

# In The Supreme Court of Canada

ON APPEAL FROM THE COURT OF APPEAL FOR SASKATCHEWAN

**BETWEEN**

DSR KARIS CONSULTING INC.

*Applicant,*

**AND**

v

KIMBERLEY A. RICHARDSON.

Respondent

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**Application for Leave to Appeal**

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DSR KARIS CONSULTING INC. AB OFFICE  
Agent for Service: Astra Richardson-Pereira  
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**(DUE TO SAFETY CONCERNS EMAIL AND FAX SERVICE ONLY)**

KIMBERLEY A. RICHARDSON      Respondent

**Matrix Law LLP**

Patricia J. Meiklejohn, Counsel for the Respondent  
1421 101 Street,  
North Battleford SK, S9A 1A1  
Tel: 1 306 445-7300  
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#### DOCUMENTS IN SUPPORT

#### APPENDIX A

- Affidavit of Dispensing with Service of Dale J. Richardson Affirmed April 4, 2022;
- Affidavit of Dispensing with Service Dale J. Richardson Affirmed September 2, 2022;
- Affidavit of Dale J. Richardson, Affirmed November 18 of 2022;

FORM 25

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

Article 2, 13 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Article 1-33 of the Rome Statute of the International Criminal Court,

the Crimes against Humanity and War Crimes Act,

Section 83.01(b), 219, 229(6),(6.01), (6.1), 269.1, 279.01, 279.011, 380(1), 463 and 465 of the Criminal Code,

Section 18, 84, 97(1), 99.1, 101.1(1), 107, 109(1), 110, 111, 112, 117(1), 131, 143(1), 144, 146 of the Land Titles Act (SK),

Section 40(1), 55 of the Supreme Court Act,

**TAKE NOTICE** that DSR Karis Consulting Inc. applies for leave to appeal to the Supreme Court of Canada, under Section 40(1), 55 Supreme Court Act, Article 2, 12, 13 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and section 111 of the Land Titles Act from the judgment of the Court of Appeal for Saskatchewan CACV3798 made on November 18, 2022 for a judgment made on a matter that contained indisputable evidence of treason and bioterrorism against Canada, the United States, crimes against humanity, torture, and numerous other crimes committed in and outside of the courts based on an engineering report that was determined without any expert testimony to the contrary by any party outside of the Applicant in violation of the following without limitation Section 83.01(b), 219, 229(6),(6.01), (6.1), 269.1, 279.01, 279.011, 380(1), 463 and 465 of the Criminal Code;

**AND FURTHER TAKE NOTICE** that this application is made on the following grounds:

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan contain rogue agents of a criminal organization acting against the will of the people of Canada by assisting actors in the United States to commit treason against the United States and effecting the same actions in Canada.

The Court of Appeal for Saskatchewan attempted to unlawfully change the appellant in CACV3798 to conceal the fraud used in DIV 70 of 2020 using the Land Titles Act (SK) to unlawfully deprive DSR Karis Consulting Inc. of its registered office to cause a severe interference to its essential services to disrupt criminal negligence investigation and thwart its

reporting of engineering of the distribution of biological weapon that interfered with the territorial integrity of Canada and the United States and caused death and other harm delineated in clauses (A)-(C) of 83.01(b)(ii) of the Criminal Code.

The Court of Appeal for Saskatchewan unlawfully denied the right of appeal conferred by the Land Titles Act (SK), the legislation used to unlawfully transfer the title of the registered office of DSR Karis Consulting Inc..

The Court of Appeal for Saskatchewan judges lacked jurisdiction from being named as perpetrators and violated the Canadian Victims Bill of Rights.

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan judges engaged in fraud in violation of 380(1) of the Criminal Code.

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan judges engaged in human trafficking in violation of 279.01, 279.011(1) and 279.01(4) of the Criminal Code.

The Court of Appeal for Saskatchewan judges had an extreme conflict of interest being colleagues of parties named as perpetrators.

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan judges lacked jurisdiction from participating in criminal activity while sitting as a judge contrary to the Judges Act.

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan judges lacked jurisdiction from engaging in unauthorized practice of mechanical engineering and/or mechanical engineering technology while sitting as a judge contrary to the Judges Act.

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan ignored evidence of parties in Canada assisting actors in the United States to commit treason against the United States.

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan used power to shield the Respondents treasonous activity, child trafficking for the purposes of financial and sexual exploitation, human trafficking, fraud, bioterrorism, involvement in Crimes against Humanity and other crimes without limitation.

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan ignored multiple complaints of torture involving numerous parties in Canada and the United States.

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan exercised an expert opinion over that of a Mechanical Engineering Technologist with a Bachelor of Technology and the Judges engaged in the profession of engineering technology in making their decision.

Agents of the Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan engaged in terrorist activity contrary to section 83.01(b) of the Criminal Code.

The Court of Appeal for Saskatchewan and the Court of King's Bench for Saskatchewan engaged in the trafficking of a person under the age of 18 years for the purposes of exploitation contrary to section 279.011(1)(4) of the Criminal Code.

The Court of Appeal for Saskatchewan and the Court of King's Bench for Saskatchewan ignored the Applicant's evidence to demonstrate the systematic attack directed towards the Applicant. This has stripped it of fundamental rights afforded to persons under the law.

The Court of Appeal for Saskatchewan reinforced the systemic racism demonstrated by the jurisdiction by ignoring evidence presented by a Black person to rule in favour of a Caucasian woman not present who has a demonstrable history of abusive violent behaviour.

The Court of Appeal for Saskatchewan sanctioned the torture of Indigenous and Black persons.

The Court of Appeal for Saskatchewan ignored treason, child trafficking for the purposes of sexual and financial exploitation and bioterrorism involving the following parties without limitation, Justice R.W. Elson, Virgil Thomson, Brad Appel, Bryce Bohun, Cary Ransome, Chad Gartner, Chantalle Thompson, Kathy Irwin, Mark Clements, OWZW Lawyers LLP, the RCMP, Matrix Law Group LLP, Clifford A. Holm, Patricia J. Meiklejohn, Kimberley A. Richardson, Justice B.R. Hildebrandt, Kristine Wilk, the Court of King's Bench for Saskatchewan, the Registrar of Information Services Corporation, the Registrars of the Court of Appeal for Saskatchewan, Justice J. Kalmakoff, Prothonotary Mirelle Tabib, Justice W. Pentney, Justice V. Rochester, Chief Judge Phillip A. Brimmer of the District Court of Colorado, rogue agents of Immigration and Customs Enforcement, Department of Homeland Security, U.S. Customs and Border Protection, and the Supreme Court of the United States.

The Court of Appeal for Saskatchewan ignored the serious nature of allegations of treason.

The Court of Appeal for Saskatchewan ignored the forcible transfer of a citizen of the Metis Nation of Saskatchewan off of her ancestral homeland, in an effort to further torture her father the Applicant.

The Court of Appeal for Saskatchewan ignored the criminal actions taken by Justice R.W. Elson and others that resulted in the Chief Communication Officer of the Applicant fleeing to the United

States at the Sweetgrass Montana port of entry to cross in her ancestral homeland and file for asylum after being tortured by the RCMP, SHA and others.

The Court of Appeal for Saskatchewan and Court of King's Bench for Saskatchewan shielded persons engaged in mortgage fraud from scrutiny and participated in the said fraud.

The Attorney General of Canada's complicity to the crimes listed in the documentation herein and the attached documentation listed hereunder demonstrates a manifest unwillingness or inability of the State genuinely to prosecute crimes under the jurisdiction under the Rome Statute of the International Criminal Court which in Canada are listed under the Crimes Against Humanity and War Crimes Act.

The Attorney General of Canada and the Attorney General of Saskatchewan's participation in terrorist activity without limitation, in violation of section 83.01(b) of the Criminal Code is an extreme national security risk to Canada and the United States.

The Attorney General of Canada and the Attorney General of Saskatchewan abused their position to conceal child trafficking for the purposes of sexual and financial exploitation to torture the officers of DSR Karis Consulting Inc. and DSR Karis North Consulting Inc. a Delaware corporation to cause a severe interference with their essential services for the express purpose of causing harm to the public delineated in clauses (A)-(C) of 83.01(b)(ii) of the Criminal Code in Canada and the United States.

The Attorney General of Canada and the Attorney General of Saskatchewan abused their position to violate the provisions of the Land Titles Act (SK) and unlawfully participated in and concealed mortgage fraud to defraud DSR Karis Consulting Inc. and bar access to its registered office causing a severe disruption of its essential services to cause harm to the public delineated in clauses (A)-(C) of 83.01(b)(ii) of the Criminal Code in Canada and the United States.

The Court of Appeal for Saskatchewan and the Court of King's Bench for Saskatchewan has prevented the Applicant from accessing justice and due process of law.

**SIGNED BY**



Nov. 29, 2022

Dale J. Richardson, Chief Executive Officer

DSR KARIS CONSULTING INC. AB OFFICE  
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Chestermere, AB T1X 1T2, Canada  
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**ORIGINAL TO:**

**COPY TO:**

**THE REGISTRAR**

Supreme Court of Canada  
Office of the Registrar  
301 Wellington Street.,  
Ottawa, ON K1A 0J1, Canada  
Tel: 1 844 365-9662  
Fax: 1 613 996-9138  
Email: registry-greffe@scc-csc.ca

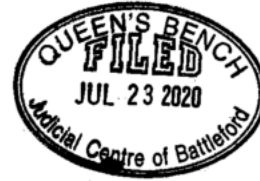
KIMBERLEY A. RICHARDSON  
Respondent

**Matrix Law LLP**

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**NOTICE TO THE RESPONDENT:** A respondent may serve and file a memorandum in response to this application for leave to appeal within 30 days of the date a file number is assigned in this matter. You will receive a copy of the letter to the applicant confirming the file number as soon as it is assigned. If no response is filed within that time, the Registrar will submit this application for leave to appeal to the Court for consideration.





**COURT FILE NUMBER** DIV NO. 70 OF 2020  
**COURT OF QUEEN'S BENCH FOR SASKATCHEWAN**  
**(FAMILY LAW DIVISION)**  
**JUDICIAL CENTRE** BATTLEFORD  
**PETITIONER** KIMBERLEY ANNE RICHARDSON  
**RESPONDENT** DALE JAMES RICHARDSON

07/23/2020 4:03PM 000000#0005 0001  
ORDER/JUDGMENT \$10.00

**INTERIM ORDER**

Before the Honourable Mr. Justice R.W. Elson in Chambers the 23<sup>rd</sup> day of July, 2020.

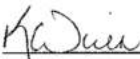
On the application of Patricia J. Meiklejohn, lawyer on behalf of the Petitioner and on Dale James Richardson, the Respondent, not being present and on reading the materials all filed:

The Court orders:

1. The Petitioner, Kimberley Anne Richardson, shall have interim sole custody of the child, Karis Kenna Nicole Richardson, born February 9, 2019.
2. The Primary residence of the child, Karis Kenna Nicole Richardson, born February 9, 2019 shall be with the Petitioner, Kimberley Anne Richardson.
3. The Respondent, Dale James Richardson, shall have supervised specified access to the child, Karis Kenna Nicole Richardson, born February 9, 2019.
4. The Respondent is prohibited from the use or consumption of alcohol and/or non-prescription drugs while the child, Karis Kenna Nicole Richardson is in his care or in his presence.
5. The child, Karis Kenna Nicole Richardson, born February 9, 2019, shall remain resident in the Province of Saskatchewan.
6. The Respondent shall not leave the Province of Saskatchewan with the child, Karis Kenna Nicole Richardson, born February 9, 2019, for any period of time without the written advance consent of the Petitioner.

7. The child, Karis Kenna Nicole Richardson, born February 9, 2019 shall not be left alone with or in the care of Kaysha Faith Neasha Richardson born March 16, 1997.
8. The issue of parenting is adjourned to August 27, 2020 to be reviewed.
9. The Respondent shall provide financial disclosure pursuant to the requirements of the *Federal Child Support Guidelines*.
10. The Petitioner, Kimberley Anne Richardson, shall have exclusive possession of the family home and household goods. The Respondent shall vacate the home on or before July 30, 2020.
11. The family home located at 1292 95<sup>th</sup> Street North Battleford, Saskatchewan, Surface Parcel #153874659 shall be listed for sale with a registered Real Estate Broker forthwith.
12. The Petitioner shall be authorized to solely negotiate and agree to the listing agreement and sale price and sale terms
13. The Net Sale Proceeds be held in trust by counsel for the Petitioner or alternatively that the Net Sale Proceeds be paid into Court to the credit of this action.
14. The Respondent shall not molest, annoy, harass, communicate with or otherwise interfere with the Petitioner, Kimberley Anne Richardson.
15. Costs of this application be paid to the Petitioner, Kimberley Anne Richardson.

ISSUED at Battleford, Saskatchewan this 23 day of July, 2020.

  
D/ Local Registrar

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

Matrix Law Group; Attn: Patricia J. Meiklejohn 1421 101<sup>st</sup> Street, North Battleford SK S9A 1A1  
Telephone number: (306) 445-7300; Fax number: (306) 445-7302; Email Address: patriciam@matrixlawgroup.ca;  
File Number: 63095-412 PJM

JUDICIAL CENTRE OF BATTLEFORD

DIV 70/20  
7764

KIMBERLEY RICHARDSON v. DALE RICHARDSON

pg 1

Date	Nature of Order	Judge
July 22/20	Alson, J. P. Meikeijohn - telephone no one was respondent.	Reserved - pending information from Mrs. Meikeijohn.  K. J. Alson

July 23, 2020

Counsel for the petitioner has provided the Court with her client's internal estimate of the amount of equity in the family home, roughly between \$8000 and \$12,000. With that information, I am satisfied that the interim draft order should issue. The order includes authorization for the petitioner to list and sell the house, followed by an accounting to the proceeds.

The only thing that should be included in the interim order is that the issue of pending to be reviewed in one month's time. That should occur on August 27, 2020.

K. J. Alson

Counsel Notified Copies Provided

Date: JUL 23 2020

Signed: K. J. Alson

<b>DIV 70/20</b> Aug 27/20 #5	<b>Before Mr. Justice R.W. Danyiuk</b> Meiklejohn by telephone for Petitioner, Kimberley Richardson Dale Richardson by telephone
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Pursuant to Justice Elson's Order of July 23, 2020, and in particular paragraph 8 thereof, the matter of review of the issue of parenting is

adjourned to **October 1, 2020** at 10 a.m. Mr Richardson shall serve and file any material he wishes to rely upon on that date by 4 p.m. on September 24, 2020.

Both parties may appear by way of telephone on October 1, 2020.

A copy of this Fiat shall be sent to both Ms. Meiklejohn and Mr. Richardson (e-mail).

*R.W. Danyiuk* D.R.

09-01-20 10:38 FROM: Crt. of Queens Bench 306-446-7737  
0071 20 10:38 FROM: MATRIX LAW GROUP 000 446 7737

T-613 P0002/0002 F-637  
1 000 1 0001/0000 1 100



# MATRIX | LAW GROUP

Clifford A. Helm, JD • Patricia J. Meiklejohn, LL.B. • Jaylyn E. Lawrence, LL.B.  
Eidon B. Lindgren, Q.C. • Brent M. Hingworth, LL.B.

August 31, 2020

Reply To: Patricia J. Meiklejohn  
E-mail: patriciam@matrixlawgroup.ca

Our File No. 63095-412 PJM

Via Fax (306) 446-7737

COURT OF QUEEN'S BENCH  
JUDICIAL CENTRE OF BATTLEFORD  
BOX 340  
BATTLEFORD SK S0M 0E0



Re: **Richardson v. Richardson, DIV No. 70 of 2020, Battleford**

The parties have agreed to adjourn the above-noted matter by consent, from Chambers on September 3, 2020 to October 1, 2020. Please see attached e-mail from Mr. Richardson confirming his consent.

Please return a faxed copy of this letter confirming that the adjournment was granted.

Yours truly,

MATRIX LAW GROUP

Per:

Patricia J. Meiklejohn

PJM/agt

Encl.

The above-noted adjournment was granted this 01 day of <sup>Sep.</sup> August, 2020.

Registrar (Clerk)

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JUDICIAL CENTRE OF BATTLEFORD

DIV 70/20  
7764

KIMBERLEY RICHARDSON v. DALE RICHARDSON

Date	Nature of Order	Judge
DIV 70/20 Aug 27/20 #5	Before Mr. Justice R.W. Danyliuk Meiklejohn by telephone for Petitioner, Kimberley Richardson Dale Richardson by telephone	
	Pursuant to Justice Elson's Order of July 23, 2020, and in particular paragraph 8 thereof, the matter of review of the issue of parenting is	
	adjourned to <b>October 1, 2020</b> at 10 a.m. Mr Richardson shall serve and file any material he wishes to rely upon on that date by 4 p.m. on September 24, 2020.	
	Both parties may appear by way of telephone on October 1, 2020.	
	A copy of this Fiat shall be sent to both Ms. Meiklejohn and Mr. Richardson (e-mail).	

KRISTINE WILK  
DEPUTY LOCAL REGISTRAR

SEP 01 2020

RULE 460(1)

Consent Adj. to Oct 1/20  
Telephoned in by meiklejohn  
With consent of Richardson

OCTOBER 1, 2020  
BEFORE ZUK, J  
P. MEIKLEJOHN FOR PETITIONER BY PHONE (KIMBERLEY RICHARDSON, CLIENT, PRESENT BY PHONE AS WELL  
D. RICHARDSON RESPONDENT BY PHONE

THIS MATTER CAME BEFORE THE COURT WITH EFFECTIVELY 3 MATTERS IN ISSUE. THE FIRST IS A COURT ORDERED REVIEW OF PARENTING AS DIRECTED BY JUSTICE ELSON IN HIS FIAT OF JULY 23/20. THE SECOND APPLICATION BEFORE THE COURT IS THE PETITIONER'S APPLICATION FOR CHILD SUPPORT. THE THIRD APPLICATION BEFORE THE COURT IS THE RESPONDENT'S APPLICATION FOR AN ORDER DISPENSING WITH SERVICE.

JUDICIAL CENTRE OF BATTLEFORD

DIV 70/20  
7764

KIMBERLEY RICHARDSON v. DALE RICHARDSON

page 3

Date	Nature of Order	Judge
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IN RESPECT OF THE FIRST MATTER, NAMELY THE REVIEW OF PARENTING, MR. RICHARDSON HAS BEEN UNABLE TO PUT HIS EVIDENCE BEFORE THE COURT. HE INDICATES HE WISHES TO FILE A USB OR A FLASH DRIVE CONTAINING EVIDENCE THAT HE STATES IS IMPORTANT TO HIS APPLICATION. MR. RICHARDSON, IF HE WISHES TO FILE MATERIAL IN ELECTRONIC FORM IS TO MAKE APPLICATION TO THE COURT FOR SUCH FILING AND WILL REQUIRE AN ADJOURNMENT FOR THAT PROCESS.

SECONDLY, THE MOTHER'S APPLICATION FOR CHILD SUPPORT CANNOT PROCEED EFFECTIVELY WITHOUT MR. RICHARDSON'S FINANCIAL INFORMATION. MR. RICHARDSON HAS NOT FILED AN AFFIDAVIT IN REPLY TO THAT REQUEST AND ACCORDINGLY WILL BE GIVEN AN OPPORTUNITY TO FILE AN AFFIDAVIT IN RESPONSE TO THE REQUEST FOR CHILD SUPPORT.

THIRDLY, MR. RICHARDSON'S APPLICATION FOR AN ORDER DISPENSING OF SERVICE WAS NOT SERVED ON MS. MEIKLEJOHN AND THAT MUST BE ACCOMPLISHED BEFORE THE COURT CAN HEAR THAT APPLICATION. ACCORDINGLY THE PARTIES ARE BOTH AVAILABLE ON OCTOBER 15/20 AND ALL MATTERS ARE ADJOURNED TO OCTOBER 15, 2020, AT 10 A.M. THIS WILL PERMIT MR. RICHARDSON AN OPPORTUNITY TO FILE HIS APPLICATION TO HAVE A FLASH DRIVE OR USB DRIVE SUBMITTED AS EVIDENCE BEFORE THE COURT ALONG WITH ANY OTHER AFFIDVIT EVIDENCE THAT HE WISHES TO SUBMIT. THIS WILL ALSO GIVE MR. RICHARDSON AN OPPORTUNITY TO FILE HIS APPLCATION TO DISPENSE WITH SERVICE ON MS. MEIKLEJOHN. ACCORDINGLY ALL MATTERS ARE ADJOURNED TO OCTOBER 15, 2020 AT 10:00 AM FOR THOSE PURPOSES.

THE PETITIONER SEEKS AN ORDER DIRECTING THAT THE RESPONDENT SERVE AND FILE A SWORN FINANCIAL STATEMENT, HIS LAST 3 YEARS INCOME TAX RETURNS AND MOST RECENT PAY STUBS OR LETTER FROM ANY EMPLOYER OR EMPLOYERS BETWEEN JANUARY 1/20 AND OCTOBER 1/20. MR. RICHARDSON ADVISES THAT HE OPPOSES SERVING AND FILING THAT INFORMATION AS HE HAS AN APPLICATION BEFORE FEDERAL COURT REGARDING A NAMED COMPANY NOT BEING TREATED AS A NATURAL PERSON. IT IS MY VIEW THAT MR. RICHARDSON'S APPLICATION BEFORE THE FEDERAL COURT IS NOT GERMAIN TO THE REQUEST THAT HE FILE SWORN FINANCIAL STATEMENT AND HIS INCOME TAX RETURNS AND OTHER FINANCIAL INFORMATION. ACCORDINGLY I SEE NO NEED TO ADJOURN THE PETITIONER'S

5/1/20

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JUDICIAL CENTRE OF BATTLEFORD

DIV 70/20  
7764

KIMBERLEY RICHARDSON v. DALE RICHARDSON

Date	Nature of Order	Judge
	APPLICATION AND DIRECT THAT MR. RICHARDSON FILE A SWORN FINANCIAL STATEMENT, HIS MOST RECENT 3 YEARS INCOME TAX RETURNS AND A PAYSTUB OR LETTER FROM EMPLOYER OR EMPLOYERS THAT HE HAS HAD SINCE JANUARY 1, 2020 TO OCTOBER 1, 2020 OUTLINING HIS 2020 INCOME TO DATE.	
	THE INFORMATION DIERCED TO BE PROVIDED SHALL BE SERVED ON MS. MEIKLEJOHN WITHIN 30 DAYS AND FILED WITH THE COURT WITHIN THE SAME 30 DAY PERIOD.	
	THE LOCAL REGISTRAR IS DIRECTED TO PROVIDE A COPY OF THIS FIAT TO COUNSEL FOR THE PETITIONER AND TO THE RESPONDENT'S E-MAIL ADDRESS ON FILE. TO THE EXTENT THAT I OUGHT TO HAVE INDICATED AT THE BEGINNING OF MY HEARING THIS APPLICATION TODAY; IT IS ORDERED THAT NO RECORDING OF TODAY'S APPLICATION BE MADE BY EITHER PARTY; IN THE EVENT THAT ANY RECORDING HAS BEEN MADE SUCH RECORDING SHALL BE IMMEDIATELY DESTROYED AS RECORDINGS ARE NOT ALLOWED IN COURT PROCEEDINGS AT CHAMBERS. THIS MATTER STANDS ADJOURNED TO OCTOBER 15, 2020, AT 10 A.M.	

*R. K. Kalden* dlr.

DIV 70- 202 0	October 15, 2020 The Honourable Mr. Justice Bardai Ms. Meikeljohn and Kimberley Richardson present by telephone for the Applicant, Mr. Richardson for the Respondent on his own behalf by telephone
Jud ge	Anybody recording this proceeding must turn it off immedietly
FIA T	There are three applications pending before the Court. The first is a review of the parenting arrangement directed by Mr. Justice Elson in his fiat of July 23, 2020. The second is an application of Kimberly Richardson respecting child support. The third application is with respect to dispensing with service. All three applications were previously adjourned on October 1, 2020 by Mr. Justice Zuk to allow Mr. Richardson an opportunity to file evidence before the court in respect of the arguments he is advancing. No such affidavit has been filed as of today. Mr. Richardson will file his affidavit evidence along with financials previously ordered by the Court by the end of October 2020. This will allow an opportunity for a response before the matter is then returned to chambers on November 26, 2020.

