produit. Il ne fait aucun doute que l’ampleur des violations des droits civils va au-delà du mauvais comportement de quelques officiers de police: des centaines de policiers ont retiré leur badge, de nombreux manifestants se sont vu dire que la loi martiale avait été déclarée, qu’ils n’avaient plus de droits et qu’ils pouvaient être incarcérés au centre de détention aussi longtemps que nécessaire. Les manquements au niveau de la formation des agents de police quant à la nécessité de respecter et de protéger le droit de réunion pacifique, le manque de communications et les informations erronées sur la portée de la Loi sur la protection des ouvrages publics – tout cela doit être examiné correctement.

Une enquête publique est nécessaire. Bien que plusieurs soient opposés à l’idée de dépenser encore plus d’argent sur une entreprise qui a déjà coûté plus d’un milliard de dollars pour un événement de trois jours, ne pas mener d’enquête sera encore plus coûteux. L’effort de sécurité du G20 avait de nombreuses facettes: il s’agissait d’agents de police de forces de police diversifiées, de différentes provinces, ainsi que de la police fédérale et provinciale. Cela rend les mécanismes d’imputabilité que nous avons – et qui ont des compétences limitées – mal adaptés à l’exercice. Bien que de nombreux processus soient en cours, leur portée est limitée par leur mandat. Personne ne peut examiner pleinement l’interaction entre la GRC et les forces provinciales et municipales, personne n’a la capacité d’évaluer s’il y a eu des échecs au niveau des communications, de la formation ou de la direction qui ont conduit à des violations à grande échelle. Une enquête publique est nécessaire pour que toute l’histoire soit connue. Les Canadiens et Canadiennes méritent de savoir ce qui s’est passé et si cela aurait pu être évité. Si nous n’arrivons pas aller au fond de cette question, le manque de confiance envers les services policiers persistera.

La confiance dans les institutions publiques et dans la police est essentielle à une société bien ajustée. Lorsque les agents de police se conduisent mal, ils et elles portent atteinte non seulement à leurs victimes, aux gens qui ont été témoins de leur comportement illégal, mais ils et elles nuisent aussi à l’institution même de la police, et à nous tous, car c’est en notre nom que les agents de police exercent leurs pouvoirs d’arrestation et de détention. La brutalité policière nous touche tous: c’est une trahison de la règle de droit quand celle-ci est abusée par les personnes chargées de la maintenir. Une enquête publique est un investissement dans un meilleur maintien de l’ordre pour l’avenir, afin que le blâme soit porté correctement sur les personnes vraiment responsables de ce qui s’est passé. Ne pas savoir pourquoi des ordres furent donnés de disperser les gens assis tranquillement à Queen’s Park, ne pas savoir pourquoi des agents de police ont arraché la jambe artificielle de M. Pruyn, pourquoi ils ont poussé et bousculé grand nombre de passants, pourquoi des chevaux ont été appelés, pourquoi des balles en caoutchouc ont été tirées, pourquoi des gens ont été encerclés pendant des heures ne sachant pas quoi faire, pourquoi des gens ont été arrêtés avec un Taser dans leur visage alors qu’ils étaient en pyjamas, pourquoi les camions de pompiers ne sont pas venus pour éteindre des voitures en feu, pourquoi un groupe de vandales a été laissé libre de poursuivre une destruction malgré la présence d’à peu près 20 000 policiers en ville, ne pas savoir ce qui s’est passé nous porte préjudice à tous.

Le G20 a été un moment de vérité pour la démocratie canadienne. La réponse au G20, comme ce fut le cas pour la Loi sur les mesures de guerre il y a quarante ans, sera un point tournant pour notre démocratie: soit nous émergerons avec de meilleures institutions démocratiques, des régimes améliorés de réglementation et meilleurs cadres de responsabilisation des services de police, ou nous aurons toléré des violations massives des libertés civiles avec indifférence.
ENGAGING STUDENTS IN PROCESS OF CONSIDERING RIGHTS

By: Danielle McLaughlin

Did you vote during the recent election? What does your six year old think about that? With any luck, your child is asking some interesting questions.

You may be surprised to learn that even very young children are capable of thinking critically about what it means to be a citizen — and of taking responsible action.

As the Law Foundation of Ontario’s Community Leadership in Justice Fellow at the University of Windsor’s Faculty of Education in 2010-2011, I have the great honour of working with people who are learning to teach the five “Rs.” Along with teaching reading, ‘riting, and ‘rithmetic comes teaching rights and responsibilities. Through its focus on social justice, the University of Windsor’s Faculty of Education is at the forefront.

While many of us may think young children have limited capacity to think about complex situations, some teacher-candidates at the University of Windsor’s Faculty of Education are seizing the opportunity to teach critical thinking.

