

Statement: Inquiry into the use of the *Emergencies Act*

We are representatives of major civil society organizations and social movements from across Canada. Individually and collectively, we represent the interests of many Canadians with diverse identities and interests.

We are writing regarding the inquiry that must be called pursuant to s. 63 of the *Emergencies Act*. In our view, the inquiry provides an invaluable opportunity for meaningful scrutiny of the events leading up to the federal government's decision to declare a public order emergency, the proclamation itself, and the orders made pursuant thereto. It should not be marred by partisan fights; it must be a process that is designed around the pillars of transparency, openness, and meaningful accountability.

On February 14 2022, in response to blockades and protests taking place in Ottawa and at some border crossings, the Prime Minister announced that the Governor in Council had invoked the *Emergencies Act*, giving the federal government certain temporary powers. In line with the sweeping powers that the proclamation enabled, we are asking that the government adopt broad terms of reference for the inquiry and ensure that it is led by a truly independent individual or panel. The commissioner(s) should have all the powers of commissioners appointed under the *Inquiries Act*, including:

- 1) Summoning witnesses and requiring them to give evidence orally or in writing on oath or affirmation;
- 2) Requiring witnesses to produce documents;
- 3) Enforcing the attendance of witnesses and production of documents as would a court of record in civil cases;
- 4) Engaging the services of counsel and any experts or assistants they deem necessary; and
- 5) Allowing any person whose conduct is being investigated to be represented by counsel.

The government should be prepared to invest the resources necessary for a full and thorough inquiry and report. Moreover, in contrast to the largely secret meetings of the parliamentary review committee that have been employed under the Act, the inquiry must be transparent and its proceedings must be open to the public.

The events that took place in the weeks leading up to the invocation of the *Emergencies Act* are without historical precedent in Canada, as was the government's decision to declare a public order emergency. The sweeping powers that came with the proclamation, while short-lived, provided police with broad powers to end public assemblies and empowered financial institutions to take steps to cease dealing with a broad range of individuals who may or may not have been directly involved in any illegal activity.

We are concerned with the use of state and police powers to suppress constitutional rights, especially given how, historically, such powers have been used disproportionately against Indigenous, Black and other marginalized communities. With so much taking place behind the

closed doors of Cabinet meetings, it is vital that our accountability processes are put to good use. These circumstances call for a public inquiry with broad terms of reference and all of the powers of a public inquiry under Parts I and III of the *Inquiries Act*.

Signed:

Amnesty International Canada (English Speaking)

Black Legal Action Centre

British Columbia Civil Liberties Association

BC Freedom of Information and Privacy Association

Canadian Civil Liberties Association

Canadian Constitution Foundation

Centre for Free Expression

David Asper Centre for Constitutional Rights

Democracy Watch

International Civil Liberties Monitoring Group

Lawyers' Rights Watch Canada

Ligue des droits et libertés

National Council of Canadian Muslims

Women's Legal Education and Action Fund

World Press Freedom