*C. WILSON*  
DLR



JUDICIAL CENTRE OF BATTLEFORD

FILE # DIV 70/20

Kimberley Richardson v. Dale Richardson

Date	Nature of Order	Judge
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<u>NOV 26/20</u>	<u>Patricia Melleson for Petitioner Respondent for Sec 6</u>	<u>Zuck J</u>
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<u>Reserved</u>		<u>Quinn</u>
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*(The remaining rows of the table are crossed out with a large diagonal line.)*



DIV 70 of 2020 - *Kimberley Richardson v Dale Richardson* - JCB

Patricia J. Meiklejohn      for Kimberley Richardson (petitioner)  
Dale Richardson            on his own behalf (respondent)

FIAT - December 11, 2020 - ZUK J.

[1]            There are three application before the court as follows:

- 1) A review of Justice Elson's interim parenting order made July 23, 2020;
- 2) The petitioner's claim for interim child support;
- 3) The respondent's application to dispense with service of materials on the petitioner.

[2]            The petitioner mother [petitioner] and the respondent father [respondent] are the parents of Karis Kenna Nicole Richardson, born February 9, 2019 [Karis]. The parties were married on July 3, 2016 and separated February 16, 2020. Prior to their separation, the parties resided in the family home in North Battleford. Karis is the parties only child, however Mr. Richardson has a 23-year-old daughter Kaysha Faith Neasha Richardson [Kaysha] from a previous relationship.

[3]            At the time of Karis's birth the petitioner was employed as a recovery specialist with Innovation Credit Union where she worked Monday to Friday from 8:30 a.m. until 4:00 p.m. or 5:00 p.m. The respondent was enrolled in full-time classes at Sask Polytechnic.

[4]            Karis was born prematurely on February 9, 2019 and remained in hospital following her birth, first at the Royal University Hospital in Saskatoon and then Regina General Hospital until her release on March 3, 2019.

[5]            The respondent was present for Karis's birth and remained in Saskatoon while Karis was hospitalized at the Royal University Hospital although he continued to take classes. He travelled to Regina to be with Karis while she was hospitalized at the Regina General Hospital.

[6]            Upon Karis's discharge from hospital on March 3, 2019 all three returned to North Battleford.

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[7] The respondent resumed full-time attendance at school commencing March 4, 2019 and commuted from North Battleford most days although he would remain in Saskatoon one or two nights per week. The petitioner states that the respondent spent little time with Karis as he was focused on his studies and his involvement in the Seventh-day Adventist Church. The petitioner took a full year maternity leave following Karis's birth returning to work on February 24, 2020.

[8] The petitioner describes herself as being the parent primarily responsible for Karis's day-to-day care including being the parent responsible to take Karis to her medical check-ups and immunization appointments.

[9] The respondent commenced employment in Saskatoon on a full-time basis on June 10, 2019 where he remained employed until January 21, 2020. He commuted each day leaving to Saskatoon by 5:45 a.m. and usually returning between 6:00 to 6:30 p.m. He continued to spend significant part of each Saturday at the church while Karis and the petitioner remained at home.

[10] In addition to his full-time employment, the respondent registered for three online university courses commencing September 2019. He devoted his free time in the evenings and on weekends to his online university classes.

[11] Following the loss of his employment, the respondent parented Karis part of every day between February 16 to May 30, 2020. Because of the COVID-19 pandemic, the petitioner began working from home. Commencing June 1, 2020 Karis has been in the petitioner's sole care and the respondent has not seen Karis since that date.

[12] Following the separation, the petitioner and Karis moved in with the petitioner's parents. The respondent remained in the family home. The respondent has since vacated the family home and may now reside with his mother in Chestermere, Alberta. It is unclear whether his relocation is temporary or permanent.

[13] The cause of the separation is in dispute and the reasons for the parties separation are not typically relevant to parenting issues. What is relevant is the parties decision to place Karis in the primary care of the petitioner following their separation. The respondent had a meaningful parental role in which he had Karis in his care part of each day. He maintained day to day contact with Karis until he sent a threatening email to the petitioner which resulted in her denying the respondent from having any contact with Karis out of fear for her safety.

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[14] On February 13, 2020 the respondent advised the petitioner that his family was coming for a visit including his adult daughter Kaysha who planned to live with the respondent in North Battleford. The petitioner reacted very strongly advising that this would be a marriage ending decision as she alleges that Kaysha had physically attacked her in the past and the petitioner alleges that Kaysha suffers from significant mental health issues.

[15] Although the parties versions of the event differ, an incident occurred at the Seventh-day Adventist Church on February 15, 2020 involving the petitioner and the respondent's daughter Kaysha. The police became involved but the incident was resolved with the assistance of church members. No criminal charges were laid against the petitioner as a result of the incident. The respondent alleges that the petitioner physically assaulted Kaysha in the presence of Karis. The petitioner denies that any assault took place. The petitioner left the church with Karis.

[16] The parties arranged for the respondent to have Karis in his care on the afternoon of Sunday February 16, 2020. The respondent agreed to return Karis to the petitioner at 6:30 p.m. Instead, the respondent texted that he would not be bringing Karis back and would be taking her to Calgary with his family for a few days. This resulted in a further dispute between the parties in which church members mediated. The parties reached an agreement in which the respondent would have Karis for portions of each morning and afternoon and Karis would be in the care of the petitioner from approximately 6:15 p.m. each evening until the next morning when she would drop Karis off with the respondent. The respondent's parenting time with Karis was reduced starting March 16, 2020 as Karis began attending daycare Monday to Friday from 8:15 a.m. until 1:30 p.m.

[17] The parenting arrangement remained in place until June 1, 2020 when the petitioner received emails from the respondent which he copied to approximately 60 other people. The email contains very troubling language. The respondent, in making reference to the petitioner's lawyer and others, states, in part "Today will be your last God has required your blood this day.". Other references include "You have squandered your life. Today will be your last. You are weighed in the balances and found wanting.". At yet another reference is as follows: "Gary you forfeited your life. Ciprian you have failed your position, the King of Kings and Lord of Lords has required your life. Judgment begins in the house of the Lord." The language used by the respondent is extremely threatening and the petitioner's fear for her safety and the safety of others is reasonable.

[18] The petitioner, fearful that the email constituted threats on the lives of the persons named in the letter, contacted the parties and the RCMP. The petitioner

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has withheld Karis from the respondent since then and deposes that she receives long and disturbing emails from the respondent on nearly a daily basis. The respondent frequently copies the emails to other people including the Prime Minister of Canada, the Mayor of North Battleford and media outlets. The respondent has recorded conversations with RCMP members and has posted those conversations on social media. The respondent has also posted videos of himself on YouTube and shared them on Facebook with subject matter that contains details of the parties personal relationship.

[19] The petitioner is extremely concerned about the respondent's erratic behavior and fears that his behaviors have accelerated. She fears for Karis's safety in his care. Her fears are reasonably founded.

[20] The petitioner has attached copies of emails that have been sent to dozens, if not hundreds of recipients. The respondent, who is of Caribbean/Canadian descent, rails against perceived racial injustice and makes allegations against the Seventh-day Adventist Church leadership which include racism, discrimination, sexism and abuse of power. While every citizen has the right to speak out against social injustice, the respondent's allegations contain more rhetoric than fact.

[21] However, the emails do contain admissions that the respondent struggled with an addiction to hard drugs throughout his adult life as recently as 2018. He acknowledges falling into a deep depression following his separation from the petitioner in February 2020.

[22] The petitioner's application was first heard in chambers on July 23, 2020. The respondent had not filed material and was arrested under a Provincial Mental Health Warrant as he attempted to enter the courthouse in Battleford. Accordingly, the only material before the chamber judge on July 23, 2020 was the petitioner's affidavit. The court granted an interim order placing Karis in the petitioner's sole interim custody and designating that Karis's primary residence be with the petitioner. The respondent was granted supervised access to Karis provided he had refrained from the consumption of alcohol or non-prescription drugs while Karis was in his care. Additional terms of the order are not relevant to this review.

[23] The court ordered a review of the parenting provisions of the July 23 order to be conducted on August 27, 2020. Presumably this was to allow the respondent an opportunity to be present and to file affidavit material.

[24] The respondent appeared at chambers by telephone on August 27. He had not yet filed any material and the review was adjourned to October 1. The

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respondent appeared before me on October 1 by telephone, however he had not yet filed material in relation to the parenting order but had filed an application for an order dispensing with service of materials on the petitioner. The respondent was granted a further adjournment to October 15 to file affidavit material and he was directed to file a sworn financial statement along with his last three years income tax returns.

[25] On October 15 the respondent appeared at chambers by telephone, however he had yet to file any material. Accordingly, the matter was adjourned to chambers on November 26.

[26] The petitioner, in anticipation of the impending review dates, filed supplemental affidavits sworn October 13, 2020 and November 20, 2020. In her supplemental affidavit sworn October 13, 2020 the petitioner advises that she had not yet received any request by the respondent to have parenting time with Karis. The petitioner believed that the respondent was residing with his mother in Chestermere Alberta which is approximately 560 kms from North Battleford.

[27] Although the respondent had not filed any material by October 15<sup>th</sup> respecting the review of the parenting order, he had commenced an action by originating application in which he named the petitioner, her lawyers, numerous members of the church along with many others as respondents. The application is unrelated to parenting matters before the court.

[28] On September 18, 2020 the respondent issued a statement of claim in Federal Court thereafter bringing a motion in that court to dispense with service of the claim. The respondent's application to dispense with service on the defendants was dismissed. A copy of the Federal Court's decision rendered October 7, 2020 has been filed as an exhibit. The claim is commenced in the name of DSR Karis Consulting Inc. a limited company incorporated and owned by the respondent. The style of cause contains 68 defendants including the Court of Queen's Bench for Saskatchewan, the Royal Canadian Mounted Police, the University of Saskatchewan, and various other institutional and individual defendants. The respondent was able to commence court applications and file motions regarding matters unrelated to parenting, but has failed to explain why he felt the need to focus on non-parenting court applications. I can infer that he believed those matters took priority over utilizing his time to prepare material on this file to allow for the parenting review to be heard in a timely fashion.

[29] The respondent filed his affidavit sworn October 29, 2020 containing, in my best estimation, 1200-1500 pages of exhibits. The exhibits include hundreds of pages of text communications between the petitioner and the respondent which

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contains evidence that is not relevant to the court in determining custody and parenting time, specifically the factors set in s. 8 and 9 of *The Children's Law Act, 1997*, SS 1997, c C-8.2 and s. 16 of the *Divorce Act, RSC 1985, c 3 (2<sup>nd</sup> Supp)*. The emails relate largely to the parties separation and provide little insight into the parenting issues before the court. The bulk of the other exhibits are also irrelevant to issues before the court.

[30] The respondent's affidavit material focuses largely on his view of events leading up to and following, the parties February 16, 2020 separation. He provides no material evidence allowing the court to address custody and parenting factors such as his current living arrangements, the suitability of his home, (presumably that of his mother) and whether the home is potentially a suitable place to bring a young child. There is no evidence about who resides in the home, although the respondent does confirm that his daughter Kaysha no longer resides with him. He provides evidence that she sought asylum in the United States, was arrested and is currently detained at a holding facility in Nevada.

[31] The respondent provides scant evidence about his relationship with Karis and his involvement as a parent in Karis's upbringing. Nor does he provide evidence of any plans as to how he anticipates either exercising parenting time with Karis or having her in his care for any extending period. Any relevant information regarding the respondent's parenting of Karis has come from the petitioner.

[32] The respondent has focused on providing the court with evidence of the various legal actions that he has commenced. He has filed a 51-page statement of claim issued in Federal Court (T-1409-20) naming 57 various defendants in which he claims unspecified relief against the majority of defendants and specified relief against the Seventh-day Adventist Church. He alleges that the July 23 chamber judge was involved in the torture of the respondent and his daughter and that the chamber judge facilitated a terrorist attack. Essentially, his allegations are unfocused and wide ranging. He remains fixated on allegations that the petitioner was involved in torturing both he and Karis contrary to the *Criminal Code, RSC 1985, c C-46* and contrary to International Law. The outcome of the respondent's various legal actions will be determined at some future date and I comment on these court actions to highlight where the respondent has focused his efforts since the parties separation.

[33] Although much of the respondent's material is unrelated and irrelevant to the family law issues before the court, there are bits of evidence that are relevant to these proceedings. He states that the petitioner assaulted his daughter Kaysha in Karis's presence on February 15, 2020. He states that Karis was incredibly distraught as a result of witnessing the alleged assault committed by the petitioner against



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Kaysha and that Karis reacted by pulling her own hair. The allegation if true, could have a bearing on the petitioner's own ability to conduct herself in a manner that prioritizes Karis's best interests.

[34] However, he agreed to a post-separation arrangement where Karis remained in the primary care of the petitioner. It is the respondent who admits to being tremendously impacted by allegedly witnessing the event. He states that he had considered ending his life and would have likely done so had it not been for the involvement of Jesus and his two daughters in his life. In the same paragraph he acknowledges that his disability (the nature of his disability is undisclosed however I understand that he is referring to his involvement with hard drugs as his disability) makes him prone to being impulsive and distracted. He acknowledges being removed as an Elder from the Seventh-day Adventist Church in North Battleford as he lacked the capacity on his own to resign.

[35] The respondent denies any ongoing mental health or addiction issues since a relapse that had occurred in 2018. He provides a short letter from Dr. Ovakporaye, M.D. dated September 4, 2020. Dr. Ovakporaye simply states that he has treated the respondent since 2008 without observing any evidence of significant mental health issues.

[36] The court would have been assisted by further detail in Dr. Ovakporaye's report. The report does not provide any information regarding the matters for which the respondent sought Dr. Ovakporaye's medical advice nor does the report provide any information regarding the frequency of Dr. Ovakporaye's attendances on the respondent.

[37] However, I am significantly troubled by Dr. Ovakporaye's observations given the respondent's self-acknowledged suicidal ideations occurring mid-February 2020 followed by his depression and anxiety following the parties separation.

[38] The respondent acknowledges being detained under a Mental Health Warrant at the Battleford Mental Health Centre from July 23 to August 7. I find it troubling that Dr. Ovakporaye provides his opinion that he has not observed evidence of mental health issues in the respondent given the respondent's self-acknowledged struggles with suicidal ideations and anxiety occurring mere months prior to the preparation of his report. No mention is made by Dr. Ovakporaye of the respondent's two week detention in July at the Provincial Mental Health Unit in Battleford. Accordingly, I place little weight on Dr. Ovakporaye's report.

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[39] The respondent acknowledges that he had struggled with the abuse of hard drugs as recently as 2018. He states that he has recently spoken to his addictions counsellor who has advised him that there is no need for further counselling as the respondent is managing his addiction well. I am troubled that there is no written report from the respondent's addiction's counsellor confirming that assessment given the relatively recent relapse by the respondent in 2018.

[40] The respondent does not deny or contradict the petitioner's evidence of the parties parenting arrangements before and after separation.

[41] The petitioner filed her affidavit in response sworn November 20. She denies having assaulted Kaysha and denies that Karis either witnessed or became distraught following the petitioner's interaction with Kaysha on February 15<sup>th</sup>.

#### **Assessment of the evidence**

[42] Often the court is faced with conflicting and contradictory evidence. Other than the parties differing view regarding the February 15 incident between the petitioner and the respondent's daughter Kaysha, the evidence between the parties is not in conflict. The petitioner's material contains evidence focusing on the parties parenting following Karis's birth. The evidence is relevant and acknowledges the respondent's role in parenting Karis both before and after separation. The petitioner readily acknowledges that the respondent initially parented Karis in the morning and the afternoons following their separation. The respondent's parenting time was limited to afternoons once Karis commenced daycare. The respondent's parenting time was terminated on June 1 following the disturbing email sent by the respondent in which the respondent uses language that can be construed as threatening the lives of those connected to the petitioner.

[43] The chamber judge on July 23 had only the evidence from the petitioner upon which to base his decision. There was ample evidence available to the chamber judge to make the order. The interim order was made with a built-in review clause to allow the respondent to file material.

[44] The respondent did not file material relevant to this application until he filed his affidavit sworn October 29, 2020. His affidavit and exhibits are voluminous but contain evidence largely irrelevant to the parenting issues before the court. Rather than providing evidence that is child focused and providing evidence of his ability to be a safe and effective parent to Karis, he has filed evidence establishing his belief that the petitioner has tortured both he and their child. The respondent has provided evidence of other actions commenced at Queen's Bench and at the Federal Court. He

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has named dozens of defendants, most of whom appear to be unconnected to the relief sought. His pleadings contain allegations that stretch credibility to near the breaking point. His actions show a deliberate and concerted effort to take legal action against anyone who becomes involved in the proceedings between he and the petitioner. He makes unsupported allegations that he has been subjected to torture and that the defendants have engaged in terrorism. Given the nature of his allegations, it is reasonable to conclude that the respondent is either motivated by malice or, if he genuinely believes the allegations, he does so in the absence of any credible evidence. At the very least, it is plain and obvious that the respondent has focused his time on attempting to seek redress for various grievances rather than focusing of his relationship between his daughter and making any realistic effort to see her in the nearly four months since the making of the original interim order. I get the distinct impression that the respondent's focus is attempting to establish that he is a victim of many self-perceived wrongs rather than any realistic effort to re-establish a meaningful relationship with his daughter.

[45] I note that the only request made by the respondent to see Karis was made on October 15. This request came two days after he received the petitioner's affidavit sworn October 13, 2020 in which she commented that up to that date she had not received any request from the respondent to see Karis.

[46] I am aware that the review process is significantly different than that of the process involved in making the initial order arising from an interim application. The chamber judge on July 23 had to consider the parenting *status quo* as it existed prior to separation and whether any new parenting *status quo* developed following the separation (see *Gebert v Wilson*, 2015 SKCA 139, 467 Sask R 315).

[47] The chamber judge was clearly of the view that the petitioner had made a *prima facie* case supporting an interim order in which she received interim sole custody of Karis and designating that Karis's primary place of residence be with the petitioner. The chamber judge directed that the respondent's parenting time be supervised. The order reflects the parties agreement that the petitioner was Karis' primary caregiver and further takes into account the respondent's threatening emails and increasingly erratic behaviors.

[48] The chamber judge, clearly aware that the interim order was made in the absence of affidavit material from the respondent or from having heard from the respondent given his arrest prior to chambers, provided an opportunity for review of the parenting order. A review allows the reviewing court to consider the appropriateness of an original order without either party having to establish a material change in circumstances since the making of the original order. In *Agioritis v*

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*Agoritis*, 2011 SKQB 257 CanLII the court noted that a judge conducting a review required evidence of “something different such that the previous order is obsolete and an adjustment is required in light of the totality of circumstances as well as the evidence of change.”

[49] The court has not been provided with any evidence from the respondent that warrants a change to the interim order granted July 23. The respondent’s evidence, for the main part, is irrelevant and unhelpful. The relevant evidence that is provided by the respondent establishes that he had suicidal ideations following the parties separation and that he was detained under a Mental Health Warrant at Battleford Mental Health Centre from July 23 to August 7. He provides a report from Dr. Ovakporaye dated September 4, 2020 which contains a very short statement that Dr. Ovakporaye has treated the respondent since 2008 and he has not observed any significant mental health issues. Given the respondent’s self-admitted fairly recent suicidal ideations and his anxiety and depression, followed by a two week involuntary committal under a Provincial Mental Health Warrant, I can only assume that Dr. Ovakporaye was unaware of those facts when he prepared his report. I remain troubled by the respondent’s self-professed success in dealing with his previous substance abuse issues. The respondent acknowledges that substance abuse causes him to be impulsive and distracted. All of these factors weigh heavily against varying the order. In effect, the evidence provided by the respondent does not warrant making any change to the existing order.

[50] The respondent’s recent mental health issues, the lack of independent evidence that his addiction issues are fully in check, the continuing lack of evidence regarding the respondent’s current living arrangements and other relevant parenting circumstances and the respondent’s inability to focus on Karis’ best interests mitigate against making any change to the existing order.

[51] Accordingly, I am not prepared to vary the interim parenting order made July 23 other than to eliminate any further review. Instead, the parties are encouraged to proceed to pre-trial conference where the objective is to obtain a final resolution of all the legal issues between the parties.

**The respondent’s application to dispense with service of documents on the petitioner**

[52] The respondent filed an affidavit seeking an order to dispense with service of documents on the petitioner. The application was not made by a notice of application, however the petitioner took no objection to the lack of a formal notice of application.

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[53] At chambers, the respondent indicated that he did not have any difficulty in serving the petitioner's counsel with documents and sought an adjournment of this application. I am not prepared to grant an adjournment of his application.

[54] Rule 12-10 provides that a court may make an order for substitutional service or dispensing with service. Essentially, an application to dispense with service must be accompanied by evidence establishing that it is impractical for the applicant to effect service by any means permitted under the Rules of Court or provide evidence that the person to be served is evading service or cannot be found. The respondent provides none of that evidence. He provides affidavit evidence that he has been able to serve Miss Meikeljohn either at her office or through her work email. The respondent has established that he has been able to serve documents on the petitioner by methods permitted through the Rules of Court. Accordingly his application is entirely without merit and dismissed with costs in the amount of \$200 payable to the petitioner forthwith and in any event to the cause.

**The petitioner's application for interim child support**

[55] The petitioner seeks an order of interim child support payable in accordance with s. 3 of the *Federal Child Support Guidelines*, SOR/97-175. The respondent has filed income tax returns for the past three years establishing that he has been employed in each of those years. His Line 150 income in 2019 was \$29,992. Typically this would result in an interim child support order of \$241.75 per month commencing from July 1, 2020 being the month in which the court can be satisfied that the respondent received notice of the petitioner's claim for payment of child support.

[56] However, the respondent advised the court that he is currently unemployed and has no current source of income. Although this information is not contained in affidavit form, the uncontradicted evidence from the petitioner is clear that the respondent lost his employment in January 2020. There is evidence that the respondent was detained under a Mental Health Warrant for two weeks this past summer. I take note that the respondent currently resides with his mother. Given the lack of reliable evidence regarding the respondent's 2020 income, I impute income at 50 percent of the respondent's 2019 income and determine that he is capable of earning income in the amount of \$15,000 per annum. Although the respondent is currently residing with his mother in Alberta, he continues to provide a Saskatchewan address as his place of residence. In the absence of any more reliable evidence regarding his permanent place of residence I determine his province of residence to be Saskatchewan. Accordingly, the respondent is directed to pay interim s. 3 *Guidelines*

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child support to the petitioner pursuant to s. 15.1 of the *Divorce Act* in the amount of \$82 per month as interim child support for the child Karis Kenna Nicole Richardson, born February 9, 2019 commencing July 1, 2020 and on the first day of each consecutive month thereafter until further order of the court or until the child is no longer a child within the definition of the *Divorce Act*. The petitioner has not specifically sought costs respecting the child support application, accordingly none are granted.

[57] The petitioner sought costs with respect of the July 23 application. The chamber judge did not address costs and instead directed the matter proceed to a review on a subsequent date allowing the respondent an opportunity to file material. The review has not resulted in any substantial change to the existing interim order. The petitioner has been largely successful in her application and is awarded costs in the amount of \$500 payable forthwith.



J.  
L.W. ZUK

JUDICIAL CENTRE OF BATTLEFORD

FILE # DIV 70/20

Richardson v. Richardson

Date	Nature of Order	Judge
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Feb 19, 2021

The previous draft of Olson J, of the July 23, 2020 order issued pursuant thereto, contemplated the petitioner listing & selling the home & thereafter providing an accounting of the proceeds, with net sale proceeds to be held in trust or paid into court. A necessary aspect of the sale is the transfer. In the circumstances the order requested by the application without notice is necessary. Accordingly, the order may issue in the form of the draft filed.