In an assignment designed for the Law and Ethics course, Prof. Yvette Daniel had her teacher candidates plan and implement a lesson that incorporated critical thinking skills during their practice teaching.

One teacher candidate explored issues around the topic of slavery. Not only was slavery legal in Canada, but people who assisted slaves in escaping were committing an offence under law. The students were working out what they would have done if they had lived at this time in Canada’s history. Would they have obeyed an unfair law? Would they have risked going to jail for breaking such a law? Here is what the teacher-candidate said about her experience teaching critical thinking to elementary students:

“Seeing my students capable of deep and critical thought was an amazing experience for me! I was near tears when discussing issues of justice and fairness with my students because it was at that moment that I pictured them all as the next big “game changing advocates” in our world. They had the power and potential and it was through this deep critical thinking ... assignment where I gained real insight into just this.”
Many others also reported that they discovered the “teachable moments” that engage children in coming to grips with the important choices we must all make as citizens. Teacher-candidates are learning to teach youngsters to practice the habits of democracy through sustained practice of the ‘habits of mind’… and they are doing so through every part of the curriculum and through planned and occasioned classroom encounters.

Imagine this: A teacher who is tired of interruptions makes a new classroom rule — no one can use the washroom except during recess or lunch. Her purpose is to keep the class running smoothly and to keep her students focused. Is this fair? She asks the students. She poses three questions that will help them to decide:

1) Why? What is the purpose for the rule — is it a reasonable one?
2) Will it work? Will the new rule achieve its purpose and make the class run more smoothly?
3) What else will happen? Does the rule go too far? Will certain people be more negatively affected than others? Is there another way to achieve the goal without unduly infringing on people’s rights and freedoms?

Some students may like the new rule, while others may see it as unfair. Some will be concerned about people leaving the room during an important test, and others about bathroom emergencies or puddles on the floor.

We may even find that some of the children are concerned, not only for their own welfare, but for that of their friends or for other people they consider to be vulnerable.

What risks do teachers take when they engage young students in this kind of discussion? Could we be training the next generation of protesters? Maybe. But if we DON’T engage students in considering their rights and responsibilities, where will our next world leaders come from?

Choosing to vote or not to vote, then, is entirely relevant to your six year old and to all our children. And work being done at Windsor’s education faculty, and in classrooms where its graduates are teaching, should give us confidence in the bright future those six year olds will help create.

This op-ed piece by Danielle McLaughlin, Director of Education for the Canadian Civil Liberties Education Trust, was published on November 11, 2010 in The Windsor Star.
At this nascent stage, not much is known about how the Security Perimeter will actually work. However, a Working Group has been constituted to issue an Action Plan by fall 2011.

The Working Group confirmed some broad objectives. The Security Perimeter is to build on existing trusted traveller programs such as Nexus, in assessing threats early. There will be increased ‘information sharing and pooling’, integrated cross-border law enforcement, joint plans on critical infrastructure and cyber-security, and joint privacy principles relating to personal information.

From a civil liberties perspective, the details will be crucial.

How will travellers be identified as being trusted or risky? What information will be relied upon? Will travellers have the opportunity to access this information, seek rectification in case of error, and seek effective appeal and redress if they dispute the categorization of ‘risky’? Indeed, what are the ramifications of creating profiles of “trusted”, “risky”, or even “normal”? Will these profiles permeate eligibility determination in other fields, such as employment?

What about Canadians who end up on U.S. watch lists, or No Fly Lists? Currently, there are individuals who are not on Canadian watch lists, but who are on U.S. lists. In a Security Perimeter
context, will U.S. lists supersede the Canadian ones? What about mobility rights guaranteed in the Canadian Charter of Rights and Freedoms, and in international law?

Listing also raises many due process concerns, including whether listed individuals will have the opportunity to know of and challenge the information used to justify their inclusion on a list, as well as the presumption of innocence. How will an innocent person be able to prove they were wrongly listed?

And how will Canada ensure that information procured from torture is not relied upon in Security Perimeter listing, threat assessments or other “information sharing and pooling”? To rely on information procured from torture contravenes Canadian and international law prohibitions against torture. It also results in a ‘corrupted network of information exchange’ that erodes legal standards.

“Greater information sharing and pooling” raises concerns of accountability, transparency, and necessity. CCLA believes that legal safeguards surrounding necessity, proportionality and reasonableness of collection, use, dissemination, retention, and deletion must be enforced. Further, these legal safeguards should “attach” to any information shared with Third States/agencies.

The plans for “integrated cross-border law enforcement” also raise questions of oversight, accountability, and due process. Integrated law enforcement or security initiatives must be accompanied by integrated oversight and accountability mechanisms.