*[Signature]*

Copy



COURT FILE NUMBER DIV NO. 70 OF 2020

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
(FAMILY LAW DIVISION)

JUDICIAL CENTRE BATTLEFORD

PETITIONER KIMBERLEY ANNE RICHARDSON

RESPONDENT DALE JAMES RICHARDSON

**ORDER**

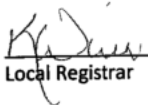
Before the Honourable Madam Justice B.R. Hildebrandt in Chambers the 19<sup>th</sup> day of February, 2021.

On the application of Patricia J. Meiklejohn, lawyer on behalf of the Petitioner and on Dale James Richardson, the Respondent, not being present and on reading the materials all filed:

The Court orders:

1. Pursuant to s. 109 of *The Land Titles Act*, 2000 the Registrar is directed to transfer to and register Title No. 148683000, having Surface Parcel No. 153874659 into the names of Rachel Mary Florence and Scott Donald Florence.

ISSUED at Battleford, Saskatchewan this 19<sup>th</sup> day of February, 2021.

  
D) Local Registrar

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

Matrix Law Group; Attn: Patricia J. Meiklejohn 1421 101<sup>st</sup> Street, North Battleford SK S9A 1A1  
Telephone number: (306) 445-7300; Fax number: (306) 445-7302; Email Address: patriciam@matrixlawgroup.ca;  
File Number: 63095-412 PJM



**Court of Appeal for Saskatchewan**  
**Docket: CACV3798**

**Date: 2021-03-29**

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***Dale James Richardson***  
***[DSR Karis Consulting Inc.]***

Applicant/Appellant  
(Respondent)

*and*

***Kimberley Anne Richardson***

Respondent/Respondent  
(Petitioner)

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Before: Schwann J.A. (in Chambers on March 26, 2021)

***Fiat***

[1] DSR Karis Consulting Inc. [DSR] appeals from an *ex parte* order made by Hildebrandt J. on February 19, 2021, that provided as follows [*Ex Parte Order*]:

1. Pursuant to s. 109 of *The Land Titles Act, 2000* the Registrar is directed to transfer to and register Title No. 148683000, having Surface Parcel No. 153874659 into the names of Rachel Mary Florence and Scott Donald Florence.

[2] DSR applies to this Court for the following relief:

- (a) a stay of execution pursuant to ss. 112(1) and (2) of *The Land Titles Act, 2000*, SS 2000, c L-5.1, and Rule 15 of the *Court of Appeal Rules*;
- (b) an order directing the Registrar of Titles to transfer Title No. 153762947, having Surface Parcel No. 153874659 to DSR Consulting Inc.; and
- (c) an order directing that a certificate of litigation be registered with the Information Services Corporation “to comply with the law”.

[3] I note the title number mentioned in DSR’s application for a vesting order ((b) above) does not match the title number of the property captured in the *Ex Parte Order*. For the sake of argument, I assume this is a clerical error and that DSR meant to refer to Title No. 148683000.

[4] By way of brief background, Dale Richardson and Kimberley Richardson are embroiled in a family law dispute that, in part, includes the division of their family property. The property referenced in the *Ex Parte Order* is the parties’ family home [Property]. DSR is Mr. Richardson’s consulting company. Although the style of cause in the Queen’s Bench family law proceedings (DIV 70 of 2020) has not been amended to include DSR as a party, Mr. Richardson’s notice of appeal from the *Ex Parte Order* names DSR as the sole appellant.

[5] DSR argues that the *Ex Parte Order* is fraudulent, illegal and part of a broader conspiracy designed to defraud and undermine its corporate existence. DSR urges me to set aside the *Ex Parte Order* immediately because it was made without notice and without its input. DSR also argues that Hildebrandt J. improperly overrode the prior July 23, 2020, order made by Elson J. (an order DSR claims to be illegal and a nullity), without due process. DSR builds on its argument by suggesting the following:

- (a) the registered office for DSR is the Property;
- (b) DSR was a lessee of the Property pursuant to a lease made under *The Residential Tenancies Act, 2006*, SS 2006, c R-22.0001; and
- (c) s. 18 of *The Land Titles Act, 2000*, deems a lessee to have an implied interest in the property.

## I. The Stay Application

[6] Rule 15 provides as follows:

### Stay

15(1) Unless otherwise ordered by the judge appealed from or by a judge, the service and filing of a notice of appeal does not stay the execution of a judgment or an order awarding mandamus, an injunction, alimony, or maintenance for a spouse, child or dependant adult. Unless otherwise ordered by a judge, the service and filing of a notice of appeal stays the execution of any other judgment or order pending the disposition of the appeal. (Forms 5a and 5b)

(2) Where leave to appeal from an interlocutory order is granted, the judge hearing the application may give directions as to staying proceedings.

(3) Where a writ of execution has been issued but is stayed after being issued because of an appeal, the appellant is entitled to obtain a certificate from the registrar that the execution of the writ has been stayed pending the appeal. On the deposit of the certificate with the sheriff, the execution of the writ is stayed but the execution debtor shall pay the sheriff's fees, and the amount so paid shall be allowed to the execution debtor as part of the costs of the appeal.

(4) Where the execution of a judgment or order is stayed pending an appeal, all further proceedings in the action, other than the issue of the judgment and the taxation of costs under the judgment, are stayed unless otherwise ordered.

[7] Rule 15(1) operates to stay the execution of the underlying judgment or order appealed against. It is *automatically* engaged upon the service and filing of a notice of appeal except in the limited cases of a judgment or order awarding mandamus, injunction, support or maintenance for a spouse, child or dependant adult. None of those situations apply here.

[8] An appeal from the *Ex Parte Order* has been served and filed with this Court. As such, pursuant to Rule 15(1), execution of the *Ex Parte Order* is automatically stayed. Given that result, I need not consider whether to grant an order under s. 112 of *The Land Titles Act, 2000*.

[9] There are two further points to be made in relation to the stay issue. First, although the notice of appeal filed with this Court identifies DSR as the appellant, since Mr. Richardson, in his personal capacity, was named as the respondent on the *Ex Parte Order* and in the Queen's Bench proceedings from which it arose, only Mr. Richardson can appeal that order. His appeal to this Court can only be seen in that light.

[10] Second, although the stay was automatically imposed on March 19, 2021, at the time the notice of appeal was filed with this Court, its effect may be moot. I say this because in her affidavit of February 19, 2021, Kimberly Richardson deposed that the possession date for the sale of the Property was February 25, 2021. Although no evidence was filed concerning whether title has already transferred, it is conceivable that the title to the Property is now registered in the names of the purchasers.

## II. The Vesting Application

[11] I decline to grant the vesting order requested by DSR for several reasons.

[12] First, the Court of Appeal is not a court of first instance. It is a statutory court that exercises appellate jurisdiction (*The Court of Appeal Act, 2000*, SS 2000, c C-42.1):

### **Court continued**

3(1) The Court of Appeal is continued as the Court of Appeal for Saskatchewan, and is a superior court of record having appellate jurisdiction.

...

### **Appellate jurisdiction**

10 The court has appellate jurisdiction in civil and criminal matters where an appeal lies to the court, with any original jurisdiction that is necessary or incidental to the hearing and determination of an appeal.

[13] The Court is endowed with the capacity, on a properly constituted appeal from a judicial or quasi-judicial decision of first instance, to review that decision for error and, if error be found, to address it (s. 3(1)). The jurisdiction of the Court, primarily expressed in s. 10, confers it with appellate jurisdiction in both civil and criminal matters where an appeal lies to the Court.

[14] Section 12(1) is also relevant to DSR's application:

### **Powers of the court**

12(1) On an appeal, the court may:

- (a) allow the appeal in whole or in part;
- (b) dismiss the appeal;
- (c) order a new trial;
- (d) make any decision that could have been made by the court or tribunal appealed from;
- (e) impose reasonable terms and conditions in a decision; and
- (f) make any additional decision that it considers just.

[15] Section 12(1) contains a set of powers that apply on appeal. The powers conferred on the Court pursuant to s. 12 are said to be remedial in nature and are “enacted to the end of empowering the court to effectively deal with material errors affecting the reasonableness or correctness of a decision under appeal ...” (Honourable Stuart J. Cameron, *Civil Appeal in Saskatchewan: The Court of Appeal Act and Rules Annotated*, 1st ed (Regina: Law Society of Saskatchewan Library, 2015) at 70 [Civil Appeals]). However, as the text goes on to note, “the power in subsection 12(1)(a) to ‘allow an appeal in whole or in part’ is of first importance. It is a remedial entry point, so to speak” (at 71). In other words, the power to “make any decision that could have been made by the court”, as set out in s. 12(1)(d), is not free standing but exercisable only when an appeal is allowed in whole or in part.

[16] What this means for DSR is that only a panel of the Court is empowered to render a decision concerning the correctness of the *Ex Parte Order*. A panel consists of at least three members of the Court. If the appeal is allowed, the Court is then empowered to consider the exercise of one of the remedial powers set out in s. 12(1). DSR’s appeal is not yet at that stage.

[17] This brings me to the second reason why the order requested cannot be granted. Section 20(1) of *The Court of Appeal Act, 2000*, empowers a single judge sitting in Chambers to hear and dispose of any application or motion provided it “does not involve the decision of the appeal on its merits”. The application must be incidental to an appeal and cannot involve a decision that goes to the heart of the matter under appeal or render it moot. In *Haug v Dorchester Institution*, 2016 SKCA 55, [2016] 10 WWR 484) this Court said as follows:

[3] To begin, as is evident by the language of s. 20(1) of *The Court of Appeal Act, 2000*, a single judge of this Court sitting in Chambers has broad power but is restricted in its exercise to disposing of applications or motions that are “incidental to an appeal or matter pending in the court” and that do not “involve the decision of the appeal on its merits”. This power has been interpreted as permitting a Chambers judge to make all manner of orders affecting procedural matters incidental to an appeal or to preserve the status quo pending the appeal, provided the order does not, in its effect, decide the appeal or render it moot.

[18] As I see it, for me to grant DSR’s request to vest title in the Property into its name, I would have to firstly conclude that the application is incidental to the underlying appeal and secondly that the *Ex Parte Order* was made in error and should be set aside. Respectfully, DSR’s application is not incidental to the appeal: it engages the very issue that will be determined by a panel of this Court when it hears the appeal. As such, the scope of relief sought by DSR exceeds the powers of a single judge sitting in Chambers under s. 20(1) of the *Act*.

[19] Third, I am not persuaded that DSR has any right, title or interest in the Property. There is no direct evidence to that effect in the record, such as a copy of a lease or a registered interest against title.

[20] Fourth, if title to the Property has already vested in the names of the purchasers, they, along with the Registrar of Titles, would need to be served with DSR’s application, but they were not.

[21] For all of these reasons, DSR’s application for a vesting order must be denied.

### III. Certificate of Litigation

[22] DSR claims the present problem could have been avoided had the Court of Queen's Bench or the Registrar of Titles registered a certificate of pending litigation against the Property. It points to s. 46(1) of *The Queens Bench Act, 1998*, SS 1999, c Q-1.01, in support of that proposition.

[23] With respect, DSR misinterprets s. 46(1). That section does no more than say that the commencement of an action in which title to land is brought into question does not – on its own – constitute notice to third persons (i.e., to a person who is not a party to the action) of the existence of the ongoing action. Rather, to bring the action to the attention of third parties, a certificate of pending litigation (or *lis pendens*) must be registered against the property: “A *lis pendens* does not create an interest in land. It only gives notice to the world that the registered owner's title or interest in that land is being questioned in a court action” (*Tkalych v Tkalych*, 2001 SKQB 208 at para 15, 208 Sask R 19). Also see *Nycholat v Royal Bank* (1997), 156 Sask R 226 (QB), and *Closson v Howson* (1962), 41 WWR 275 (Sask QB).

[24] As a matter of practice, it is the person who asserts an interest or title to the land that registers a certificate of pending litigation. Neither the Court of Queen's Bench nor the Registrar of Titles do so of their own volition. The power conferred on the Court of Queen's Bench, rather, is found in s. 47. This section permits a judge to grant an order *vacating* the registration of a certificate of pending litigation from title if circumstances warrant the making of such an order.

### IV. Conclusion

[25] The applications are dismissed.

“Schwann J.A.”  
\_\_\_\_\_  
Schwann J.A.

Counsel: Dale Richardson acting on behalf of DSR Karis Consulting Inc.  
No one appearing for Kimberley Richardson



**Court of Appeal**  
2425 Victoria Avenue  
Regina, Saskatchewan  
S4P 4W6

**Richardson, Dale v. Richardson, Kimberley**

**File#: CACV3798**

Begin 2022-03-09 11:24 AM

Judge: Richards C.J.S.

Court Clerk: Sandi Grassick

Mr. Dale Richardson for the Appellant by video

Ms. Patricia Meiklejohn for the Respondent by telephone

2022-03-09 11:46:10	Richards, C.J.S.	Introductions and this is a management conference
2022-03-09 11:48:48	Mr. Richardson	States CACV3745 fee has been paid. Makes argument. Requests a certified copy of CACV3745.
2022-03-09 11:54:46	Richards, C.J.S.	No further steps until they have been dealt with in the other jurisdiction?
2022-03-09 11:57:09	Mr. Richardson	Argument
2022-03-09 12:06:37	Richards, C.J.S.	Confirm what Mr. Richardson is stating that he is not moving things along because they are being dealt with in another jurisdiction
2022-03-09 12:08:27	Mr. Richardson	Argument
2022-03-09 12:08:39	Richards, C.J.S.	Confirm where we are at procedurally
2022-03-09 12:12:07	Mr. Richardson	Argument
2022-03-09 12:20:57	Richards, C.J.S.	Understood you have a proceeding in Alberta and International Court. Is it in both? After you hear from Alberta Court you are going to make a decision if you are going to advance these appeals in Court of Appeal?
2022-03-09 12:28:26	Mr. Richardson	Argument. Is going to get a lawyer to assist him.
2022-03-09 12:28:34	Richards, C.J.S.	Won't be moving appeals forward until you hear from Court in Alberta? Will note on the file he won't be taking steps until he gets the protection order from Alberta appeals court.
2022-03-09 12:33:18	Mr. Richardson	Argument

2022-03-09 12:36:48	Richards, C.J.S.	Addresses Mr. Richardson on how he treats the Registry's office.
2022-03-09 12:39:10	Mr. Richardson	Argument
2022-03-09 12:41:36	Ms. Patricia Meiklejohn	Nothing to add
2022-03-09 13:20:04	Richards, C.J.S.	Going to make a little order

Chamber Hearing

Result:

Result Date: March 9, 2022

Disposition:

After a lengthy commentary by Mr. Richardson and questions from me it was established that Mr. Richardson is advancing proceedings in the United States, before the International Criminal Court and in Alberta. Mr. Richardson confirmed that what he refers to as a request for a "protection order" in the Alberta courts is scheduled for March 31, 2022 and that, until he gets a "protection order", he will not be proceeding with CACV3745 or CACV3798.

I advised Mr. Richardson that, if he decides to move forward with CACV3745 and/or CACV3798, he will have to do so in accordance with the Court of Appeal Rules, including those parts of the rules dealing with filing fees.

I hereby order that, with respect to CACV3745 and CACV3798, the Registrar may refer to me any matter that she considers appropriate.

[1] In advance of the hearing scheduled for Thursday, November 3, 2022, the Court has directed the Registrar to advise the parties that:

- (a) it will deal first with the show cause matters (CACV3745 and CACV3798), then with Mr. Richardson's two applications for prerogative relief (CACV4048) and finally with the vexatious litigant referral pursuant to Rule 46.3.
- (b) in each of the above noted matters, the Court will first hear from Mr. Richardson, followed immediately by the respondent(s). All parties will be limited in the amount of time permitted for their submissions and the Court directs that each party or counsel prepare their oral submissions accordingly.
  - (i) Mr. Richardson's submissions in the two show cause matters (CACV3745 and CACV3798) are to be no longer than 15 minutes each, and counsel for Ms. Richardson shall likewise have a maximum of 15 minutes to respond for each of the show cause matters [total time: 60 minutes maximum];
  - (ii) Mr. Richardson's submissions in the two applications for prerogative relief (CACV4048) are to be no longer than 15 minutes each, and collectively all respondents shall have a maximum of 30 minutes to respond to both applications for prerogative relief [total time: 60 minutes maximum]; and,
  - (iii) Mr. Richardson's submissions in the vexatious litigant proceedings pursuant to Rule 46.3 are to be no longer than 30 minutes, and collectively all respondents shall have a maximum of 30 minutes to respond to Mr. Richardson's submissions [total time: 60 minutes maximum].
- (c) in considering the question of whether Mr. Richardson should be found to be a vexatious litigant, the Court will have regard to the content of the files in all of the proceedings that Mr. Richardson has initiated in this Court and it may have regard to some or all the reported decisions in the court proceedings in which Mr. Richardson has been involved in Alberta, the Federal Court, the Federal Court of Appeal and the United States;



[2] The Court has also directed that all parties be provided with the following materials to assist with preparing for the hearing:

- (a) excerpt from The Honourable Stuart J. Cameron, *Civil Appeals in Saskatchewan: The Court of Appeal Act and Rules Annotated* at pp 68–69, referring to authorities with respect to the Court’s approach to the exercise of its jurisdiction under s. 11 of *The Court of Appeal Act, 2000*, SS 2000; and
- (b) a copy of 6517633 *Canada Ltd. v Norton (Rural Municipality)*, 2019 SKCA 45, a decision outlining how the Court approaches show cause proceedings.

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Court of Appeal for Saskatchewan

Citation: *Richardson v Richardson*,  
2022 SKCA 133

Date: 2022-11-18

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**Docket: CACV3745**

Between:

**Dale Richardson**

*Appellant  
(Respondent)*

And

**Kimberley Richardson**

*Respondent  
(Petitioner)*

---

**Docket: CACV3798**

Between:

**Dale James Richardson**

*Appellant  
(Respondent)*

And

**Kimberley Anne Richardson**

*Respondent  
(Petitioner)*

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**Docket: CACV4048**

Between:

**Dale J. Richardson**

*Applicant/Appellant  
(Respondent)*

And

**Kimberley Anne Richardson**

*Respondent/Respondent  
(Petitioner)*

And

**Amy Groothuis, Unknown registrars of the Court of Appeal for Saskatchewan,  
Justice Zuk, the Registrar of Titles, and the Attorney General of Saskatchewan**

*Respondents*

And

**Assistant Commissioner Rhonda Blackmore of the Royal Canadian Mounted Police  
(F-Division), Jessica Karam, the Ministry of Health, and the Saskatchewan Health  
Authority**

*Respondents*

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Before: Richards C.J.S., Schwann and McCreary JJ.A.

Disposition: CACV3745 and CACV3798 – Appeals dismissed  
CACV4048 – Applications dismissed

Written reasons by: The Honourable Chief Justice Richards  
In concurrence: The Honourable Madam Justice Schwann  
The Honourable Madam Justice McCreary

On appeal from: DIV 70 of 2020, Battleford  
Appeal heard: November 3, 2022

Counsel: Dale Richardson appearing on his own behalf  
Patricia Meiklejohn for Kimberley Richardson on CACV3745,  
CACV3798 and CACV4048  
Justin Stevenson for the Attorney General of Saskatchewan,  
Amy Groothuis and the Registrar of Titles on CACV4048  
Cailen Brust for Rhonda Blackmore and Jessica Karam on CACV4048  
Chantelle Eisner for the Saskatchewan Health Authority on CACV4048

**Richards C.J.S.**

**I. INTRODUCTION**

[1] This decision addresses four matters: two show cause applications and two applications for prerogative relief.

[2] The show cause applications concern appeals initiated by Dale Richardson from decisions made by what was then the Court of Queen’s Bench in family law proceedings involving him and his former wife, the respondent Kimberley Richardson. As explained below, both of those appeals must be dismissed because Mr. Richardson has failed to establish that it is in the interests of justice that he be allowed to prosecute them to a conclusion.

[3] The applications for prerogative relief concern various grievances that Mr. Richardson has against the alleged actions of a number of individuals ranging from the Registrar of Titles to an Assistant Commissioner of the Royal Canadian Mounted Police. As explained below, those applications must be dismissed as well.

**II. THE SHOW CAUSE APPLICATIONS**

**A. Appeal CACV3745**

[4] On December 11, 2020, a Queen’s Bench judge sitting in Chambers made an order dismissing Mr. Richardson’s applications to: (a) vary an interim parenting order, and (b) dispense with service of documents. The Chambers judge also made an order requiring Mr. Richardson to pay child support.

[5] Mr. Richardson filed a ten-page notice of appeal dated December 13, 2020, by which he took issue with “the entire Order”. Since that time, Mr. Richardson has failed to successfully complete any of the steps mandated by *The Court of Appeal Rules* [Rules] for moving his appeal forward; while he served and filed an appeal book and written argument on January 31, 2022, he subsequently demanded that those documents be removed from the Court file when he was dissatisfied with the form and content of the resulting filing fee receipt. The upshot is that he has not filed an appeal book nor a factum or written argument. He has, however, brought two

applications in this Court for prerogative relief. They were dismissed both in Chambers and on appeal to the Court proper.

[6] A pre-hearing conference was held on March 9, 2022. At that time, Mr. Richardson advised of his intention to do nothing on this file until he got a “protection order” from the courts in Alberta, without explaining what any such order might be or might achieve. He has done nothing since then to move matters forward. A show cause hearing was scheduled by way of a notice dated September 27, 2022.

[7] The approach that this Court takes in addressing show cause applications was summarized as follows in *6517633 Canada Ltd. v Norton (Rural Municipality)*, 2019 SKCA 45 [*Norton*]:

[16] Accordingly, as something of a restatement of the approach described in paragraph 14 of *Maurice Law*, let me confirm that the core question in deciding whether to dismiss an appeal as abandoned pursuant to Rule 46(2) is whether it is in the interests of justice to make such an order. If an appeal is manifestly without merit, that will be determinative of the inquiry. Otherwise, the full range of relevant factors should be weighed and considered. Those factors will generally include, but not necessarily be limited to:

- (a) the adequacy of the appellant’s reason for the delay in moving matters forward;
- (b) the extent to which the respondent has expressed concern about the delay or attempted to have the appellant advance the appeal;
- (c) the progress, if any, the appellant has made in preparing the materials necessary to perfect the appeal;
- (d) whether, and the extent to which, the respondent has been prejudiced by the appellant’s failure to move the appeal forward or will be prejudiced if the appeal is allowed to proceed; and
- (e) whether the appellant has the willingness and the capacity to comply with the deadlines that might be imposed by the Court in relation to the perfection of the appeal.

[8] All of this was explained to Mr. Richardson at the oral show cause hearing and he was then given an opportunity to address these considerations and show cause why his appeal should not be dismissed. Mr. Richardson did not speak to any of the considerations identified in *Norton* and chose, instead, to make various submissions about matters such as child trafficking, “bio weapons”, the “*Convention Against Torture*” and “The Engineering of Bioterrorism, Child Trafficking, Treason and the Crime of Aggression Update”, a document that he has authored.

[9] I find that Mr. Richardson has failed to show cause why he should be allowed to carry on with this appeal. Accordingly, it is dismissed with costs to Ms. Richardson fixed in the amount of \$500 and payable forthwith.

**B. Appeal CACV3798**

[10] On February 19, 2021, a Queen’s Bench judge sitting in Chambers made an order directing the Registrar of Titles to transfer the title of what had been the Richardsons’ family home to two individuals. The house had been sold to them pursuant to a court order providing for its disposition.

[11] Mr. Richardson filed a six-page notice of appeal on March 19, 2021. The style of cause was “DSR Karis Consulting Inc. v Court of Queen’s Bench for Saskatchewan and Kimberley Richardson” even though DSR Karis Consulting Inc. was not a party to the Chambers proceeding that gave rise to an appeal. This led to various difficulties as the Registry attempted to assist Mr. Richardson to sort out this irregularity. Again, as in CACV3745, Mr. Richardson took none of the steps required by the *Rules* to advance his appeal; an attempt to file his written argument and appeal book likewise proved unsuccessful when Mr. Richardson considered that the receipt generated upon payment of the filing fee was incorrect. He has not successfully filed an appeal book nor a written argument or factum.

[12] On March 23, 2021, almost immediately after filing his notice of appeal, Mr. Richardson did, however, apply to a Chambers judge of this Court for a stay. He therein sought to bar the transfer of the title of the family home. That application was dismissed. Mr. Richardson also filed an application for prerogative relief on March 23, 2021. It was scheduled to be heard with the appeal proper and remains outstanding.

[13] A pre-hearing conference was held on March 9, 2022. As with CACV3745, Mr. Richardson advised that he intended to do nothing on the file until he received a “protection order” from the courts in Alberta. Subsequently, nothing further happened on the file. A show cause hearing was scheduled by way of a notice dated September 27, 2022.

[14] Paralleling CACV3745, Mr. Richardson made no attempt to address the considerations identified in *Norton* when making his submissions to the Court. Rather, he insisted that the appeal had been filed by DSR Karis Consulting Inc. and that he personally could not speak to it because

he would thereby commit fraud. He advised that, as a person, he did not submit to the Court's procedure and would be calling the police.

[15] It follows from all of this that Mr. Richardson has failed to show cause why he should be allowed to carry on with his appeal. It is dismissed with costs to Ms. Richardson fixed in the amount of \$500 and payable forthwith.

### III. THE APPLICATIONS FOR PREROGATIVE RELIEF

[16] *Dale J. Richardson v Kimberley Anne Richardson*, CACV4048, is an appeal that Mr. Richardson filed on July 25, 2022. It takes issue with a July 22, 2022, Queen's Bench Chambers decision wherein, among other things, Zuk J. declined to vary the conditions of the interim order governing parenting issues concerning Mr. and Ms. Richardson's child and granted Ms. Richardson a judgment for divorce.

[17] Mr. Richardson has since filed two applications for prerogative relief under CACV4048. I will deal with each of them in turn.

#### A. The First Application

[18] Mr. Richardson's first application for prerogative relief was filed on September 11, 2022 [First Application]. It names as respondents (a) Amy Groothuis, the Registrar of this Court, (b) "Unknown registrars" of the Court of Appeal for Saskatchewan, (c) Justice Zuk, (d) the Registrar of Titles, and (e) the Attorney General of Saskatchewan. The relief sought by Mr. Richardson is framed as follows:

168. This *Motion for Writ of Mandamus Prohibition and Certiorari* is made for
  1. Compel the Registrar of Land Titles to deliver all information relating to the fraudulent transfer of the property located at 1292 95th, Street North Battleford, Saskatchewan, S9A 0G2, transfer the property located at 1292 95th Street North Battleford, SK back to the Applicant or any other party that the Applicant shall decide;
  2. An order to compel Justice J. Zuk to place the materials submitted by the Applicant by mail and received by the Court of Queen's Bench for Saskatchewan July 22, 2022 on the official court record; and the transmission he received from DSR Karis by way of fax on July 20, 2022 and any other material he has removed/excluded from the court record;

recuse himself entirely from any matter relating to the Applicant;

3. An order to compel the Executive Council of Saskatchewan to;

File and process the Application for Access for the Return of the Child Dated April 8, 2022;

4. An order to compel Amy Groothius to;

Place all communications between Dale J. Richardson on the court record;

Place all evidence and documents previously filed or attempted to be filed by Dale J. Richardson or any of his affiliates on the court record;

Recuse herself from any matter relating to Dale J. Richardson or any of his family members or affiliates;

5. An order to compel the Attorney General of Saskatchewan

to provide the Applicant with all the information requested in all of his access to information requests at no cost to the Applicant without any redaction;

to pay any and all costs associated with this motion, or any of the orders associated with it, and for the maintenance, insurance and any other cost of the property at 1292 95th, Street North Battleford until the resolution of the Appeal and any incidental matters associated with the matters subject to the mandamus and/or the appeal;

To pay the legal costs of Applicant incurred from the Attorney General of Saskatchewan failure to do the public duty required by the office of the Attorney General of Saskatchewan;

To pay the legal costs of the Applicant for any actions relating to this mandamus

To pay the costs of a full report regarding the criminally negligent guidelines to the Applicant or other person that the Applicant shall decide.

2. An Order prohibiting any registrar or agent thereof in the Court of Queen's Bench for Saskatchewan or the Court of Appeal for Saskatchewan from rejecting any document or any other evidence submitted by the Applicant for any reason; and

3. Prohibiting the registrar or any agent thereof in the Court of Queen's Bench for Saskatchewan from accepting any document from Kimberley A. Richardson or any agent acting on her behalf without notice to the Applicant;

4. An order for a writ of Certiorari to examine the judicial actions of Justice J. Zuk and any other judge related to this matter;

5. An Order with dispensing with service and ordering electronic service for the Mandamus and CACV4048.

[19] As the respondents point out, the first problem with Mr. Richardson's application is that it ignores this Court's well-established approach to the exercise of its authority in relation to prerogative relief. Section 11 of *The Court of Appeal Act, 2000*, SS 2000, c C-42.1, does, of course, provide that "[t]he court may, in its discretion, exercise original jurisdiction to grant relief in the nature of a prerogative writ". However, as was made clear to Mr. Richardson in dismissing his application for prerogative relief in *Richardson v Richardson*, 2021 SKCA 58 [*Richardson SKCA*],



the Court exercises that jurisdiction only in “extraordinary circumstances” (at para 21). Examples of such circumstances were summarized as follows by the Honourable Stuart J. Cameron in *Civil Appeals in Saskatchewan: The Court of Appeal Act & Rules Annotated*, 1st ed (Regina: Law Society of Saskatchewan Library, 2015) at 69:

For special cases or exceptional circumstances in which the court exercised this jurisdiction, see:

- *Maurice v Priel* (1987), 46 DLR (4th) 416, 60 Sask R 241 (CA) (Queen’s Bench judge a party to an application for prohibition, thus making this a special case for the Court of Appeal to exercise its original supervisory jurisdiction).
- *Royal Canadian Mounted Police v Saskatchewan (Commission of Inquiry)*, [1992] 6 WWR 62, 100 Sask R 313 (CA) (Queen’s Bench represented at inquiry, making it unseemly for the application for review of a ruling by the commission to be heard in that court).
- *Hartwig v Saskatchewan (Minister of Justice)*, 2007 SKCA 41 (Queen’s Bench judge acting as a commission of inquiry, making this a special case for the Court of Appeal to entertain an application by way of *certiorari* to quash portions of the inquiry report).
- *Pearlman v University of Saskatchewan*, 2006 SKCA 105, 273 DLR (4th) 414 (Queen’s Bench judge deciding a matter *qua* University Visitor, making this a special case for the Court of Appeal to exercise its original supervisory jurisdiction and entertain an application for judicial review by way of *certiorari*).

[20] Generally speaking, this is a complete answer to Mr. Richardson’s attempt to seek an order for prerogative relief from the Court. The only exception to that bottom line is Mr. Richardson’s request for relief against Zuk J. That is an “extraordinary circumstance” in line with the cases referred to above in that obliging Mr. Richardson to bring an application in the Court of King’s Bench seeking relief against a judge of that Court would be unseemly. However, that ultimately takes Mr. Richardson nowhere because prerogative relief is not available against a superior court judge. See: *Richardson SKCA* at para 13.

[21] Notwithstanding the Court’s established approach to the exercise of its jurisdiction in relation to prerogative relief, I am nonetheless inclined to the view that, in the unique circumstances of this case, it would be appropriate to exercise our jurisdiction and deal with the substance of Mr. Richardson’s application. If this Court declines to exercise its jurisdiction, Mr. Richardson will no doubt file his application in the Court of King’s Bench and will thereby impose unavoidable time and cost burdens on the respondents and on that Court. Given that Mr. Richardson has already had an opportunity to put his case forward in the Court of Appeal, it is in the overall interests of justice to address his application on its merits and to thereby resolve

it. I do so without in any way resiling from the substantial body of precedent that says the Court's original jurisdiction with respect to prerogative relief should be exercised only very exceptionally.

[22] That said, I do not propose to address the merits of Mr. Richardson's application in any depth. His materials present a confusing mix of concerns about what he describes as systemic torture, criminally negligent implementation of "engineering controls used for the SARS-Cov-2" pandemic response, RCMP wrongdoings, unlawful arrests, improper actions taken by various members of the Court of King's Bench, this Court and the Federal Court, child trafficking and various crimes including treason, mortgage fraud, crimes against humanity and criminal negligence causing death. All things considered, Mr. Richardson has simply failed to coherently marshal or establish the facts and the law necessary to make out a case for the relief that he seeks.

[23] Mr. Richardson's application for prerogative relief is dismissed. There will be no order with respect to costs.

#### **B. The Second Application**

[24] Mr. Richardson's second application for prerogative relief was filed on September 18, 2022 [Second Application]. The respondents are identified as: (a) Assistant Commissioner Rhonda Blackmore of the Royal Canadian Mounted Police; (b) Jessica Karam; (c) the Ministry of Health; and (d) the Saskatchewan Health Authority. The relief sought by Mr. Richardson is set out as follows in his application:

173. This *Motion for Writ of Mandamus and Prohibition* is made for

1. An order to compel the Assistant Commissioner Rhonda Blackmore of the RCMP and/or any of her agents operating in the jurisdiction of Saskatchewan;

to issue arrest warrants for every person involved in the torture, criminal negligence, child trafficking and other related complaints in Canada and the United States;

to remove Karis Kenna Nicole Richardson from the care of whomever she is with and deliver Karis to the Applicant or other such person as the Applicant shall decide, at a location to be determined by the Applicant, to comply with the Convention against Torture;

to seize the property located at 1292 95th, Street North Battleford, Saskatchewan, S9A 0G2 and arrest all parties involved in the mortgage fraud;

2. On order for the Saskatchewan Health Authority and the Ministry of Health to;

End all covid related mandates in the province of Saskatchewan effective immediately;

Remove the unscientific diagnosis associated with the torture of the Applicant;

Deliver all documentation relating to the Aerosol Generating Medical Procedures guidance at no cost to the Applicant

3. An order to compel the Executive Council of Saskatchewan to;

File and process the Application for Access for the Return of the Child Dated April 8, 2022;

4. An order to compel Amy Groothuis to;

Place all communications between Dale J. Richardson on the court record;

Place all evidence and documents previously filed or attempted to be filed by Dale J. Richardson or any of his affiliates on the court record;

Recuse herself from any matter relating to Dale J. Richardson or any of his family members or affiliates;

5. An order to compel the Attorney General of Saskatchewan

to provide the Applicant with all the information requested in all of his access to information requests at no cost to the Applicant without any redaction;

to pay any and all costs associated with this motion, or any of the orders associated with it, and for the maintenance, insurance and any other cost of the property at 1292 95th, Street North Battleford until the resolution of the Appeal and any incidental matters associated with the matters subject to the mandamus and/or the appeal;

To pay the legal costs of Applicant incurred from the Attorney General of Saskatchewan failure to do the public duty required by the office of the Attorney General of Saskatchewan;

To pay the legal costs of the Applicant for any actions relating to this mandamus

To pay the costs of a full report regarding the criminally negligent guidelines to the Applicant or other person that the Applicant shall decide.

2. An Order prohibiting Assistant Commissioner Rhonda Blackmore or any agent of the F-Division of the Royal Canadian Mounted Police from interfering with, harassing or torturing the Applicant; or attending any residence owned, occupied or regularly attended by the Applicant for any unlawful purposes and

3. An order prohibiting Jessica Karam from harassing, molesting, annoying, persecuting, torturing, interfering with the Applicant or trafficking his children;

4. An order prohibiting Jessica Karam from representing the public interests in this matter or any matter relating to the Applicant or his affiliates in the province of Saskatchewan;

5. An Order with dispensing with service and ordering electronic service for the Mandamus and CACV4048.

[25] This application suffers from the same central flaw as does the First Application, i.e., it fails to respect the Court's decisions concerning the exercise of its jurisdiction in relation to prerogative relief. Those decisions include, as noted above, a 2021 decision with respect to an earlier failed attempt by Mr. Richardson to obtain prerogative relief. However, as with the First

Application, it is in the interests of justice to deal with the substance of this application and to decide it on its merits.

[26] I do not intend to analyze the Second Application in any depth. Suffice it to say that Mr. Richardson’s submissions, both written and oral, cover a broad and confusing range of matters from allegedly criminally negligent “Aerosol Generating Medical Procedures guidance”, to what is said to be a “correlation between judicial actions, child trafficking for the purpose of exploitation and bio-terrorism”, to the alleged “torturing and trafficking a child to conceal the distribution of a biological weapon”, to an allegation that “registrars in multiple courts were used to permit crimes to occur in the courts”, to a contention that “concealing the overthrow of the United States using court rules as an act of war and not in any way permissible”.

[27] In short, Mr. Richardson has failed to advance a coherent evidentiary basis or legal rationale for the relief he seeks. His application must be dismissed. I would make no order as to costs.

**IV. CONCLUSION**

[28] As discussed above, the appeals in CACV3745 and CACV3798 are both dismissed with costs of \$500 in each payable forthwith to Ms. Richardson. As well, the two applications for prerogative relief filed by Mr. Richardson in CACV4048 are dismissed. There is no order as to costs in relation to those matters.

“Richards C.J.S.”  
\_\_\_\_\_  
Richards C.J.S.

I concur. “Schwann J.A.”  
\_\_\_\_\_  
Schwann J.A.

I concur. “McCreary J.A.”  
\_\_\_\_\_  
McCreary J.A.

## APPLICANT'S MEMORANDUM OF ARGUMENT

### PART I – STATEMENT OF FACTS

1. A freedom of information request submitted by Dale J. Richardson (“Dale”) to the Ministry of Health of Saskatchewan demonstrated that there was no risk assessment or engineering report for the representation of the Aerosol Generating Medical Procedures (“AGMP”) guidance issued by the Saskatchewan Health Authority (“SHA”), or was there any such risk assessment done or any justification of any kind provided the SHA. Justice Zuk ignored this evidence which formed a part of the defence of Dale and ignored the engineering report and passed judgment without having the expert explain its relation to the facts and killed innocent people by his wilful exclusion of the information critical to the health and safety of the public without any expert evidence to the contrary.
2. The SHA guidance is based on a table issued by the Center for Disease Control (“CDC”) in 2001, and it is used by the Public Health Agency of Canada and Canada several other jurisdictions in Canada.
3. The representation of the AGMP guidance issued by the SHA was the basis of the litigation by DSR Karis, which is obligated by law to operate within the framework of the law.
4. Rule 10-46(1),(2) and 10-47 of the Queen’s Bench Rules are used for the sale of homes being foreclosed.
5. On May 27, 2020 Dale in the course of his duties as CEO of DSR Karis signed a Non-Disclosure Agreement that created a contractual relationship with his employer, DSR Karis and Innovation Credit Union.
6. On May 27, 2020 Kimberley A. Richardson attended the family home with Raymond Hebert and Linda Hebert and removed the vehicle that was in the possession of the Applicant after learning that Karis K.N. Richardson was left in the care of her sister Kaysha F.N. Dery.
7. On June 9, 2020 Dale acting as the Chief Executive Officer of DSR Karis Consulting Inc. (hereinafter known as “DSR Karis”) passed information to the business response team in Saskatchewan relating to the criminally negligent representation of the Aerosol Generating Medical Procedures guidance issued by the SHA. No reasonable response was given to address the hazards involved with its representation.

8. On June 10, 2020 the Communications Department of the SHA refused to address the hazards identified by DSR Karis when communicating with the Chief Executive Officer of DSR Karis by email. The SHA provided no information relating to any engineering report or risk assessment. The SHA did admit that it was potentially placing its employees at risk using a criminally negligent arbitrary settling time without having any justification for the 2 hour settling time.
9. On June 25 2020 a number of parties in the federal a Saskatchewan government were notified about criminally negligent implementation of engineering controls used for the SARS-Cov-2 pandemic response by DSR Karis by an email sent by its Chief Executive Officer on its behalf. The information provided demonstrated that the hazard was also present in the state of Washington.
10. On June 26, 2020 a number of parties in North Battleford were warned about the hazards arising from the criminally negligent representation of the AGMP provided by the SHA.
11. On June 26, 2020 several financial institutions and regulatory agencies in the province of Saskatchewan and federally were notified of the risk of financial losses to the shareholders arising from the hazards directly tied to the criminally negligent representation of the AGMP provided by the SHA. The fiduciary duty to the shareholders and the public was mentioned.
12. A rogue agent of the Ombudsman for Banking Services and Investments ("OBSI") created, retained and transmitted a forged document based on a document sent to OBSI by DSR Karis on June 26, 2020. The forged document made it appear like the email was transmitted by Dale from his personal email address. This forgery has been reported to 5 divisions of the Royal Canadian Mounted Police.
13. On June 29, 2020 Dale was served with a divorce petition from Kimberley A. Richardson with Patricia J. Meiklejohn as her counsel. The document contained contradictions, perjury and intent to defraud and was filed to the Court of King's Bench for Saskatchewan when it was in violation of the law.
14. On June 29, 2020 Dale gained knowledge of a letter addressed to the CEO of DSR Karis from the Association of Professional Engineers and Geoscientists of Saskatchewan after receiving *documentation that contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA resulting from poor engineering practice*. The letter from APEGS did not address the severe threat to the public interest, but rather attempted to threaten DSR Karis based on Facebook posts and YouTube

- videos. DSR Karis responded by way of letter directing APEGS of its legislated responsibility to the public interest with respect to engineering. No response was ever given by APEGS.
15. On July 3, and July 7, 2020 Dale attended the Battlefords RCMP detachment and made complaints on both days. The complaints on July 3, 2020 were torture pursuant to 269.1 of the Criminal Code (2020-898119) and two counts of criminal negligence. One count of torture and one count of criminal negligence was initiated by the Applicant (2020-898911), and the other complaint (2020-898907) was on behalf of DSR Karis Consulting Inc. ("DSR Karis"). The SHA were the focus of the criminal negligence complaints and their agents were tied to the torture. The complaint on July 7, 2020 was a complaint of torture with Karis K.N. Richardson as the victim (2020-922562).
  16. On July 7, 2020, Dale had a meeting with Chad Gartner of Innovation Credit Union ("ICU") in which the information discussed was the property of his employer DSR Karis. Chad Gartner was informed of his fiduciary duty to inform the members of ICU of the risk of financial losses arising from the occupational health and safety hazard arising from poor engineering practice tied to the representation of the AGMP guidance issued by the SHA.
  17. On July 7, 2020 Dale attended the Battlefords Mental Health Centre ("BMHC") to ask for his missing medical records from his access to records. Dale asked a manager to have the engineering department get back to him on the hazards arising from the criminally negligent representation of the AGMP provided by the SHA. A doctor who signed a certificate to admit him to the BMHC was present for the conversation. Cora Swerid was informed of the criminal negligence and the torture investigations that involved the SHA. No response was given by the SHA to address the hazards arising from the criminally negligent representation of the AGMP.
  18. On July 8, 2020 an email chain was sent by carbon copy to Dale that outlined a breach of contract between the rogue agents of Innovation Credit Union and his employer DSR Karis. The email outlined a conspiracy to restrict the liberty of Dale, his employer and by proxy Karis K.N. Richardson.
  19. The RCMP did not allow Dale to bring any further evidence as he indicated that he would, and was barred entry from the detachment.
  20. On July 22, 2020 Patricia J. Meiklejohn sent two emails to Dale of draft orders, one purportedly to correct a typographical error. The first email stated that Justice R.W. Elson

- requested the interim order through the agents of the court who contacted her. The interim orders were dated for July 22, 2022.
21. From a sworn affidavit submitted to the Federal Court of Canada by the RCMP through Cheryl Giesbrecht exercising the capacity of the Attorney General of Canada in T-1404-20 testified that on July 22, 2020 Justice R.W. Elson directed them to prevent Dale from entering the Court of Queen's Bench for Saskatchewan. The unknown member of the RCMP responded with "we have a mental health warrant".
  22. On July 22, 2020 members of the PACT team showed up at Dale's residence with two members of the Battlefords RCMP. The persons in attendance were as follows, Tonya Browarny, Ken Startup, Cst. Rivest and Cst. Reid. No direction was ever given to Dale to submit to any medical examination as required by the Mental Health Services Act. The RCMP were served for QBG-156 of 2020 after repeated attempts to gain access to the detachment by Dale to serve them were frustrated. Medical records from the BMHC state that Dale was brought to the BMHC at the time of this incident.
  23. On July 22, 2020 Tonya Browarny knowing that she did not comply with the Mental Health Services Act spoke with J. Engleke and proceeded with obtaining a mental health warrant based on fraudulent information from the Provincial Court of Saskatchewan. Tonya Browarny's notes confirm that she did not comply with the Mental Health Services Act and did not meet the criteria to lawfully obtain a warrant.
  24. The agents of the SHA stated that Dale's religious beliefs are delusions. No agent of the SHA knew what the specific religious beliefs of Dale were. Only members of the Battlefords Seventh-Day Adventist church would possess any knowledge of his specific beliefs. Agents of the SHA attends the Battlefords Seventh-Day Adventist church.
  25. On July 23, 2020 at about 9:50 am, Dale and his daughter Kaysha were unlawfully arrested attempting to enter the Court of King's Bench for Saskatchewan in Battleford SK, before any of the two hearings Dale was scheduled to appear on DIV-70 of 2020 and QBG-156. Both were first appearances presided over by Justice R.W. Elson. The RCMP substantiated this time in an affidavit in T-1404-20.
  26. On July 23, 2020 Justice R.W. Elson, with the full knowledge that he directed the RCMP to prevent Dale from entering the Court, made interim orders pursuant to no law and grossly exceeded his jurisdiction as a judge sitting in chambers on a first appearance. Justice R.W. Elson made no mention of having directed Dale's obstruction that prevented



Dale from appearing for the matter, as can be observed in the wording of Justice R.W. Elson's fiat shown below:

[1] Counsel for the petitioner has provided the court with her client's informal estimate of the equity in the family home, roughly between \$8,000 and \$12,000. With this information, I am satisfied that the interim draft order should issue. This order includes authorization for the petitioner to list and sell the house, followed by an accounting for the proceeds. The only thing that should be included in the interim order is for the issue of the parenting to be revisited in one month's time. This should occur on August 27, 2020.