With respect to cyber-security, Canada and the U.S. have different approaches to electronic surveillance, warrants, and the use of third-party intermediaries. The Internet inherently raises inter-jurisdictional issues. Will Canada amend its laws to comply with U.S. standards? How will differences be addressed? What about future U.S. policy changes and the impact upon Canada?

Finally, there are also concerns with regard to refugees and asylum-seekers. In cases where the U.S. refuses to allow an asylum-seeker into its territories or airspace, will that individual be obstructed from reaching Canadian borders? What are the possible repercussions for refugees and asylum-seekers currently living inside Canada? Will Canada be able to maintain its legal and humanitarian commitments to refugees and asylum-seekers?

Differences on many issues are inevitable and the issue of neutral, enforceable dispute resolution mechanisms is also raised. Will new mechanisms be created, how will they operate, and will their decisions be enforced?

Ultimately, from a civil liberties perspective, it is vital that all the legal safeguards contained in the Canadian Charter of Rights and Freedoms are upheld. Our freedoms and liberties must be protected. Proper attention must be paid to the civil liberties implications of Security Perimeter proposals, in order to ensure that legal safeguards -- including due process, accountability, transparency, privacy protection, and redress mechanisms -- are built in.

Sukanya Pillay is the Director of the Canadian Civil Liberties Association’s National Security Program.
HOW WE TREAT ASYLUM SEEKERS IS A HUMAN RIGHTS ISSUE

By: Noa Mendelsohn Aviv

As Canadians, many of us feel lucky. Lucky to live with a great deal of peace, security, and freedom. Lucky that we can wear and wave the maple leaf, attach it to our luggage – and have it match our passports.

The pride so many of us take in this symbol is directly related to our pride in Canada, as we are perceived around the world as a country of tolerance, freedom, and human rights. Those of us who live here know that our national home is not perfect, but also know this to be a culture of compassion, gentleness, and caring for others (through our health and education systems, as well as some of our international endeavours).

My first sighting of a maple leaf occurred, and my Canadianness began, in 1978 when my family arrived in this country. For many Canadians, it was their parents, grandparents, or forebears who arrived: some travelling in first class, others in far less luxurious conditions; some in recent memory, others several centuries ago. But that’s all history.

Today, as Canadians, most of us do not know the horrors of war or despotism, and most of us live without the fear that we will be subjected to torture, death or persecution at the hands of the state. And most of us are hopeful that if we stand on guard for our democratic, participatory and humanitarian traditions, we will be able to pass them on to our children, and to theirs.

But sadly, there are many people around the world who are not so fortunate. People whose lives have been torn apart, who have suffered terribly, and for whom the risk of persecution, torture or death is still very real. How we as Canadians respond to these men, women and children will have an enormous impact on their lives. But it will also inform our cultural values and norms. Whether or not we can continue to think of ourselves as a nation committed to human rights and to helping others, will depend in part on what we do for asylum seekers, and how we treat them when they land on our shores.

Take the case of the 491 individuals who came to Canada aboard the Sun Sea following a brutal civil war in Sri Lanka. Despite their stories of hardship and trauma, and their desperate, months-long sea voyage, upon arrival in Canada, many were taken into detention and kept there for months. This included children who, though not officially detained, were kept with their mothers in “low-risk facilities.” More than five months later, over 100 individuals were still locked up, with the government fighting to keep them that way, and to render them inadmissible. This treatment must have a horrific impact on people who have already
suffered a great deal. The financial cost is enormous. The cost to our ethical well-being is even greater.

The only hopeful news is that such detentions, along with the response of Canadian authorities to the Sun Sea passengers, represent a significant departure from the normal processing and treatment of asylum seekers in Canada.

But if overly restrictive laws were to pass, things could deteriorate still further. One bill proposed in the last session of Parliament would have significantly changed our refugee system for the worse, including amongst other things, a requirement that many asylum seekers upon arrival, be placed automatically in detention for at least one year.

And if all this is not enough to raise concerns, one has only to listen to the anti-refugee and anti-immigrant fear-mongering generated in certain circles, a form of discourse one would not have expected in Canada. Such sentiments are particularly hard to understand, considering how many of us are the children or descendants of immigrants ourselves, and considering the economic, cultural and social benefits Canada has always gained by accepting immigrants and refugees to our country.

How we treat, talk about, and respond to people in crisis has always been a question of humanitarian values and human rights. If we want to wave that little leaf, and keep our Canada a place that upholds these values and deserves its well-earned reputation, we must work to defeat government laws and actions that violate the rights of refugees.