27. The second matter obstructed was the matter of QBG 156/20 DSR Karis Consulting Inc. v Court of King's Bench for Saskatchewan et al dated July 23, 2020. Present in the court was Cliff Holm appearing for the Seventh-Day Adventist Church, Lynn Sanya - SHA, Virgil Thomson – rogue agents of Innovation Credit Union, Micheal Griffin – APEGS. Justice R.W. Elson made no mention directing the RCMP to obstruct Dale from representing DSR Karis and the interests of the public. *The documentation before the Court contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and the risk to the general public.*
28. On July 23, 2020, Robert A. Cannon was contact traced at the court, and had to provide his name to sheriff who participated in the obstruction of the Applicant.
29. When Dale was brought to the BMHC he questioned the doctor's and physicians why he was prevented from entering the Court by the defendants in QBG-156 when he was to represent DSR Karis as the plaintiff. Dale demanded to see the mental health warrant. When persisting to ask these questions, the doctors directed the RCMP and attending health personnel to strip him, strap him to a bed, and forcefully medicate him. Dale was never examined. No expert report of the examination was ever provided to Dale. The sworn affidavit of the RCMP submitted to the Federal Court of Canada confirms that Dale was not examined.
30. While Dale was being tortured, Robert A. Cannon filed a habeas corpus several times. One instance the habeas corpus was filed and then it was unfiled. The other documents submitted with the habeas corpus were not unfiled. After the third filing of the habeas corpus Dale was released from the BMHC.
31. In QBG 921 of 2020 Justice N.D. Crooks on September 10, 2020 purported to state that there was no deprivation of liberty for any of the persons named in the Habeas Corpus proceeding, which includes without limitation, Dale, Kaysha F.N. Dery, and Karis. Crooks stated that the deprivation was "theoretical" and that Karis was the subject of a family law

- dispute. Justice N.D. Crooks denied Karis the right of Habeas Corpus contrary to section 10(c) of the Charter of Rights and Freedoms. The Habeas Corpus was filed by Robert A. Cannon to stop the agents of the Saskatchewan Health Authority from torturing Dale who was strapped to a bed and administered mind altering drugs that are designed to profoundly disrupt the senses. The torture upheld the trafficking of Karis. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
32. On October 28, 2020 Dale appeared before Justice J.A. Caldwell of the Court of Appeal for Saskatchewan (“Court of Appeal for Saskatchewan”) for a motion to extend for the unlawful orders issued by Justice R.W. Elson. No one appeared for Kimberley A. Richardson (“Kim”), and audio, video and document evidence was presented. Justice J.A. Caldwell ruled in the favour of the party that was not present. The Court of Appeal for Saskatchewan sent back all of the evidence filed to the court. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
33. When presented with evidence that the testimony of Kim was perjured on November 26, 2020, Justice J. Zuk made excuses for the perjury and took the perjured testimony over the overwhelming evidence of the Applicant. Justice J. Zuk ignored evidence that Dale was subjected to escalating family violence by his estranged wife Kim. Justice J. Zuk ruled in favour of the party that presented perjured evidence and who has demonstrated a pattern of violence towards Dale and the child of the marriage Karis. *The documentation supplied by the Applicant contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
34. Patricia J. Meiklejohn presented to Justice J. Zuk in the chambers hearing the statement of claim of Dale in the Federal Court of Canada (“FCC”) and complained that Dale was bringing a matter before a federal court. *The application in the FCC contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and the risk to the public.*
35. Cheryl Giesbrecht, agent of the Attorney General of Canada submitted motions to the FCC that contained fraudulent shareholder information in regards to DSR Karis, and conspired with the defendant’s counsel in T-1404-20. The FCC ruled in favour of fraud. The shareholder information of DSR Karis is available on the public record in Alberta.
36. Virgil Thomson submitted forged FCC documents to the Applicant.

37. Rogue agents of the Court of King's Bench for Saskatchewan demonstrated extreme bias in denying Dale the ability to speak and bring evidence to defend himself in Court. This includes without limitation, evidence of the unlawful abduction (arrest), Justice R.W. Elson ordering obstruction of justice, an officer of the court preventing Dale from entering the court, questionable actions of agents of the SHA by forcefully medicating Dale to prevent him from representing DSR Karis in matters against them that provided evidence of the distribution of a biological weapon by way of the guidelines issued by the SHA during the SARS-Cov-2 pandemic response, and the evidence of the criminal complaints against Justice J. Zuk by DSR Karis and Dale before he made any decision on the matters on May 5, 2022 and July 22, 2022.
38. On February 19, 2021 Patricia J. Meiklejohn appeared before Justice B.R. Hildebrandt for an application without notice to transfer the title of the registered office of DSR Karis pursuant to the Land Titles Act. Fraudulent documents were submitted to the court signed by Clifford A. Holm. Justice B.R. Hildebrandt approved the fraudulent transfer of title using the Land Titles Act instead of the Family Property Act.
39. On February 19, 2021 Dale appeared for two prerogative writs in chambers before Justice J. Kalmakoff. Justice J. Kalmakoff informed Dale that prerogative writs can only be granted before a panel of judges according to the court of appeal act. Justice J. Kalmakoff heard the motion for two prerogative writs when it was impossible for Dale to succeed, and Justice J. Kalmakoff did not determine if torture occurred. Justice J. Kalmakoff exercised jurisdiction he did not possess. *The motions contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
40. On March 1, 2021 an appeal CACV3708 was heard at the Court of Appeal for Saskatchewan of a constitutional Writ of Habeas Corpus. Among those present as counsel for the defendants were, Clifford A. Holm, Cheryl Giesbrecht, Chantalle Eisner, and Michael Griffin representing APEGS. Michael Griffin admitted it was the intention of defending counsel to punish Robert A. Cannon for actions taken by Dale and DSR Karis in the FCC. Michael Griffin committed fraud on the record by stating without any evidence that Robert A. Cannon was counsel for Dale and DSR Karis. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
41. Every statement of claim or motion in the FCC for DSR Karis is signed by its Chief Executive Officer.

42. On March 26, 2021 Dale as the CEO of acting as agent of DSR Karis, appeared before Justice J. A. Schwann in the Court of Appeal for Saskatchewan for a motion for stay of execution relating to appeal CACV3798 in which mortgage fraud was committed. Justice J. A. Schwann ruled in favour of the party who committed fraud and was not present. *The motion contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
43. On April 1 2021 Dale appeared before a three judge panel at the Court of Appeal for Saskatchewan to review orders of Justice J. Kalmakoff and provided over 6000 pages of evidence. Court of King's Bench for Saskatchewan and Kim were absent. The panel ruled in favour of the absent defendants. *The documentation before the Court contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
44. On April 26, 2021 Dale fled to the United States to file for protection under the Convention against Torture after being served an affidavit sworn in by an unknown member of the RCMP that admitted the RCMP were instructed by the Court of Queen's Bench for Saskatchewan to prevent Dale from entering into the Court on July 23, 2020. Dale was fearful of being tortured or killed if returned to Saskatchewan and subsequently fled to the United States for safety. *The motion scheduled to be heard contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
45. On April 26, 2021 upon arrival to the Sweetgrass Montana point of entry, Dale was tortured in the presence of 5 witnesses, one of whom is an eight year old child. The CBP officers attempted to coerce Dale to return to Canada after he asked for protection under the Convention against Torture, and remove the 6 volumes of evidence of over 3300 pages. When Dale refused to remove evidence while fearful of his life, the U.S. Customs and Border Protection officers intimidated and coerced him to dispose of the evidence of him being the director of a Delaware corporation DSR Karis North Consulting Inc. ("Karis North"). Dale refused to remove evidence. *The documentation presented at the border contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
46. Officer Brian Scott and Officer Brian Biesemeyer were the CBP officers directly responsible for Dale's torture. The statement used in the immigration proceedings by the Department of Homeland Security was a product of torture.

47. Dale was subjected to torture and severe obstruction of justice in Canada and the United States while being held in custody of ICE, a defendant in T-1404-20.
48. On June 10, 2021 a motion was heard before Justice W. Pentney. Fraud was used to schedule the motion. Dale informed Justice W. Pentney that he was denied the motion materials by ICE a defendant in the underlying action, that he was being obstructed by the same and was being tortured by them. Justice W. Pentney proceeded with the motion with full knowledge of these conditions. Justice W. Pentney deceived Dale and committed fraud during the hearing. *The documentation provided by Dale contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
49. On June 15, 2021 Justice W. Pentney dismissed Dale's motion seeking relief from torture. Justice W. Pentney stated "*Furthermore, I agree with the comment of Justice Kalmakoff at the acts the Plaintiff terms as torture "are all things that arose from were inherent in, or were incidental to measures that are authorized by law"*". Justice W. Pentney upheld child trafficking and terrorism. Justice W. Pentney and Justice J. Kalmakoff are Prime Minister Justin Trudeau appointees.
50. On June 23, 2021 Dale served a motion titled On Petition for Writ of Certiorari in the Supreme Court of the United States to U.S. Magistrate Judge Gordon P. Gallagher and the District Court of Colorado. Rogue agents of the District Court of Colorado committed fraud. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA.*
51. On June 29, 2021 Michael Duggan fraudulently rejected materials sent with the Writ of Certiorari and other letters. A motion critical to Dale's safety was fraudulently rejected by Michael Duggan on July 2nd after the petition was filed on June 29, 2021. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and the torture used to suppress its reporting.*
52. On July 13, 2021 Dale appeared before Immigration Judge Caley for a review of the credible fear determination by the Asylum officer. The Asylum officer was made aware that Dale was tortured by the agents of DHS in order to make the statement. The Asylum officer refused to consider that Dale was being tortured in custody. When Dale raised the subject of being tortured in ICE custody before the Immigration judge, the judges stated that he did not have jurisdiction and could only speak about what happened in Canada. The Immigration judge refused to accept Dale's evidence from and deprived Dale of due process. No representative from DHS was at the hearing. Over 3500 pages of evidence was presented to DHS. *The documentation contained evidence of the criminally negligent*

- representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
53. On July 19, 2021 Officer Blevins attempted to intimidate and coerce Dale to consent to destroy his passport.
  54. On July 20, 2021 Circuit Judges Holmes, Matheson, and Eid of the United States Court of Appeals for the 10th Circuit fraudulently denied Dale's Writ of Mandamus. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
  55. Officer Blevins also brought a Canadian passport form for Dale to fill out on July 19, 2021 to get a travel document. Dale's passport valid for 10 years was in the possession of ICE.
  56. On July 26, 2021 Officer Blevins threatened Dale with federal prison for the purposes of unlawfully destroying his passport. When Dale refused to violate the law, Officer Blevins left and returned with the notice of non-compliance.
  57. On July 27, 2021 Dale sent a letter requesting that the consulate investigate Dale's treatment and Officer Blevins intimidation and coercion. *The letter contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
  58. On July 27, 2021 Prothonotary Mirelle Tabib of the Federal Court of Canada sent orders to Dale's email to direct him to have a response for the Case Management of T-1367-20 when the FCC was aware that Dale was obstructed and tortured by ICE a Defendant in T-1404-20 and he had no access to email.
  59. On July 28, 2021 before 6 am Officer in Charge Christopher Jones spoke with Dale and refused to investigate Dale's torture while in ICE custody.
  60. On August 2, 2021 U.S. Magistrate Judge Kristin L. Mix of the District Court of Colorado issued fraudulent orders in a matter filed by Dale. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
  61. On August 5, 2021 United States Judge Lewis T. Babcock of the District Court of Colorado dismissed the motion for relief on the basis of fraud. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*

62. On August 6, 2021, Michael Duggan fraudulently tampered with an appendix sent to the Supreme Court of the United States in which he re arranged the motion fraudulently calling it a petition to shut evidence out of court. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
63. August 13, 2021 Judge Lewis T. Babcock used fraud to dismiss the motion. Judge Lewis T. Babcock ignored the numerous references to the convention against torture, allegations and evidence of treason. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
64. On August 16, 2021 Judge Lewis T. Babcock fraudulently dismissed 18 U.S.C. § 3771 case No. 1:21-cv-02183-GPG without contemplating the public importance of reporting treason. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
65. On August 16, 2021 Judge Christine M. Arguello fraudulently dismissed case number 1:21-cv-02208-GPG. The verbiage of her order was almost identical to the order made by Judge Lewis T. Babcock. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
66. On August 25, 2021 a Deputy Clerk known as A. K. From the United States District Court for the District of Columbia used fraud to reject Dale's complaint. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
67. On September 21, 2021 Chief Judge Phillip A. Brimmer of the District Court of Colorado fraudulently dismissed an action that presented compelling evidence and supporting case law for treason, torture and Crimes against Humanity. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
68. On September 28, 2021 J. Babcock was exposed in a Wall Street Journal Investigation for breaking the law by hearing cases where he had a financial interest and did not recuse himself.

69. On October 15, 2021 Acting Registrar of the Supreme Court of Canada, David Power sent a letter to Dale. He attempted to dissuade Dale from appealing the unlawful orders from the Court of Appeal for Saskatchewan. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
70. On October 13, 2021 Dale appeared before Justice V. Rochester in the FCC to appeal orders of P. Tabib obtained by fraud. Justice V. Rochester ruled in favour of the parties who committed fraud. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
71. On October 25, 2021 P. Tabib presided over a case management hearing in the FCC. The judge intimidated and coerced Dale during the hearing to give up his right of defense. Chantalle Eisner attacked Dale verbally during the hearing when Dale mentioned intent to punish innocent parties by the SHA.
72. On October 28, 2021 the Supreme Court of Canada denied Texas citizen Robert A. Cannon's leave to appeal a habeas corpus denied by fraud. He was punished with costs for an application that presented evidence of the following crimes without limitation, fraud, torture, child trafficking for the purposes of sexual and financial exploitation, criminal negligence, treason in Canada and the United States. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
73. On November 16, 2021, Pastor David Baker of the Living Hope SDA Church ("LHSDAC") contracted Robert A. Cannon for the first time and requested an apology in writing to present to the LHSDAC Church Board. The Board was considering disciplinary action against Robert A. Cannon for the Manitoba-Saskatchewan Conference of the Seventh-Day Adventist Church being named as defendants in an Application for Habeas Corpus filed by Robert A. Cannon, *which contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
74. On December 12, 2021, Pastor David Baker invited Robert A. Cannon to speak with the church board who wanted to punish him for filing a Habeas Corpus. The Board made MOTION 21-139: to recommend to the church at a special business meeting on January 22, 2022 at 6:30pm in person at LHSDAC, for **Robert A. Cannon to be placed under disciplinary action by censorship until October 31, 2022.** The motion was carried.



75. On December 30, 2021 Dale attempted to enter the United States at the request of United States citizen Robert A. Cannon. Dale presented a letter Robert A. Cannon and proof of his United States citizenship and *documentation that contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting*. Dale and his family were assaulted, intimidated and coerced into returning to Canada after United States citizen Robert A. Cannon warned of the risk of torture and death of the first witness to treason against the United States. Dale was tortured and threatened with return to Saskatchewan where he was tortured upon arrival to Coutts AB. The fraudulent warrant issued by rogue members of the Battlefords RCMP was the reason given for unlawfully torturing Dale.
76. On January 4, 2022, the director of the Ministry of Justice for Saskatchewan, P. Mitch McAdam sent a letter to DSR Karis about constitutional questions for CACV3798. The letter fraudulently stated that the Applicant raised constitutional questions in the habeas corpus filed by Robert A. Cannon. *The constitutional questions were tied to documentation that contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting*.
77. David Baker and the Board did not provide any information explaining the Reasons for Discipline for the scheduled censorship meeting until January 18 of 2022, five days before the hearing.
78. On January 21 of 2022, Clint Wahl emailed procedures for the disciplinary hearing that restricted the ability of Robert A. Cannon or his witnesses to provide any reasonable defense. Robert A. Cannon stated that the hearing was prejudicial in his open letter to the church on January 22 of 2022. Robert A. Cannon and his witnesses declined to attend the prejudicial hearing. *The evidence for Robert A. Cannon's defense contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting*.
79. On January 22 of 2022 **the church membership voted to approve** motion 21-139 at the special business meeting held January 22, 2022 done in Robert A. Cannon's absence.
80. On January 31, 2022 the registrars of the CASK created a fraudulent document from information provided to them by DSR Karis. *This prevented the filing of CACV3798 which contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting*.

81. On February 15, 2022 the FCC created a fraudulent court record that claimed Dale acknowledged service that he did not receive. The direction deprived him of the motion record already filed to the FCC which was his defense for a vexatious litigant hearing brought by the SHA against him set for March 1 2022. *The documentation contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.* Emily Price provided Dale the msg file purportedly sent with an acknowledgment. It is possible the msg file was forged. The FCC was forced to change the date.
82. On March 15, 2022 Patricia J. Meiklejohn served documents to Dale for the purposes of using court rules to remove the right of defense in DIV 70 of 2020, and to dismiss CACV3745 Dale's appeal of Justice J. Zuk's orders appealed December 13, 2020. *Documentation for both matters contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
83. On April 14, Justice J. Zuk admitted in his orders that the court was recording Dale, but the Court of King's Bench for Saskatchewan have denied any chambers recordings exists.
84. On April 26 2022 Justice J. Zuk attempted to coerce Dale into participating in the Court hearing against the advice of Dale family doctor without lawful cause. Justice J. Zuk determined that evidence that demonstrated Dale obtained custody of his eldest daughter after being a permanent ward of Winnipeg Child and Family Services was part of an "adjournment" application that was never made and assessed costs against Dale.
85. On May 5, 2022 Justice J. Zuk created fraudulent orders and stated that the applications and its over 5600 pages of evidence was tied to a recusal application made by an unnamed nephew of Dale on May 5, 2022. Justice J. Zuk made a decision based on fraud to state that none of the materials submitted by Dale would be on the court record "Accordingly, the documents shall not form part of the court record nor shall they form any part of any decision arising from the matters before me today". *Documentation for the matters contained evidence of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
86. On July 20, 2022 Justice J. Zuk received a fax from DSR Karis alerting Justice J. Zuk that he was reported for crime. Justice J. Zuk received certified corporate records from the director of DSR Karis of its complaint and supporting materials. Jennifer Fabian committed fraud and stated in writing that Dale sent the materials to Justice J. Zuk for his

personal complaint and stated that they would be sealed in an envelope on the court record. *Documentation contained evidence of complaints made to law enforcement of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*

87. On July 22, 2022 Justice J. Zuk issued orders relating to the matters that he was reported for crimes to five divisions of the RCMP and to the Federal Bureau of Investigation. Justice J. Zuk contradicted his previous orders and included all of the evidence and used fraud to issue orders for financial gain. *Documentation before Justice J. Zuk contained evidence of complaints made to law enforcement of the criminally negligent representation of the AGMP guidance issued by the SHA and crimes used to suppress its reporting.*
88. On July 25 2022 unknown agents of the Court of King's Bench for Saskatchewan fraudulently applied court rules to prevent evidence or criminal activity from being placed before the court. It is possible one of the agents reported used their position to shield themselves from being exposed for crime.
89. On August 24, 2022 an Unknown Registrar of the Court of Appeal for Saskatchewan attempted to place the motion for Mandamus in chambers where it was impossible for Dale to get relief after doing so for two motions for prerogative relief place before Justice J. Kalmakoff and then a subsequent time after that. This is an observed pattern of deliberate intent to prejudice.
90. Substantial fraud has occurred in all court levels by rogue agents operating within the courts including without limitation, FCC and the Court of Appeal for Saskatchewan and evidence of the fraud is included in the attached documentation..

## **PART II – STATEMENT OF THE QUESTIONS IN ISSUE**

91. Do judges have the lawful capacity to engage in the profession of engineering/engineering technology while acting as a judge pursuant to the Judges Act?
92. Do judges have the lawful capacity to remove rights granted by law while acting as judges pursuant to the Judges Act?
93. Do judges have the lawful capacity to commit crimes on the bench and issuing orders that are criminal in nature while acting as judges pursuant to the Judges Act?
94. Do judges have the lawful capacity to order a human being to commit crimes while acting as judges pursuant to the Judges Act?

95. Do judges have the lawful capacity to engage in medicine while acting as a judges pursuant to the Judges Act?
96. Do judges have the lawful capacity to engage in the legal profession as a lawyer while acting as judges pursuant to the Judges Act?
97. Do judges have the lawful capacity to override the law while acting as judges pursuant to the Judges Act?
98. Do judges have the lawful capacity to exceed jurisdiction while acting as judges pursuant to the Judges Act?
99. Do judges have the lawful capacity to adjudicate a matter against a man who has reported them for crimes that would result in a life sentence if convicted?
100. Do judges have the lawful capacity to adjudicate a matter in which a man who has presented evidence of the judges crimes before the court?
101. Do judges have the lawful capacity to break the law while sitting before the court and break the law in issuing orders?
102. Is evidence of treason ever a frivolous and vexatious matter?
103. Does the RCMP have the authority to disregard section 12 of the Charter, and the UN Torture Convention, and aide parties committing treason in Canada and the United States?
104. Can a person have a fair hearing before a Court who has tortured and persecuted him?
105. Does the judiciary have the right to traffick children under the age of 18 years, commit acts of terrorism 83.01(b), fraud 380(1), and other crimes without limitation in the civil court?
106. Does the judiciary have the right to suppress evidence of sexual assault against an Indigenous woman as part of a "family matter" when the woman has no familial relation to the party in the action and if the action with the evidence of the sexual assault was placed before another court by another man?
107. Does the judiciary have an obligation to take action when evidence of terrorist activity is laid before the court?
108. Does the Mental Health Services Act promote torture in the jurisdiction of Saskatchewan? Does it promulgate arbitrary arrest, detention, torture and Crimes against Humanity?

109. Is the torture convention theoretical in Canada?

### **PART III – STATEMENT OF ARGUMENT**

110. Torture is “blatantly contrary to section 12”<sup>1</sup> and is unacceptable in any circumstance. The violation of section 12 also engages the CAT and brings in violations of international law. The punishment of an infant child with unlawful sanctions is torture by a Canadian state actor and is unacceptable and would “outrage our society’s sense of decency” and any reasonable Canadian would find it “abhorrent or intolerable.”<sup>2</sup> The CAT which is an international instrument binding on Canada instructs the judiciary to prevent acts of torture, and it does not make any distinction between the civil and the criminal branches. Torture is of such an offensive nature that it is the obligation of any member of the judiciary to prevent any act of torture and should err on the side of caution to investigate any such acts to ensure that they are arrested and prevented. The CAT has universal jurisdiction in Canada.
111. Forced population transfer is completely unacceptable and it is an element of Crimes against Humanity. Considering that the victims of the forced population transfer are black and Indigenous, it follows a consistent pattern of horrendous actions by Canadian state actors against Indigenous persons and to a less visible extent persons who identify as black. The forced population transfer could not take place without the cooperation of a number of Canadian state actors and private actors.
112. There is clearly an ideological, and political purpose, and under closer inspection there is an observable religious motivation. Dale’s employer DSR Karis is an essential service. Its business is in heating, ventilation, and air conditioning (HVAC). During his duties, Dale uncovered engineering guidelines that do not follow proper engineering practice. When confronted about the guidelines, the SHA did nothing. The SHA disregarded professional advice without providing any information to the contrary. This is unacceptable when human life is at risk. SHA misrepresentation of SARS-Cov-2 pandemic mitigation<sup>3</sup> guidelines is gross negligence. The mismanagement of the SARS-Cov-2 emergency by the SHA is Dale’s political position that differs from the Government of Saskatchewan.
113. PJM used Rule 10-46(1),(2) and 10-47 of the Queen’s Bench Rules (SK) applicable to homes in foreclosure, in Kim’s petition for divorce. These rules were used to justify selling the Applicant’s home on a first appearance when there was no foreclosure on the property. This delineates deliberate intent to defraud.

<sup>1</sup> (Kazemi Estate v. Islamic Republic of Iran, 2014 SCC 62 at paragraph 52; Suresh v. Canada (Minister of Citizenship and Immigration), 2002 SCC 1 at paragraph 51)

<sup>2</sup> R. v. Smith, [1987] 1 S.C.R. 1045 at 1072; R. v. Morrisey, 2000 SCC 39 at paragraph 26)

<sup>3</sup> (DSR Karis Consulting Inc., 2020)

114. Five affidavits of the April 26, 2021 the torture at the Sweetgrass MT point of entry, testify to this systematic attack.
115. The *Applicant* would like to direct attention to the date of the first complaint of torture which is July 3, 2020, over one year since the initial complaint of torture was made.
116. In T-1404-20 in the FCC, CG for the AGC, provided an affidavit from the RCMP. The affidavit was a gross forgery. It contained evidence of tampering, and a supposed warrant for resisting arrest that was issued the day before the alleged incident took place. This suggests deliberate intent, strengthened by the CQBSK contacting the RCMP to prevent the Applicant from entering the court on July 23, 2020. The SHA, RCMP and the CQBSK were respondents in a matter imitated by DSR Karis. The Applicant was to represent DSR Karis in the action as its Chief Executive Officer.
117. As a United States Judge Lewis T. Babcock had an obligation to examine forthwith the documents that purported federal treason. He used his position to obstruct justice and committed an overt act of treason. Additionally, he deprived Dale of rights pursuant to 18 U.S.C. § 242 and his overt acts are party to 18 U.S.C. § 241. He declared the Motion for relief pursuant to 18 U.S.C. § 3771 moot. He purported the motion “*does not include any claims, factual allegations or request for relief.*” With that statement United States Judge Lewis T. Babcock committed perjury. The motion for relief is evidence of a gross pattern of rights suppression directed towards a black alien attempting to assert constitutional rights.. The denial of a torture complaint under the CAT does allow for the prosecution of 18 U.S.C. § 241. *Treaty with foreign power was supreme law of land; Congress could provide punishment for its infraction on deprivation of or injury to right secured by it, as in case of ordinary law. In re Grand Jury (1886, DC Or) 11 Sawy 522, 26 F 749.* Judge Lewis T. Babcock was exposed for corruption in a newspaper article, and admitted his corrupt actions.
118. The actions of M. Duggan delineates a determined effort to deprive Dale of rights who is an Alien and Black. After documents were properly filed on June 23, and docketed on June 29, 2021, M. Duggan separated the motion from the petition to prevent Dale from gaining his freedom and further subjecting him to torture and hindered the presentation of evidence of treason to United States judges. M. Duggan is a part of a conspiracy preventing the enforcement of a United States Statute, and it is reasonable that there is also a criminal civil rights violation pursuant to 18 U.S.C. § 241. 18 USCS § 241 *does not require that any overt act be shown. United States v Morado (1972, CA5 Tex) 454 F.2d 167, cert den (1972) 406 US 917, 32 L Ed 2d 116, 92 S Ct 1767.*

119. Officer C. Jones covered for the crimes of Officer Blevins and the CBP officers and suggested that policy is the cause of the actions of Officer Blevins. Every person Dale attempted to report the crimes to, are responsible for the latest acts of torture and conspirators after the fact to crimes forming part of the Invariable Pursuit of the Object outlined in the Declaration of Independence.
120. On August 2, 2021 U.S. Magistrate Judge Kristin L. Mix proved she is a conspirator to preventing enforcement of United States statutes, when she acted like she could not read statutes listed in the Jurisdiction paragraph. The CAT was designed to protect persons in custody of public officials from abuses prevalent in detention settings. This Judge knew what she was doing. *Conspiracy to altogether prevent enforcement of statute of United States is conspiracy to commit treason by levying war against the United States. Bryant v. United States, 257 F. 378, 1919 U.S. App LEXIS 2212(5<sup>th</sup> Cir. 1919)* The combined actions of Magistrate Judge Mix and Gallagher and the Clerk's office outlines conspiracy to prevent enforcement of a United States statute. The detention and subsequent forced deportation of Jaime Naranjo-Hererra shows force used in preventing the enforcement of statutes.
121. Furthermore, force is not required if the conspiracy is detected early. ***The Government contends that, but for the timely interruption of the conspiracy by the apprehension of its leaders actual resistance would have come about. The greater part of the evidence relied upon by the government to establish the conspiracy related to facts which occurred before the passage of the selective Draft Act. United States. Bryant v. United States, 257 F. 378, 1919 U.S. App LEXIS 2212(5<sup>th</sup> Cir. 1919)*** There is overwhelming evidence of conspiracy, collusion, treason, judicial interference, complicity to torture, terrorism, crimes against humanity and other crimes.
122. An indisputably clear pattern of punishment is observed in the judicial system in Canada and the United States involving Dale and his daughters. Severe judicial interference has occurred in the SCOTUS by following rogue agents without limitation, Clara Houghtelling, M. Duggan and Redmond K. Barnes. The foregoing treasonous conspiracy includes terrorism, torture, child trafficking for the purposes of financial and sexual exploitation and shielding the rogue agents of ICU located in Saskatchewan, Canada. They have co-opted a financial institution to fund the Invariable Pursuit of the Object. The conspiracy includes judges in the CQBSK, CASK participating in and shielding mortgage fraud. The CASK openly declared that the Constitution of Canada has no validity there, and are rebelling against Canada. The CASK declared that children are not persons and should not be afforded the Privilege of Writ of Habeas Corpus.

123. U.S. MJ Gallagher incorrectly and deliberately applied the motion for relief as a civil matter in an order June 15, 2021. U.S. MJ Gallagher displayed actions consistent with a traitor to the United States. U.S. MJ Gallagher established a traitorous pattern of behavior in ordering Jaime Naranjo-Hererra to cure deficiency for his motion for relief under 18 U.S.C. § 3771, and construing it as a civil matter under 28 U.S.C. § 1915. This indicative of preventing the enforcement of 18 U.S.C. § 3771 and investigation of corrupt officials.
124. Kidnapping, torture, trafficking in persons, trafficking of a person under the age of eighteen years for the purposes of exploitation is not a lawful basis for any order, nor can any order be valid that is part of the aforementioned crimes. Orders issued by Justice R.W. Elson formed a part of the aforementioned crimes in violation of 269.1, 279(1), 279.01(1), 279.011(1) and 279.04(1) of the Criminal Code and facilitated 380(1) of the same; and in aggregate caused a severe interference with the essential services of DSR Karis that directly caused harm to the public delineated in (A)-(C) of 83.01(b)(ii) of the Criminal Code.
125. The judiciary must take any and all measures to prevent acts of torture. Until an impartial investigation takes place, no action can lawfully be taken to place Dale or any third person connected to him that will place them at any risk to be tortured. **It must also stop treason and despotism. Treason and torture must be heard by the Court.**
- 2 1. Each State Party shall take effective legislative, administrative, *judicial or other measures to prevent acts of torture in any territory under its jurisdiction.***
126. The continued persecution, torture, crimes against humanity levied against the CEO of DSR Karis has placed his life in jeopardy, and the courts in Canada has permitted it to continue and the SHA tortured Dale because of his research regarding the mixing factor.
127. The Land Titles Act was used to transfer the title to the registered office of DSR Karis in a divorce hearing governed by the Family Property Act. Justice B.R. Hildebrandt exceeded her jurisdiction in transferring the property under the Land Titles Act following a pattern of exceeding jurisdiction for Justice R.W. Elson to unlawfully order the sale of the property and hand over all possessions contained in the property in violation of the Family Property Act. Regardless, the Land Titles Act was the legislation used to transfer the title of the property in question and it confers the right of appeal to DSR Karis and Justice J. A. Schwann nor any other agent of the court had any right to deny that right of appeal. The proper course of action was to strike down the transfer based on a lack of jurisdiction. The fraud used to transfer the property was a reason why it was not struck



down and is evidence of conspiracy and accessory after the fact to commit fraud in violation of 380(1), 463, 465 of the Criminal Code. The civil courts cannot be used to commit crimes ever.

128. A Writ of Certiorari is a necessity to determine this matter, and the ensuing appeal and it would be necessary given the circumstances to order a Writ of Certiorari before the determination the leave as this matter involves torture, treason and other heinous crimes.
129. An oral hearing is necessary given the inability of a judge to make a determination or speak to the relevance of a HVAC engineering report without the capacity of a mechanical engineer or mechanical engineering technologist experienced in HVAC.
130. Any determination without a competent person to speak to the matters to explain it would result in death and would be a crime to exercise capacity of a mechanical engineer/Mechanical Engineering Technologist or to override the expert opinion of the Mechanical Engineering Technologist who assembled the report for DSR Karis North Consulting Inc..
131. If the Supreme Court of Canada fails to grant the leave to appeal it would sanction all the crimes contained in the attached documentation and likely precipitate a military response from the United States for the concealment of the distribution of a biological weapon used to attack the United States and effect its overthrow.

#### **PART IV – SUBMISSIONS IN SUPPORT OF ORDER SOUGHT CONCERNING COSTS**

132. The Applicant has had all parties involved in the litigation take actions to destroy its economic security with the objective of preventing it from seeking remedy or obtaining legal counsel to defend itself. The Applicant's lawful operation are threatened by the Respondents. Given the egregious treasonous conduct of the parties named in this action costs are warranted and should be ordered in this action.
133. The CAT provides the means by which the judiciary can take action to prevent acts of torture and the order for costs are to prevent acts of torture, and to allow for the article 13 rights of the officers of the Applicant to stop the severe interference to its essential services and prevent harm caused in (A)-(C) of 83.01(b) of the Criminal Code.

#### **PART V – ORDERS SOUGHT**

1. Grant the appeal;
2. Order of a Writ of Certiorari; and

3. Costs associated with incidental costs arising from torture to be determined by the Court;
4. Any other orders the Court deems just

NOVEMBER 29, 2022



DALE J. RICHARDSON, CEO

DSR KARIS CONSULTING INC.

**PART VI – TABLE OF AUTHORITIES**

134. Section 40(1), and 55 of the *Supreme Court Act*,
135. Section 15(1) of the *Canada Business Corporations Act*,
136. Sections 7, 10(c), 12, 15 of the *Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (U.K.)*, 1982, chapter 11,
137. Section 18, 84, 97(1), 99.1, 101.1(1), 107, 109(1), 110, 111, 112, 117(1), 131, 143(1), 144, 146 of the Land Titles Act (SK)
138. Section 83.01(b), 219, 229(6),(6.01), (6.1), 269.1, 279.01, 279.011, 380(1), 463 and 465 of the *Criminal Code*,
139. Article 1-33 of the Rome Statute of the International Criminal Court,
140. the Crimes against Humanity and War Crimes Act,
141. 18 U.S.C. § 241,
142. 18 U.S.C. § 242,
143. 18 U.S.C. § 3771,
144. Article III Section 3 of the *United States Constitution*, and
145. **ARTICLE 2, 12, AND 13 OF THE *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.***

**PART VII – LEGISLATION**

### Exceptions

**39** No appeal to the Court lies under section 37, 37.1 or 38 from a judgment in a criminal cause, in proceedings for or on

(a) a writ of *habeas corpus*, *certiorari* or prohibition arising out of a criminal charge; or

(b) a writ of *habeas corpus* arising out of a claim for extradition made under a treaty.

R.S., 1985, c. S-26, s. 39; 1990, c. 8, s. 36.

### Appeals with leave of Supreme Court

**40 (1)** Subject to subsection (3), an appeal lies to the Supreme Court from any final or other judgment of the Federal Court of Appeal or of the highest court of final resort in a province, or a judge thereof, in which judgment can be had in the particular case sought to be appealed to the Supreme Court, whether or not leave to appeal to the Supreme Court has been refused by any other court, where, with respect to the particular case sought to be appealed, the Supreme Court is of the opinion that any question involved therein is, by reason of its public importance or the importance of any issue of law or any issue of mixed law and fact involved in that question, one that ought to be decided by the Supreme Court or is, for any other reason, of such a nature or significance as to warrant decision by it, and leave to appeal from that judgment is accordingly granted by the Supreme Court.

### Application for leave

**(2)** An application for leave to appeal under this section shall be brought in accordance with paragraph 58(1)(a).

### Appeals in respect of offences

**(3)** No appeal to the Court lies under this section from the judgment of any court acquitting or convicting or setting aside or affirming a conviction or acquittal of an indictable offence or, except in respect of a question of law or jurisdiction, of an offence other than an indictable offence.

### Extending time for allowing appeal

**(4)** Whenever the Court has granted leave to appeal, the Court or a judge may, notwithstanding anything in this Act, extend the time within which the appeal may be allowed.

R.S., 1985, c. S-26, s. 40; R.S., 1985, c. 34 (3rd Suppl.), s. 3; 1990, c. 8, s. 37.

### Appeals under other Acts

**41** Notwithstanding anything in this Act, the Court has jurisdiction as provided in any other Act conferring jurisdiction.

R.S., c. S-19, s. 42.

### Exceptions

**39** Il ne peut être interjeté appel devant la Cour, au titre des articles 37, 37.1 ou 38, d'un jugement rendu dans une affaire pénale relativement à des procédures touchant à :

a) un bref d'*habeas corpus*, de *certiorari* ou de prohibition découlant d'une accusation au pénal;

b) un bref d'*habeas corpus* résultant d'une demande d'extradition fondée sur un traité.

L.R. (1985), ch. S-26, art. 39; 1990, ch. 8, art. 36.

### Appel avec l'autorisation de la Cour

**40 (1)** Sous réserve du paragraphe (3), il peut être interjeté appel devant la Cour de tout jugement, définitif ou autre, rendu par la Cour d'appel fédérale ou par le plus haut tribunal de dernier ressort habilité, dans une province, à juger l'affaire en question, ou par l'un des juges de ces juridictions inférieures, que l'autorisation d'en appeler à la Cour ait ou non été refusée par une autre juridiction, lorsque la Cour estime, compte tenu de l'importance de l'affaire pour le public, ou de l'importance des questions de droit ou des questions mixtes de droit et de fait qu'elle comporte, ou de sa nature ou importance à tout égard, qu'elle devrait en être saisie et lorsqu'elle accorde en conséquence l'autorisation d'en appeler.

### Demandes d'autorisation d'appel

**(2)** Les demandes d'autorisation d'appel présentées au titre du présent article sont régies par l'alinéa 58(1)a).

### Appels à l'égard d'infractions

**(3)** Le présent article ne permet pas d'en appeler devant la Cour d'un jugement prononçant un acquittement ou une déclaration de culpabilité ou annulant ou confirmant l'une ou l'autre de ces décisions dans le cas d'un acte criminel ou, sauf s'il s'agit d'une question de droit ou de compétence, d'une infraction autre qu'un acte criminel.

### Prorogation du délai d'appel

**(4)** Dans tous les cas où elle accorde une autorisation d'appel, la Cour ou l'un de ses juges peut, malgré les autres dispositions de la présente loi, proroger le délai d'appel.

L.R. (1985), ch. S-26, art. 40; L.R. (1985), ch. 34 (3<sup>e</sup> suppl.), art. 3; 1990, ch. 8, art. 37.

### Appels fondés sur d'autres lois

**41** Malgré les autres dispositions de la présente loi, la Cour a la compétence prévue par toute autre loi attributive de compétence.

S.R., ch. S-19, art. 42.

presented to the Senate or House of Commons and referred to the Court under any rules or orders made by the Senate or House of Commons.

R.S., c. S-19, s. 56.

## Certiorari

### Writ of *certiorari*

**55** A writ of *certiorari* may, by order of the Court or a judge, issue out of the Court to bring up any papers or other proceedings had or taken before any court, judge or justice of the peace, and that are considered necessary with a view to any inquiry, appeal or other proceeding had or to be had before the Court.

R.S., c. S-19, s. 61.

## Procedure in Appeals

### The Appeal

#### Proceedings in appeal

**56** Proceedings on an appeal shall, when not otherwise provided for by this Act, the Act providing for the appeal or the general rules and orders of the Court, be in conformity with any order made, on application by a party to the appeal, by the Chief Justice or, in the absence of the Chief Justice, by the senior puisne judge present.

R.S., c. S-19, s. 63; R.S., c. 44(1st Supp.), s. 5.

#### Limited appeal

**57** The appellant may appeal from the whole or any part of any judgment or order and, if the appellant intends to limit the appeal, the notice of appeal shall so specify.

R.S., c. S-19, s. 64.

#### Time periods for appeals

**58 (1)** Subject to this Act or any other Act of Parliament, the following provisions with respect to time periods apply to proceedings in appeals:

**(a)** in the case of an appeal for which leave to appeal is required, the notice of application for leave to appeal and all materials necessary for the application shall be served on all other parties to the case and filed with the Registrar of the Court within sixty days after the date of the judgment appealed from; and

**(b)** in the case of an appeal for which leave to appeal is not required or in the case of an appeal for which leave to appeal is required and has been granted, a notice of appeal shall be served on all other parties to the case and filed with the Registrar of the Court within

Chambre des communes qui lui sont déferés en vertu des règlements de l'une ou l'autre chambre.

S.R., ch. S-19, art. 56.

## Certiorari

### Bref de *certiorari*

**55** La Cour ou l'un de ses juges peut décerner un bref de *certiorari* en vue de la production des actes de procédure et autres documents déposés devant un tribunal, un juge ou un juge de paix et jugés nécessaires pour une enquête, un appel ou une nouvelle instance devant elle.

S.R., ch. S-19, art. 61.

## Procédure d'appel

### L'appel

#### Règle générale

**56** La procédure d'appel doit, à défaut de disposition à cet effet dans la présente loi, dans la loi prévoyant le droit d'appel ou dans les règles et ordonnances générales de la Cour, se conformer à toute ordonnance rendue, sur demande d'une partie à l'appel, par le juge en chef ou, en son absence, par le doyen des juges puînés présents.

S.R., ch. S-19, art. 63; S.R., ch. 44(1<sup>er</sup> suppl.), art. 5.

#### Portée de l'appel

**57** L'appellant peut faire porter son recours sur l'ensemble ou tel élément d'un jugement ou d'une ordonnance; le cas échéant, il doit faire état de l'élément dans son avis d'appel.

S.R., ch. S-19, art. 64.

#### Délais

**58 (1)** Sous réserve des autres dispositions de la présente loi ou de toute autre loi fédérale, les règles suivantes régissent les délais en matière d'appel :

**a)** l'avis de la demande d'autorisation d'appel, accompagné de tous les documents utiles, doit être signifié à toutes les parties et déposé auprès du registraire dans les soixante jours suivant la date du jugement porté en appel;

**b)** l'avis d'appel doit être signifié à toutes les parties et déposé auprès du registraire dans les trente jours suivant la date du jugement porté en appel, s'il s'agit d'un appel de plein droit, et dans les trente jours suivant la date du jugement accordant l'autorisation d'appel, si une demande à cette fin a été présentée.

in subsection (3), to be bound by or entitled to the benefits of the contract.

### Application to court

**(3)** Subject to subsection (4), whether or not a written contract made before the coming into existence of a corporation is adopted by the corporation, a party to the contract may apply to a court for an order respecting the nature and extent of the obligations and liability under the contract of the corporation and the person who entered into, or purported to enter into, the contract in the name of or on behalf of the corporation. On the application, the court may make any order it thinks fit.

### Exemption from personal liability

**(4)** If expressly so provided in the written contract, a person who purported to act in the name of or on behalf of the corporation before it came into existence is not in any event bound by the contract or entitled to the benefits thereof.

R.S., 1985, c. C-44, s. 14; 2001, c. 14, s. 7.

## PART III

# Capacity and Powers

### Capacity of a corporation

**15 (1)** A corporation has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

#### Idem

**(2)** A corporation may carry on business throughout Canada.

### Extra-territorial capacity

**(3)** A corporation has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Canada to the extent that the laws of such jurisdiction permit.

R.S., 1985, c. C-44, s. 15; 2011, c. 21, s. 14(F).

### Powers of a corporation

**16 (1)** It is not necessary for a by-law to be passed in order to confer any particular power on the corporation or its directors.

### Restricted business or powers

**(2)** A corporation shall not carry on any business or exercise any power that it is restricted by its articles from carrying on or exercising, nor shall the corporation exercise any of its powers in a manner contrary to its articles.

### Requête au tribunal

**(3)** Sous réserve du paragraphe (4), le tribunal peut notamment, à la demande de toute partie à un contrat écrit conclu avant la constitution de la société, indépendamment de sa ratification ultérieure, rendre une ordonnance au sujet de la nature et de l'étendue des obligations et de la responsabilité découlant du contrat attribuable à la société et à la personne qui a conclu ou est censée avoir conclu le contrat pour elle.

### Exemption de toute responsabilité personnelle

**(4)** La personne visée au paragraphe (1) n'est pas liée par un contrat écrit s'il contient une clause expresse à cet effet et ne peut en tirer parti.

L.R. (1985), ch. C-44, art. 14; 2001, ch. 14, art. 7.

## PARTIE III

# Capacité et pouvoirs

### Capacité

**15 (1)** La société a, sous réserve des autres dispositions de la présente loi, la capacité d'une personne physique et les droits, pouvoirs et privilèges de celle-ci.

#### Idem

**(2)** La société peut exercer ses activités commerciales partout au Canada.

### Capacité extra-territoriale

**(3)** La société possède la capacité de conduire ses affaires internes et d'exercer son activité commerciale et ses pouvoirs à l'étranger, dans les limites des lois applicables en l'espèce.

L.R. (1985), ch. C-44, art. 15; 2011, ch. 21, art. 14(F).

### Pouvoirs

**16 (1)** La prise d'un règlement administratif n'est pas nécessaire pour conférer un pouvoir particulier à la société ou à ses administrateurs.

### Réserves

**(2)** La société ne peut exercer ni pouvoirs ni activités commerciales en violation de ses statuts.

# *The Canadian Charter of Rights and Freedoms*

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

## *Guarantee of Rights and Freedoms*

Rights and freedoms in Canada

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

## *Fundamental Freedoms*

Fundamental freedoms

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

## *Democratic Rights*

Democratic rights of citizens

3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

Maximum duration of legislative bodies

4.(1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members.

Continuation in special circumstances

(2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be.

Annual sitting of legislative bodies

5. There shall be a sitting of Parliament and of each legislature at least once every twelve months.



### ***Mobility Rights***

Mobility of citizens	6.(1) Every citizen of Canada has the right to enter, remain in and leave Canada.
Rights to move and gain livelihood	(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right <ul style="list-style-type: none"> <li>(a) to move to and take up residence in any province; and</li> <li>(b) to pursue the gaining of a livelihood in any province.</li> </ul>
Limitation	(3) The rights specified in subsection (2) are subject to <ul style="list-style-type: none"> <li>(a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and</li> <li>(b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.</li> </ul>
Affirmative action programs	(4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

### ***Legal Rights***

Life, liberty and security of person	7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
Search or seizure	8. Everyone has the right to be secure against unreasonable search or seizure.
Detention or imprisonment	9. Everyone has the right not to be arbitrarily detained or imprisoned.
Arrest or detention	10. Everyone has the right on arrest or detention <ul style="list-style-type: none"> <li>(a) to be informed promptly of the reasons therefor;</li> <li>(b) to retain and instruct counsel without delay and to be informed of that right; and</li> <li>(c) to have the validity of the detention determined by way of <i>habeas corpus</i> and to be released if the detention is not lawful.</li> </ul>
Proceedings in criminal and penal matters	11. Any persons charged with an offence has the right <ul style="list-style-type: none"> <li>(a) to be informed without unreasonable delay of the specific offence;</li> <li>(b) to be tried within a reasonable time;</li> <li>(c) not to be compelled to be a witness in proceedings against that person in respect of the offence;</li> <li>(d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;</li> </ul>

- (e) not to be denied reasonable bail without just cause;
- (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;
- (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;
- (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and
- (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.

Treatment or punishment	12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.
Self-crimination	13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.
Interpreter	14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

### ***Equality Rights***

Equality before and under law and equal protection and benefit of law	15.(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.
Affirmative action programs	(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

*Official Languages of Canada*

Official languages of Canada	16.(1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.
Official languages of New Brunswick	(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.
Advancement of status and use	(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.
English and French linguistic communities in New Brunswick	16.1(1) The English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities.
Role of the legislature and government of New Brunswick	(2) The role of the legislature and government of New Brunswick to preserve and promote the status, rights and privileges referred to in subsection (1) is affirmed.
Proceedings of Parliament	17.(1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.
Proceedings of New Brunswick legislature	(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.
Parliamentary statutes and records	18.(1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.
New Brunswick statutes and records	(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.
Proceedings in courts established by Parliament	19.(1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.
Proceedings in New Brunswick courts	(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.

Communications by public with federal institutions	<p>20.(1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where</p> <p>(a) there is a significant demand for communications with and services from that office in such language; or</p> <p>(b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.</p>
Communications by public with New Brunswick institutions	<p>(2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.</p>
Continuation of existing constitutional provisions	<p>21. Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada.</p>
Rights and privileges preserved	<p>22. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.</p>
<b><i>Minority Language Educational Rights</i></b>	
Language of instruction	<p>23.(1) Citizens of Canada</p> <p>(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or</p> <p>(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,</p> <p>have the right to have their children receive primary and secondary school instruction in that language in that province.</p>
Continuity of language instruction	<p>(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.</p>

Application where numbers warrant

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

### ***Enforcement***

Enforcement of guaranteed rights and freedoms

24.(1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

Exclusion of evidence bringing administration of justice into disrepute

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

### ***General***

Aboriginal rights and freedoms not affected by Charter

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

(a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and

(b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

Other rights and freedoms not affected by Charter

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

Multicultural heritage

27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

Rights guaranteed equally to both sexes

28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

Rights respecting certain schools preserved

29. Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.