Noa Mendelsohn Aviv is the Director of the Canadian Civil Liberties Association’s Equality program.
THE DANGERS OF CYBER SURVEILLANCE

By: Nathalie Des Rosiers and Graeme Norton

Law enforcement agencies argue that the digital age presents new challenges for their work that require broader powers to investigate crime in cyberspace. Many people agree. What people disagree about is whether facilitating police work should mean removing the requirement of warrants or lowering the standards to obtain them in relation to information about online activities and digital communications.

Current government proposals would empower state agents to compel telecommunications and Internet services providers to hand over subscriber information without first obtaining a warrant. This information would include Internet Protocol addresses, which can reveal a person’s online activities and Internet browsing habits. The same government proposals would also diminish the standard for obtaining a warrant to access electronic data that reveals when and with whom people have communicated electronically (email logs) or where they have been (GPS location data). In CCLA’s view, the potential for unwarranted snooping and privacy invasions that would result from these proposals is too great.

The absence and dilution of judicial warrants is worrisome. Warrants are a cornerstone of our criminal justice system: they ensure that police act within the law and require that there be a sufficient basis to justify a search or seizure before it occurs. Warrants are meant to prevent fishing expeditions, capricious searches and arbitrary police harassment. They have stood the test of time and have effectively protected Canadians against lawlessness and invasive investigative tactics. Where the need to obtain a warrant could legitimately endanger an investigation, the law permits warrantless searches in “exigent circumstances.” These standards are not overly cumbersome, whether in the real or cyber world. There is no reason that police should be able to learn what websites we’ve visited on the Internet without having a judge approve of their reasons for doing so.

Although the digital age has transformed our lives, it has not transformed our need for privacy and fairness. Unsupervised cyber surveillance raises the spectre of serious privacy invasions, which we would more commonly associate with tactics such as unauthorized home searches. Ensuring that Canadians are protected from serious invasions of their personal privacy should be a higher priority for our government.

For many years, CCLA has advocated for the creation of a robust mechanism for auditing police actions. In the current environment, this is essential, as present police accountability frameworks rely too heavily on complaints and internal investigations. This is far from satisfactory in the context of cyber surveillance, which people will often be unable to detect, let alone complain about. Ensuring more effective oversight would require giving independent scrutinisers ongoing access to police records, facilities, and personnel, so that adequate reviews of how law enforcement powers are being used can be conducted.

Unchecked cyber surveillance is not technological progress, but a retreat from fairness and accountability. Abandoning and diluting the warrant process and the independent judicial oversight that it provides is a step backwards, not forward.

Nathalie Des Rosiers is general counsel for the Canadian Civil Liberties Association. Graeme Norton is the Director of the Canadian Civil Liberties Association’s Public Safety Program.
There are over 6 million foreign-born people living in Canada, representing close to 20% of the total population. Issues involving citizenship and immigration raise passionate debates and are frequently the subject of controversy.

In Canada, as in many other parts of the world, an individual’s immigration status plays a significant role in determining how various rights, benefits and obligations are allocated. This is true for the allocation of various social benefit programs, employment opportunities, and legal and democratic rights. There are serious consequences to this differential access to rights, benefits and obligations on the basis of immigration status.

The Canadian Civil Liberties Association is concerned that people are treated differently because of their immigration status without any good reason for such distinctions. Although this kind of discrimination has, unfortunately, been a part of Canadian society for some time, anti-immigrant attitudes appear to have become more pronounced in recent years. Increasingly, immigrants and refugees are seen as a threat not only to Canada’s economy, but to our safety and security. As a result, people are denied housing because they are refugees, others are deported for minor crimes even if they have lived in Canada for the majority of their lives.

In its work on this issue, CCLA is looking at both the formal distinctions between categories of immigrants that are made by the law, and the informal distinctions and differences in treatment that also exist on the ground. The project requires probing whether the distinctions that are drawn are truly based on immigration status, or whether issues of race and racism are in reality what lurks beneath. It also requires thinking about when certain distinctions continue to be justified in the 21st century.

In our view, a better framework is needed for deciding when immigration status should be used to determine rights, privileges and responsibilities in our society. We should be worried about categories of immigration that deny fundamental rights such as the right to reunite with family members. An immigration policy that is not grounded in the protection of human rights risks undermining fundamental values of democratic equality in our society. If we tolerate “second class” treatment for people living on our territory, such as for some temporary migrant workers, are we not abandoning the principle of equal application of the law to all? The issues are important and timely.

If Canada wishes to develop a political culture that recognizes the way in which immigrant communities’ contributions and participation enrich Canadian society, we must address citizenship and immigration issues more consistently and coherently. A more transparent framework, and a better understanding of the reasons behind distinctions drawn on the basis of immigration status, will enhance our understanding of the concept of citizenship, facilitate coherent policy making and the consistent application of the law, and help move toward a more equal and fairer society.

Nathalie Des Rosiers is general counsel for the Canadian Civil Liberties Association
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