Application to territories and territorial authorities 30. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be.

Legislative powers not extended 31. Nothing in this Charter extends the legislative powers of any body or authority.

### ***Application of Charter***

Application of Charter 32.(1) This Charter applies  
 (a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and  
 (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

Exception (2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.

Exception where express declaration 33.(1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.

Operation of exception (2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.

Five year limitation (3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.

Re-enactment (4) Parliament or a legislature of a province may re-enact a declaration made under subsection (1).

Five year limitation (5) Subsection (3) applies in respect of a re-enactment made under subsection (4).

### ***Citation***

Citation 34. This Part may be cited as the *Canadian Charter of Rights and Freedoms*.

- (g) **“Controller of Surveys”** means the Controller of Surveys appointed pursuant to *The Land Surveys Act, 2000*;
- (h) **Repealed.** 2013, c.O-4.2, s.92.
- (i) **“court”** means the Court of Queen’s Bench;
- (j) **“creditor”** means:
  - (i) in the case of a judgment, the execution creditor named in the judgment;
  - (ii) in the case of a maintenance order, the claimant named in the maintenance order;
- (k) **“Crown”** means, unless otherwise specifically mentioned, the Crown in right of Saskatchewan;
- (l) **“Crown grant”** means, as the case may require:
  - (i) a grant of fee simple to the surface parcel of Crown land, whether granted directly from the Crown in right of Canada or Saskatchewan or pursuant to any Act or law;
  - (ii) a grant of fee simple in the mineral commodities within Crown land, whether granted directly from the Crown in right of Canada or Saskatchewan or pursuant to any Act or law;
  - (iii) the instrument to effect a grant mentioned in subclause (i) or (ii);
- (m) **“debtor”** means:
  - (i) in the case of a judgment, the execution debtor named in the judgment;
  - (ii) in the case of a maintenance order, the respondent named in the maintenance order;
- (n) **“Deputy Registrar”** means a Deputy Registrar of Titles appointed pursuant to section 7;
- (o) **“document”** includes, unless the context otherwise requires, any record of information, regardless of how it is recorded or stored, whether in printed form, on microfilm, by electronic means or otherwise;
- (p) **“former land registration district”** means a land registration district that was in existence pursuant to *The Land Titles Act* on the day before an order pursuant to section 191 came into force designating that land registration district as an area of Saskatchewan to which this Act applies;
- (p.1) **“fraudulent instrument”** means an instrument:
  - (i) pursuant to which a fraudulent person purports to receive or transfer a title or an interest in land;
  - (ii) that is given under the purported authority of a power of attorney that is forged;

- (iii) that is an assignment of a mortgage where the mortgage is given by a fraudulent person; or
  - (iv) that perpetrates a fraud as prescribed with respect to the title or interest in land affected by the instrument;
- (p.2) **“fraudulent person”** means a person who executes or purports to execute an instrument if:
- (i) the person forged the instrument;
  - (ii) the person named in the instrument is fictitious; or
  - (iii) the person holds himself or herself out in the instrument to be, but knows that he or she is not, the registered owner of the title or interest in land affected by the instrument;
- (q) **“general record”** means a general record for a former land registration district that was required to be kept pursuant to section 31 of the former Act;
- (q.1) **“grant directory”** means the grant directory of Crown grants established pursuant to section 76.1;
- (r) **“instrument”** means any document on which a registration is based;
- (s) **“interest”** means any right, interest or estate, whether legal or equitable, in, over or under land recognized at law that is less than title;
- (t) **“interest holder”** means a person who is registered in the land titles registry as a holder of an interest;
- (t.1) **“judgment”** means a judgment as defined in *The Enforcement of Money Judgments Act*;
- (t.2) **“judgment registry”** means the registry as defined in *The Enforcement of Money Judgments Act*;
- (u) **“land”** means:
- (i) the surface;
  - (ii) mines and minerals; and
  - (iii) unless the context requires otherwise, the condominium units and common property included in a condominium plan;
- (u.1) **“land registry”** means the land titles registry, the abstract directory and the grant directory;
- (v) **“land titles registry”** means the Land Titles Registry established pursuant to section 4;
- (w) **“lease”** includes a sublease;
- (x) **“maintenance order”** means a maintenance order as defined in *The Enforcement of Maintenance Orders Act, 1997*;
- (y) **“mineral commodity”** means one or more mines and minerals:
- (i) within a mineral parcel; and
  - (ii) designated as a mineral commodity in the regulations;



(2) Where competing titles exist at any time with respect to all or a portion of the same surface parcel, mineral commodity or condominium unit, the person who is entitled to be the registered owner of the title is the person whose title was registered first.

2000, c.L-5.1, s.16.

**Certification of uncertified mineral titles**

17(1) Any person may apply to the Registrar in the prescribed manner for certification of an uncertified mineral title as a mineral title in accordance with this section.

(2) The Registrar may, on his or her own initiative, certify an uncertified mineral title as a mineral title in accordance with this section.

(3) On receipt of an application pursuant to subsection (1), or on the Registrar's own initiative, the Registrar shall:

(a) search and examine the records of the land titles registry and the abstract directory to determine the ownership of all or any mineral commodities in the mineral parcel; and

(b) issue mineral titles to all or any of the mineral commodities if the Registrar is satisfied that the purported ownership of the mineral commodity or mineral commodities in the mineral parcel is correct.

(4) When an uncertified mineral title is certified pursuant to this section, all interests that were registered against the uncertified mineral title:

(a) are to be registered against the mineral title in the order in which they were registered against the uncertified mineral title; and

(b) have the same priority that they had on their registration against the uncertified mineral title.

2000, c.L-5.1, s.17; 2001, c.20, s.6; 2002, c.51, s.6.

**Implied interests**

18(1) Subject to subsection (2), every title and the land for which the title has issued, is, by implication and without any special mention in the title, deemed to be subject to the following exceptions, reservations and interests:

(a) any subsisting reservations or exceptions, including royalties, expressly contained in the original Crown grant or reserved in or excepted from the Crown grant pursuant to any Act or law or contained in any other grant or disposition from the Crown;

(b) any right or interest granted by or pursuant to an Act or an Act of the Parliament of Canada that does not have to be registered:

(i) to enter, go across or do things on land, including an easement or right of way, for the purposes specified in the enactment;

(ii) to recover taxes, duties, liens, charges, rates or assessments by proceedings with respect to land;

(3) Every document certified by the Registrar in accordance with subsection (1) or (2) is admissible in evidence in all cases and for all purposes for which the document would have been admissible and with the same effect as if the document were produced.

2000, c.L-5.1, s.82.

#### DIVISION 4 Document Destruction

##### **Destruction of documents by Registrar**

**83(1)** Where the Registrar has received a document in printed form for registration and has recorded and stored the document electronically pursuant to Division 3, the Registrar may:

- (a) maintain and deal with the electronic version for the purpose of keeping a permanent record of the document; and
- (b) destroy the printed form of the document in the prescribed manner.

(2) Subsection (1) applies, with any necessary modification, to documents in the printed form that exist in the land titles registry as at the prescribed date.

2000, c.L-5.1, s.83.

#### PART XII Assurance and Compensation

##### **Claims for compensation**

**84(1)** In this section, “**invalid transfer**” means any registration that results in the issuance of a new title in the name of a new registered owner where the application for registration was based on a transaction not authorized at law.

(2) Subject to the exclusions mentioned in sections 85 and 86, any person who sustains loss, damage or deprivation in any of the following circumstances is entitled to make a claim for compensation:

- (a) where a registration made by the Registrar was not authorized by this Act;
- (b) where the Registrar has omitted to make a registration as required by this Act;
- (c) where the Registrar has made an error or omission in the performance of a duty or function pursuant to this Act that is not mentioned in clause (a) or (b);
- (d) where a former registered owner has been deprived of title through the registration of an invalid transfer and that former registered owner is prohibited by section 15 from bringing an action of ejectment or other action to obtain or recover land;

**Title insurers cannot be subrogated**

**96.1(1)** In this section:

- (a) **“demand”** means a claim or other demand made by a person who sustains loss or damage due to:
    - (i) the invalidity of title; or
    - (ii) any defect in any title or instrument;
  - (b) **“title insurer”** means an insurer, fund or other prescribed person or entity that may make demands or against whom demands can be made.
- (2) No title insurer is entitled:
- (a) to be subrogated to the rights of a person to claim compensation for a loss by reason of the title insurer having made a payment to that person with respect to that loss; or
  - (b) notwithstanding any other Act or law, to be subrogated to the rights of a person to make a claim with respect to a loss against the Crown or any agent of the Crown by reason of the title insurer having made a payment to that person with respect to that loss.

2009, c.21, s15; 2013, c-O-4.2, s.103.

**PART XIII**  
**Powers of the Registrar**

**Correction of registrations**

**97(1)** The Registrar may correct any error or omission made in the land registry if it appears to the Registrar that:

- (a) a title has been issued in error or contains an incorrect or incomplete description;
  - (b) a registration contains an incorrect or incomplete description;
  - (c) an entry or registration has been made in error; or
  - (d) any other prescribed circumstance exists.
- (2) A correction may be made pursuant to subsection (1) in any manner that the Registrar considers appropriate, so far as is practicable without prejudicing rights obtained in good faith for value.
- (2.1) For the purposes of subsection (2), a correction pursuant to subsection (1) does not prejudice rights obtained in good faith for value if the correction is based on a caveat registered by a registrar pursuant to a former Act before those rights were acquired if the caveat registered by the registrar provided a detailed description of the specific error or omission.

- (3) In correcting an error or omission pursuant to this section, the Registrar shall record the correction in the land registry.
- (3.1) If no other permanent record of a correction made pursuant to this section will appear in the land registry, the Registrar shall record the correction by way of an interest based on a Registrar's notice.
- (4) Every correction made pursuant to this section has the same validity and effect as if the error or omission had not occurred.
- (5) Before correcting an error or omission pursuant to this section, the Registrar may provide notice to any person that the Registrar considers may be interested in or affected by the correction.

2000, c.L-5.1, s.97; 2002, c.51, s.14; 2022, c 17,  
s.7.

#### **Suspension of land registry functions**

- 98(1)** Notwithstanding any other provision of this Act, any regulation made pursuant to this Act or any other Act providing for registration in the land registry, if, in the opinion of the Registrar, it is not practical to provide one or more land registry functions, the Registrar may, by order, suspend all or any land registry functions for the period during which, in the opinion of the Registrar, those circumstances prevail.
- (2) An order of the Registrar made pursuant to subsection (1):
- (a) is to identify the land registry functions that are being suspended and the time that the land registry functions are suspended;
  - (b) is to be published in the Gazette as soon as is reasonably possible after it is made; and
  - (c) may suspend land registry functions as at a date not more than 30 days before the day on which the order is made.
- (3) The Registrar may, by order, recommence all or any suspended land registry functions, effective as at any time the Registrar considers appropriate.
- (4) An order of the Registrar made pursuant to subsection (3):
- (a) is to identify the land registry functions that are being recommenced and the time that the land registry functions are recommenced; and
  - (b) is to be published in the Gazette as soon as is reasonably possible after it is made.
- (5) Subject to subsection (6), an order made pursuant to this section comes into force on the day on which it is made.
- (6) In the case of an order that suspends land registry functions as at a date before the order is made, the order may be made retroactive to a date not more than 30 days before the day on which the order is made and, in that case, the order is deemed to have been in force on and from that date.

(7) The Registrar shall take any steps the Registrar considers necessary to bring to the attention of the public an order of the Registrar pursuant to this section.

(8) If there is any conflict between an order of the Registrar pursuant to this section and a provision of this Act, the regulations, other than regulations made pursuant to clause 187(1)(u), or any other Act or law, the order of the Registrar prevails.

2002, c.51, s.15.

**Prohibitions on behalf of Crown**

**99** The Registrar may, on behalf of the Crown or the Crown in right of Canada, prohibit a transfer or registration affecting a title, abstract or interest owned by the Crown or the Crown in right of Canada.

2022, c 17, s.8.

**Registrar's prohibitions**

**99.1** If the Registrar considers it necessary, the Registrar may lock a title, abstract or interest to prohibit a transfer or registration for any of the following reasons:

- (a) an apparent error or omission has been made in the land titles registry or the abstract directory;
- (b) to prevent improper dealings or threatened or apprehended fraud;
- (c) to protect the proper operation of the land titles registry or the abstract directory.

2022, c 17, s.8.

**Registrar's requirements re prohibitions**

**99.2(1)** If the Registrar imposes a prohibition pursuant to section 99 or 99.1, the Registrar shall record the prohibition, in the prescribed manner, in the land titles registry or the abstract directory, as the case requires.

(2) The Registrar may, at any time, withdraw a prohibition made by the Registrar pursuant to section 99 or 99.1.

(3) Notwithstanding section 99 or 99.1, if the Registrar imposes a prohibition pursuant to either of those sections, the Registrar may indicate whether any subsequent registrations will be permitted against the title, abstract or interest affected.

(4) If a subsequent registration is not permitted pursuant to subsection (3) but appears in the land titles registry or the abstract directory, that subsequent registration is invalid.

2022, c 17, s.8.

**Power to give effect to certain statutory proceedings**

**100(1)** The Registrar may effect a registration of a transfer or an assignment of an interest where:

- (a) any title or interest becomes vested in any other person by virtue of any Act or Act of the Parliament of Canada; or

**Power to correct registry in certain cases**

**101.1(1)** On receipt of a submission pursuant to section 101, the Registrar may direct a correction of the land titles registry to restore title to land to the former registered owner or discharge the registration of a mortgage or other interest in land against title if the Registrar is satisfied that:

- (a) a registered instrument respecting the title, mortgage or other interest in land would be void if unregistered;
  - (b) a fraudulent instrument was registered; or
  - (c) the effect of an error respecting the title, mortgage or other interest in land would be to deprive a person of title to or an interest in land of which that person is lawfully in possession.
- (2) If the Registrar does not correct the land titles registry pursuant to subsection (1), a person claiming a right to have the land titles registry corrected may apply to the court pursuant to section 107 to have the land titles registry corrected.

2009, c.21, s.16.

**General power to permit registrations**

**102** Notwithstanding the requirements of this Act or the regulations, where it is consistent with the purposes and intent of this Act, the Registrar may permit any registration.

2000, c.L-5.1, s.102.

**Restriction of access**

**103** If the Registrar is satisfied that a person has contravened a provision of this Act or the regulations, the Registrar may make an order restricting that person's access to the land registry on any terms and conditions that the Registrar considers appropriate.

2000, c.L-5.1, s.103; 2002, c.51, s.17.

**Administration of oaths**

**104** The Registrar or any Deputy Registrar may administer any oath or take any affirmation or declaration in lieu of an oath from any person entitled by law to affirm or declare.

2000, c.L-5.1, s.104.

**Registrar may apply for directions**

**105(1)** The Registrar may apply to the court for directions with respect to any of the Registrar's responsibilities that arise out of a court order.

(2) On an application pursuant to this section, the court may give any directions that the court thinks fit.

2000, c.L-5.1, s.105.

**Where original document cannot be read**

**106(1)** Where a document is lost or cannot be read, the Registrar may use whatever evidence is available to reconstruct the document.

(2) Where a document is reconstructed pursuant to subsection (1), the new document, as reconstructed:

(a) is deemed to be the original document for the purposes of the land titles registry; and

(b) is admissible as proof, in the absence of evidence to the contrary, for all purposes for which the original document would have been admissible and with the same effect as if the original document were produced.

2000, c.L-5.1, s.106.

**Hours of operation**

**106.1 Repealed.** 2013, c.O-4.2, s.104.

2009, c.21, s.17; 2010, c.E-9.22, s.179; 2013, c.O-4.2, s.104.

## PART XIV Powers of the Court

**Application to court**

**107(1)** Any person may apply to the court for an order with respect to:

(a) the operation of:

(i) the land titles registry; or

(ii) this Act or the regulations;

(b) any decision of the Registrar with respect to any action that the Registrar is required or authorized to take pursuant to this Act;

(c) any order, decision or correction of the Registrar pursuant to section 101, 101.1, 169 or 202;

(d) any application respecting land or an interest in land; or

(e) any application respecting a transaction or contract relating to land or to an interest in land.

(2) Any person applying to the court pursuant to clause (1)(b) or (c) shall notify the Registrar of the application, in writing, at the time the application is made.

(3) The Registrar may apply to the court to be joined as a party in any application commenced pursuant to subsection (1).

2000, c.L-5.1, s.107; 2004, c.59, s.14; 2009, c.21, s.18; 2013, c.O-4.2, s.105.

**Reference by Registrar to court**

**108(1)** The Registrar may refer a question to the court for a decision with respect to the operation of:

- (a) the land titles registry;
  - (b) this Act or the regulations; or
  - (c) any other matter concerning the duties of the Registrar.
- (2) A reference pursuant to subsection (1) may be made without notice.
- (3) On receipt of a reference from the Registrar pursuant to this section, the court may:
- (a) appoint a time for the hearing of the reference; and
  - (b) direct that notice be served on any persons whom the court considers interested, or whose attendance the court requires, in relation to the reference.
- (4) The court shall decide the question or direct that proceedings be commenced for the purposes of deciding the question.
- (5) In deciding a question pursuant to this section, the court may direct the Registrar to make any registration in the land titles registry that the court considers just under the circumstances.

2000, c.L-5.1, s.108; 2009, c.21, s.19.

**General jurisdiction of court**

**109(1)** In any proceeding pursuant to this Part, the court may make any order the court considers appropriate, and in so doing may direct the Registrar to, or authorize any person to apply to the Registrar to:

- (a) register, discharge, amend, postpone or assign an interest; or
  - (b) transfer title or make changes to a title.
- (2) The court may seek assistance from the Registrar in any proceeding pursuant to this Part.
- (3) On an application to the court pursuant to this Part, if the judge hearing the application considers it appropriate to do so, the judge may make an order:
- (a) directing that a title be vested in any person; and
  - (b) either:
    - (i) directing the Registrar to transfer title or to make changes to a title; or
    - (ii) authorizing any person to apply to the Registrar to transfer title or to have changes made to a title.
- (4) An application for an order pursuant to subsection (3) may be made:
- (a) on any notice that the court considers appropriate; or
  - (b) without notice if, in the court's opinion, the circumstances warrant it.

2000, c.L-5.1, s.109; 2004, c.59, s.15.



**Registration of judgment required**

**110** Unless an order of the court pursuant to this Part expressly states otherwise, a court order must be registered in the land titles registry for the order to be given any effect.

2000, c.L-5.1, s.110.

**Appeal to Court of Appeal**

**111** The Registrar or any interested party may appeal a decision or order of the court to the Court of Appeal, on a question of law, within 30 days after the date of the decision or order.

2000, c.L-5.1, s.111.

**Application for stay**

**112(1)** The commencement of an appeal pursuant to section 111 does not stay the effect of the decision or order appealed from, but on five days' notice, the appellant may apply to the Court of Appeal for a stay of the decision or order pending the disposition of the appeal.

(2) The notice period mentioned in subsection (1) may be reduced on application to the Court of Appeal.

2000, c.L-5.1, s.112.

## PART XV Service of Documents

**Service**

**113(1)** Any document to be served pursuant to this Act or the regulations, or in any proceeding or matter under the jurisdiction of the Registrar, may be served:

- (a) by personal service made:
  - (i) in the case of an individual, on that individual;
  - (ii) in the case of a partnership, on any partner; or
  - (iii) in the case of a body corporate, on any officer or director of the body corporate; or
- (b) by any other prescribed means.

(2) A document required to be served on the Registrar may be served in the prescribed manner:

- (a) by leaving the document at the office of the Registrar; or
- (b) by any other prescribed means.

(3) Service of a document by any prescribed means is to be proved in the prescribed manner.

(4) Any person entitled to be served with a document may at any time waive, in writing, service of the document.

2000, c.L-5.1, s.113.

(4) Subsection (1) does not apply to an instrument given to secure payment of all or part:

- (a) of the purchase price of a prefabricated house, building or structure to be placed or built on the land to be affected by the instrument; or
- (b) of building materials and fixtures to be used for repairing or constructing a house, building or structure situated on or to be constructed on the land to be affected by the instrument.

(5) Subsection (1) does not apply to any agreement entered into by a municipality to protect an advance with respect to seed grain or supplies.

2000, c.L-5.1, s.128.

#### **Mortgage provisions**

**129(1)** Every mortgage must contain:

- (a) an accurate statement of the estate or interest intended to be mortgaged; and
- (b) a description:
  - (i) of the land for which title has issued and pursuant to which the estate or interest is held; or
  - (ii) that otherwise identifies the land.

(2) When a mortgage is given as security against a future or contingent liability, it must set forth by recital or otherwise the nature and extent of the liability and the conditions or contingencies on which it is to accrue.

2000, c.L-5.1, s.129.

#### **Shortform mortgage**

**130(1)** Any mortgage may refer to the prescribed shortform covenants, and those shortform covenants may be identified in the prescribed manner.

(2) When shortform covenants are used in the manner set out in subsection (1), the mortgage has the same effect and is to be interpreted as if the shortform covenants had been inserted in the mortgage.

(3) A mortgage using shortform covenants in the manner set out in subsection (1) may contain, either in the mortgage instrument or annexed to it, any exceptions to or qualifications of the shortform covenants.

(4) When shortform covenants are used in the manner set out in subsection (1), the shortform covenants bind the mortgagor and the mortgagee.

2000, c.L-5.1, s.130.

#### **Discharge of mortgage**

**131** After a discharge of a mortgage is registered, the mortgage is not enforceable against the land, whether or not the obligation under the mortgage continues to exist.

2000, c.L-5.1, s.131.

(2) When shortform covenants are used in the manner set out in subsection (1), the lease has the same effect and is to be interpreted as if the shortform covenants had been inserted in the lease.

(3) A lease using shortform covenants in the manner set out in subsection (1) may contain, either in the lease instrument or annexed to it, any exceptions to or qualifications of the shortform covenants.

(4) When shortform covenants are used in the manner set out in subsection (1), the shortform covenants bind the lessor and the lessee.

2000, c.L-5.1, s.142.

#### Surrender of lease

143(1) No lease is to be surrendered without the consent of all persons appearing by the land titles registry to have an interest registered against the lease.

(2) On expiry, surrender or termination of a lease, the interest of the lessee vests in the lessor or other person entitled to the land.

2000, c.L-5.1, s.143.

#### Assignment of rents

144(1) In this section:

- (a) “**assignee**” includes a secured party;
- (b) “**assignment**” includes a security agreement;
- (c) “**easement**” includes an easement pursuant to *The Public Utilities Easements Act*, *The Pipelines Act, 1998* or any former *Pipe Lines Act*, or the *National Energy Board Act* (Canada);
- (d) “**lessee**” includes a holder of an easement;
- (e) “**rents**” means:
  - (i) amounts payable or to be paid pursuant to a lease, including a lease mentioned in section 139 and a lease to which *The Residential Tenancies Act, 2006* applies; or
  - (ii) amounts payable for or to be paid pursuant to an easement.

(2) For the purposes of determining priority among successive holders of rights in rents, an interest that arises pursuant to an assignment of rents is deemed to be an interest in land and may be registered.

(3) This section does not apply where all of the competing interests arose before April 1, 1995.

(4) After an assignment of rents is made, a lessee may pay rents to the grantor of the lease or the easement:

- (a) before the lessee receives written notice that:
  - (i) states that the rents payable or to become payable by the lessee are to be made to an identified assignee of the rents; and
  - (ii) describes the lease or easement with sufficient particularity to identify the rents; or

- (b) after the lessee requests the assignee to furnish proof of the assignment and the assignee fails to furnish that proof within 15 days after the date of the request.
- (5) Payment of rents by a lessee to an assignee in accordance with a notice described in clause (4)(a) discharges the obligation of the lessee to the extent of the payment.

2000, c.L-5.1, s.144; 2006, c.R-22.0001, s.97.

**Implied covenants of lessee**

**145** The following covenants are implied by the lessee in every lease:

- (a) that the lessee shall pay the rent reserved by the lease at the times mentioned in the lease;
- (b) that the lessee shall at all times during the continuance of the lease keep, and at the termination of the lease yield up, the leased land in good and tenantable repair, accidents and damage to buildings from fire, storm, tempest or other casualty and reasonable wear and tear excepted.

2000, c.L-5.1, s.145.

**Implied powers of lessor**

**146** The following powers of the lessor are implied in every lease, unless a contrary intention appears in the lease:

- (a) that the lessor or the lessor's agent may:
- (i) enter on the leased land and view the state of repair; and
- (ii) serve on the lessee, or leave at the lessee's last or usual place of residence or on the leased land, a notice in writing of any defect, requiring the lessee, within a reasonable period specified in the notice, to repair the defect to the extent that the lessee is bound to do so;
- (b) that the lessor may enter on and repossess and enjoy the leased land as the lessor's former estate where:
- (i) the rent reserved, or any part of the rent reserved, is in arrears for the space of two calendar months, although no formal demand for the rent has been made;
- (ii) the lessee defaults in the performance of any covenant, whether express or implied, and the default continues for two calendar months;
- (iii) the repairs required by the notice mentioned in subclause (a)(ii) are not completed within the period specified in the notice; or
- (iv) the lessee or any other person is convicted of keeping a disorderly house, within the meaning of the *Criminal Code* (Canada), on the leased land or any part of the leased land.

2000, c.L-5.1, s.146.

(viii) the offences referred to in subsection 7(2.1) or (2.2) that implement the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*, done at Rome on March 10, 1988,

(ix) the offences referred to in subsection 7(3.72) that implement the *International Convention for the Suppression of Terrorist Bombings*, adopted by the General Assembly of the United Nations on December 15, 1997, and

(x) the offences referred to in subsection 7(3.73) that implement the *International Convention for the Suppression of the Financing of Terrorism*, adopted by the General Assembly of the United Nations on December 9, 1999, or

(b) an act or omission, in or outside Canada,

(i) that is committed

(A) in whole or in part for a political, religious or ideological purpose, objective or cause, and

(B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada, and

(ii) that intentionally

(A) causes death or serious bodily harm to a person by the use of violence,

(B) endangers a person's life,

(C) causes a serious risk to the health or safety of the public or any segment of the public,

(D) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of clauses (A) to (C), or

(E) causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of advocacy, protest, dissent or stoppage of work that is not intended to result in the conduct or harm referred to in any of clauses (A) to (C),

adoptée par l'Assemblée générale des Nations Unies le 9 décembre 1999;

b) soit un acte — action ou omission, commise au Canada ou à l'étranger :

(i) d'une part, commis à la fois :

(A) au nom — exclusivement ou non — d'un but, d'un objectif ou d'une cause de nature politique, religieuse ou idéologique,

(B) en vue — exclusivement ou non — d'intimider tout ou partie de la population quant à sa sécurité, entre autres sur le plan économique, ou de contraindre une personne, un gouvernement ou une organisation nationale ou internationale à accomplir un acte ou à s'en abstenir, que la personne, la population, le gouvernement ou l'organisation soit ou non au Canada,

(ii) d'autre part, qui intentionnellement, selon le cas :

(A) cause des blessures graves à une personne ou la mort de celle-ci, par l'usage de la violence,

(B) met en danger la vie d'une personne,

(C) compromet gravement la santé ou la sécurité de tout ou partie de la population,

(D) cause des dommages matériels considérables, que les biens visés soient publics ou privés, dans des circonstances telles qu'il est probable que l'une des situations mentionnées aux divisions (A) à (C) en résultera,

(E) perturbe gravement ou paralyse des services, installations ou systèmes essentiels, publics ou privés, sauf dans le cadre de revendications, de protestations ou de manifestations d'un désaccord ou d'un arrêt de travail qui n'ont pas pour but de provoquer l'une des situations mentionnées aux divisions (A) à (C).

Sont visés par la présente définition, relativement à un tel acte, le complot, la tentative, la menace, la complicité après le fait et l'encouragement à la perpétration; il est entendu que sont exclus de la présente définition l'acte — action ou omission — commis au cours d'un conflit armé et conforme, au moment et au lieu de la perpétration, au droit international coutumier ou au droit international conventionnel applicable au

and includes a conspiracy, attempt or threat to commit any such act or omission, or being an accessory after the fact or counselling in relation to any such act or omission, but, for greater certainty, does not include an act or omission that is committed during an armed conflict and that, at the time and in the place of its commission, is in accordance with customary international law or conventional international law applicable to the conflict, or the activities undertaken by military forces of a state in the exercise of their official duties, to the extent that those activities are governed by other rules of international law. (*activité terroriste*)

**terrorist group** means

- (a) an entity that has as one of its purposes or activities facilitating or carrying out any terrorist activity, or
- (b) a listed entity,

and includes an association of such entities. (*groupe terroriste*)

#### For greater certainty

(1.1) For greater certainty, the expression of a political, religious or ideological thought, belief or opinion does not come within paragraph (b) of the definition *terrorist activity* in subsection (1) unless it constitutes an act or omission that satisfies the criteria of that paragraph.

#### For greater certainty

(1.2) For greater certainty, a suicide bombing is an act that comes within paragraph (a) or (b) of the definition *terrorist activity* in subsection (1) if it satisfies the criteria of that paragraph.

#### Facilitation

(2) For the purposes of this Part, facilitation shall be construed in accordance with subsection 83.19(2).

2001, c. 41, ss. 4, 126; 2010, c. 19, s. 1; 2013, c. 13, s. 6.

conflit ainsi que les activités menées par les forces armées d'un État dans l'exercice de leurs fonctions officielles, dans la mesure où ces activités sont régies par d'autres règles de droit international. (*terrorist activity*)

**Canadien** Citoyen canadien, résident permanent au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés* ou personne morale constituée ou prorogée sous le régime d'une loi fédérale ou provinciale. (*Canadian*)

**entité** Personne, groupe, fiducie, société de personnes ou fonds, ou organisation ou association non dotée de la personnalité morale. (*entity*)

**entité inscrite** Entité inscrite sur la liste établie par le gouverneur en conseil en vertu de l'article 83.05. (*listed entity*)

#### groupe terroriste

a) Soit une entité dont l'un des objets ou l'une des activités est de se livrer à des activités terroristes ou de les faciliter;

b) soit une entité inscrite.

Est assimilé à un groupe terroriste un groupe ou une association formé de groupes terroristes au sens de la présente définition. (*terrorist group*)

#### Interprétation

(1.1) Il est entendu que l'expression d'une pensée, d'une croyance ou d'une opinion de nature politique, religieuse ou idéologique n'est visée à l'alinéa b) de la définition de *activité terroriste* au paragraphe (1) que si elle constitue un acte — action ou omission — répondant aux critères de cet alinéa.

#### Interprétation

(1.2) Il est entendu que l'attentat suicide à la bombe est un acte visé aux alinéas a) ou b) de la définition de *activité terroriste* au paragraphe (1) s'il répond aux critères prévus à l'alinéa en cause.

#### Facilitation

(2) Pour l'application de la présente partie, faciliter s'interprète en conformité avec le paragraphe 83.19(2).

2001, ch. 41, art. 4 et 126; 2010, ch. 19, art. 1; 2013, ch. 13, art. 6.

## Financing of Terrorism

### Providing or collecting property for certain activities

**83.02** Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years who, directly or indirectly, wilfully and without lawful justification or excuse, provides or collects property intending that it be used or knowing that it will be used, in whole or in part, in order to carry out

(a) an act or omission that constitutes an offence referred to in subparagraphs (a)(i) to (ix) of the definition of **terrorist activity** in subsection 83.01(1), or

(b) any other act or omission intended to cause death or serious bodily harm to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, if the purpose of that act or omission, by its nature or context, is to intimidate the public, or to compel a government or an international organization to do or refrain from doing any act.

2001, c. 41, s. 4; 2019, c. 25, s. 15(E).

### Providing, making available, etc., property or services for terrorist purposes

**83.03** Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years who, directly or indirectly, collects property, provides or invites a person to provide, or makes available property or financial or other related services

(a) intending that they be used, or knowing that they will be used, in whole or in part, for the purpose of facilitating or carrying out any terrorist activity, or for the purpose of benefiting any person who is facilitating or carrying out such an activity, or

(b) knowing that, in whole or part, they will be used by or will benefit a terrorist group.

2001, c. 41, s. 4; 2019, c. 25, s. 16(E).

### Using or possessing property for terrorist purposes

**83.04** Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years who

(a) uses property, directly or indirectly, in whole or in part, for the purpose of facilitating or carrying out a terrorist activity, or

## Financement du terrorisme

### Fournir ou réunir des biens en vue de certains actes

**83.02** Est coupable d'un acte criminel passible d'un emprisonnement maximal de dix ans quiconque, directement ou non, fournit ou réunit, délibérément et sans justification ou excuse légitime, des biens dans l'intention de les voir utiliser — ou en sachant qu'ils seront utilisés — en tout ou en partie, en vue :

a) d'un acte — action ou omission — qui constitue l'une des infractions prévues aux sous-alinéas a)(i) à (ix) de la définition de **activité terroriste** au paragraphe 83.01(1);

b) de tout autre acte — action ou omission — destiné à causer la mort ou des dommages corporels graves à une personne qui ne participe pas directement aux hostilités dans une situation de conflit armé, notamment un civil, si, par sa nature ou son contexte, cet acte est destiné à intimider la population ou à contraindre un gouvernement ou une organisation internationale à accomplir ou à s'abstenir d'accomplir un acte quelconque.

2001, ch. 41, art. 4; 2019, ch. 25, art. 15(A).

### Fournir, rendre disponibles, etc. des biens ou services à des fins terroristes

**83.03** Est coupable d'un acte criminel passible d'un emprisonnement maximal de dix ans quiconque, directement ou non, réunit des biens ou fournit — ou invite une autre personne à le faire — ou rend disponibles des biens ou des services financiers ou connexes :

a) soit dans l'intention de les voir utiliser — ou en sachant qu'ils seront utilisés — , en tout ou en partie, pour une activité terroriste, pour faciliter une telle activité ou pour en faire bénéficier une personne qui se livre à une telle activité ou la facilite;

b) soit en sachant qu'ils seront utilisés, en tout ou en partie, par un groupe terroriste ou qu'ils bénéficieront, en tout ou en partie, à celui-ci.

2001, ch. 41, art. 4; 2019, ch. 25, art. 16(A).

### Utiliser ou avoir en sa possession des biens à des fins terroristes

**83.04** Est coupable d'un acte criminel passible d'un emprisonnement maximal de dix ans quiconque, selon le cas :

a) utilise directement ou non, en tout ou en partie, des biens pour une activité terroriste ou pour la faciliter;

**(b)** possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of facilitating or carrying out a terrorist activity.

2001, c. 41, s. 4; 2019, c. 25, s. 17(E).

## List of Entities

### Establishment of list

**83.05 (1)** The Governor in Council may, by regulation, establish a list on which the Governor in Council may place any entity if, on the recommendation of the Minister of Public Safety and Emergency Preparedness, the Governor in Council is satisfied that there are reasonable grounds to believe that

**(a)** the entity has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity; or

**(b)** the entity has knowingly acted on behalf of, at the direction of or in association with an entity referred to in paragraph (a).

### Recommendation

**(1.1)** The Minister may make a recommendation referred to in subsection (1) only if he or she has reasonable grounds to believe that the entity to which the recommendation relates is an entity referred to in paragraph (1)(a) or (b).

### Amendment to name of listed entity

**(1.2)** The Minister may, by regulation,

**(a)** change the name of a listed entity, or add to the list any other name by which a listed entity may also be or have been known, if the Minister has reasonable grounds to believe that the listed entity is using a name that is not on the list; and

**(b)** delete from the list any other name by which a listed entity may also have been known, if the entity is no longer using that name.

### Application to Minister

**(2)** On application in writing by a listed entity to be removed from the list, the Minister shall decide whether the applicant should remain a listed entity or whether the Minister should recommend to the Governor in Council that the applicant be removed from the list, taking into account the grounds set out in subsection (1).

**b)** a en sa possession des biens dans l'intention de les voir utiliser — ou en sachant qu'ils seront utilisés — directement ou non, en tout ou en partie, pour une activité terroriste ou pour la faciliter.

2001, ch. 41, art. 4; 2019, ch. 25, art. 17(A).

## Inscription des entités

### Établissement de la liste

**83.05 (1)** Le gouverneur en conseil peut, par règlement, établir une liste sur laquelle il inscrit toute entité dont il est convaincu, sur la recommandation du ministre de la Sécurité publique et de la Protection civile, qu'il existe des motifs raisonnables de croire :

**a)** que, sciemment, elle s'est livrée ou a tenté de se livrer à une activité terroriste, y a participé ou l'a facilitée;

**b)** que, sciemment, elle a agi au nom d'une entité visée à l'alinéa a), sous sa direction ou en collaboration avec elle.

### Recommandation

**(1.1)** Le ministre ne fait la recommandation visée au paragraphe (1) que s'il a des motifs raisonnables de croire que l'entité en cause est visée aux alinéas (1)a) ou b).

### Modification d'un nom sur la liste d'entités

**(1.2)** Le ministre peut, par règlement :

**a)** s'il a des motifs raisonnables de croire qu'une entité inscrite utilise un nom ne figurant pas sur la liste, modifier le nom de l'entité qui figure sur la liste ou ajouter à la liste tout autre nom sous lequel l'entité peut aussi être ou avoir été connue;

**b)** radier de la liste un nom sous lequel une entité inscrite peut aussi avoir été connue, si l'entité n'utilise plus ce nom.

### Radiation

**(2)** Le ministre, saisi d'une demande de radiation écrite présentée par une entité inscrite, décide si le demandeur devrait rester inscrit ou s'il devrait recommander au gouverneur en conseil que le demandeur soit radié de la liste, compte tenu des motifs prévus au paragraphe (1).



### Deeming

**(3)** If the Minister does not make a decision on the application referred to in subsection (2) within 90 days after receipt of the application, or within any longer period that may be agreed to in writing by the Minister and the applicant, the Minister is deemed to have decided that the applicant should remain a listed entity.

### Notice of the decision to the applicant

**(4)** The Minister shall give notice without delay to the applicant of any decision taken or deemed to have been taken respecting the application referred to in subsection (2).

### Judicial review

**(5)** Within 60 days after the receipt of the notice of the decision referred to in subsection (4), the applicant may apply to a judge for judicial review of the decision.

### Reference

**(6)** When an application is made under subsection (5), the judge shall, without delay

**(a)** examine, in private, any security or criminal intelligence reports considered in the making of the decision on whether the applicant should remain a listed entity and hear any other evidence or information that may be presented by or on behalf of the Minister and may, at his or her request, hear all or part of that evidence or information in the absence of the applicant and any counsel representing the applicant, if the judge is of the opinion that the disclosure of the information would injure national security or endanger the safety of any person;

**(b)** provide the applicant with a statement summarizing the information available to the judge so as to enable the applicant to be reasonably informed of the reasons for the decision, without disclosing any information the disclosure of which would, in the judge's opinion, injure national security or endanger the safety of any person;

**(c)** provide the applicant with a reasonable opportunity to be heard; and

**(d)** determine whether the decision is reasonable on the basis of the information available to the judge and, if found not to be reasonable, order that the applicant no longer be a listed entity.

### Evidence

**(6.1)** The judge may receive into evidence anything that, in the opinion of the judge, is reliable and appropriate,

### Présomption

**(3)** S'il ne rend pas sa décision dans les quatre-vingt-dix jours suivant la réception de la demande ou dans le délai plus long dont il a convenu par écrit avec le demandeur, le ministre est réputé avoir décidé que le demandeur devrait rester inscrit sur la liste.

### Avis de la décision au demandeur

**(4)** Le ministre donne sans délai au demandeur un avis de la décision qu'il a rendue ou qu'il est réputé avoir rendue relativement à la demande.

### Contrôle judiciaire

**(5)** Dans les soixante jours suivant la réception de l'avis, le demandeur peut présenter au juge une demande de révision de la décision.

### Examen judiciaire

**(6)** Dès qu'il est saisi de la demande, le juge procède de la façon suivante :

**a)** il examine à huis clos les renseignements en matière de sécurité ou de criminalité qui ont été pris en considération pour décider si le demandeur doit rester inscrit sur la liste et recueille les autres éléments de preuve ou d'information présentés par le ministre ou en son nom; il peut, à la demande de celui-ci, recueillir tout ou partie de ces éléments en l'absence du demandeur ou de son avocat, s'il estime que leur divulgation porterait atteinte à la sécurité nationale ou à la sécurité d'autrui;

**b)** il fournit au demandeur un résumé de l'information dont il dispose — sauf celle dont la divulgation pourrait, à son avis, porter atteinte à la sécurité nationale ou à la sécurité d'autrui — afin de lui permettre d'être suffisamment informé des motifs de la décision;

**c)** il donne au demandeur la possibilité d'être entendu;

**d)** il décide si la décision est raisonnable compte tenu de l'information dont il dispose et, dans le cas où il décide que la décision n'est pas raisonnable, il ordonne la radiation.

### Preuve

**(6.1)** Le juge peut recevoir et admettre en preuve tout élément qu'il estime digne de foi et approprié — même si

even if it would not otherwise be admissible under Canadian law, and may base his or her decision on that evidence.

### Publication

(7) The Minister shall cause to be published, without delay, in the *Canada Gazette* notice of a final order of a court that the applicant no longer be a listed entity.

### New application

(8) A listed entity may not make another application under subsection (2) except if, since the time when the entity made its last application,

- (a) there has been a material change in its circumstances; or
- (b) the Minister has completed a review under subsection (8.1) with respect to that entity.

### Review — listed entity

(8.1) The Minister shall review whether there are still reasonable grounds, as set out in subsection (1), for an entity to be a listed entity and make a recommendation to the Governor in Council as to whether the entity should remain a listed entity

- (a) within five years after
  - (i) the day on which this subsection comes into force, if the entity is a listed entity on that day, or
  - (ii) the day on which the entity is added to the list, if the entity is added to the list after the day on which this subsection comes into force; and
- (b) subsequently, within five years after the most recent recommendation made under this subsection with respect to the entity.

### Validity

(9) Reviews undertaken under subsection (8.1) do not affect the validity of the list.

### Publication

(10) The Minister shall cause notice of the results of every review of a listed entity undertaken under subsection (8.1) to be published in the *Canada Gazette* within five years after the review is completed.

le droit canadien ne prévoit pas par ailleurs son admissibilité — et peut fonder sa décision sur cet élément.

### Publication

(7) Une fois la décision ordonnant la radiation passée en force de chose jugée, le ministre en fait publier avis sans délai dans la *Gazette du Canada*.

### Nouvelle demande de radiation

(8) L'entité inscrite ne peut présenter une nouvelle demande de radiation en vertu du paragraphe (2) que si, depuis la présentation de sa dernière demande :

- a) soit sa situation a évolué d'une manière importante;
- b) soit le ministre a terminé un examen mentionné au paragraphe (8.1) à l'égard de l'entité.

### Examen périodique de la liste : entités déjà inscrites

(8.1) Pour chaque entité inscrite sur la liste, le ministre, dans les délais ci-après, décide s'il existe toujours des motifs raisonnables, aux termes du paragraphe (1), justifiant son inscription et recommande au gouverneur en conseil que l'entité reste inscrite sur la liste ou soit radiée :

- a) dans les cinq ans suivant :
  - (i) la date de l'entrée en vigueur du présent paragraphe, si l'entité est inscrite sur la liste à cette date,
  - (ii) la date à laquelle l'entité est inscrite sur la liste, si l'entité est inscrite sur la liste après l'entrée en vigueur du présent paragraphe;
- b) par la suite, dans les cinq ans suivant la dernière recommandation relative à l'entité faite en application du présent paragraphe.

### Validité de la liste

(9) L'examen effectué au titre du paragraphe (8.1) est sans effet sur la validité de la liste.

### Publication

(10) Le ministre fait publier dans la *Gazette du Canada* un avis portant sur les résultats de l'examen d'une entité inscrite effectué au titre du paragraphe (8.1) dans les cinq ans suivant la conclusion de l'examen.

### Definition of judge

**(11)** In this section, **judge** means the Chief Justice of the Federal Court or a judge of that Court designated by the Chief Justice.

2001, c. 41, ss. 4, 143; 2005, c. 10, ss. 18, 34; 2019, c. 13, s. 141.

### Admission of foreign information obtained in confidence

**83.06 (1)** For the purposes of subsection 83.05(6), in private and in the absence of the applicant or any counsel representing it,

**(a)** the Minister of Public Safety and Emergency Preparedness may make an application to the judge for the admission of information obtained in confidence from a government, an institution or an agency of a foreign state, from an international organization of states or from an institution or an agency of an international organization of states; and

**(b)** the judge shall examine the information and provide counsel representing the Minister with a reasonable opportunity to be heard as to whether the information is relevant but should not be disclosed to the applicant or any counsel representing it because the disclosure would injure national security or endanger the safety of any person.

### Return of information

**(2)** The information shall be returned to counsel representing the Minister and shall not be considered by the judge in making the determination under paragraph 83.05(6)(d), if

**(a)** the judge determines that the information is not relevant;

**(b)** the judge determines that the information is relevant but should be summarized in the statement to be provided under paragraph 83.05(6)(b); or

**(c)** the Minister withdraws the application.

### Use of information

**(3)** If the judge decides that the information is relevant but that its disclosure would injure national security or endanger the safety of persons, the information shall not be disclosed in the statement mentioned in paragraph 83.05(6)(b), but the judge may base the determination under paragraph 83.05(6)(d) on it.

2001, c. 41, s. 4; 2005, c. 10, s. 19.

### Mistaken identity

**83.07 (1)** An entity whose name is the same as or similar to a name, appearing on the list, of a listed entity and

### Définition de juge

**(11)** Au présent article, **juge** s'entend du juge en chef de la Cour fédérale ou du juge de cette juridiction désigné par celui-ci.

2001, ch. 41, art. 4 et 143; 2005, ch. 10, art. 18 et 34; 2019, ch. 13, art. 141.

### Renseignements secrets obtenus de gouvernements étrangers

**83.06 (1)** Pour l'application du paragraphe 83.05(6), procédant à huis clos et en l'absence du demandeur ou de son avocat :

**a)** le ministre de la Sécurité publique et de la Protection civile peut présenter au juge une demande en vue de faire admettre en preuve des renseignements obtenus sous le sceau du secret du gouvernement d'un État étranger ou d'une organisation internationale d'États, ou de l'un de leurs organismes;

**b)** le juge examine les renseignements et accorde à l'avocat du ministre la possibilité de lui présenter ses arguments sur la pertinence des renseignements et le fait qu'ils ne devraient pas être communiqués au demandeur ou à son avocat parce que la communication porterait atteinte à la sécurité nationale ou à la sécurité d'autrui.

### Renvoi des renseignements

**(2)** Ces renseignements sont renvoyés à l'avocat du ministre et ne peuvent servir de fondement à la décision rendue au titre de l'alinéa 83.05(6)d) dans les cas suivants :

**a)** le juge décide qu'ils ne sont pas pertinents;

**b)** le juge décide qu'ils sont pertinents, mais qu'ils devraient faire partie du résumé à fournir au titre de l'alinéa 83.05(6)b);

**c)** le ministre retire la demande.

### Utilisation des renseignements

**(3)** Si le juge décide que ces renseignements sont pertinents, mais que leur communication au titre de l'alinéa 83.05(6)b) porterait atteinte à la sécurité nationale ou à la sécurité d'autrui, il les exclut du résumé, mais peut s'en servir comme fondement de la décision qu'il rend au titre de l'alinéa 83.05(6)d).

2001, ch. 41, art. 4; 2005, ch. 10, art. 19.

### Erreur sur la personne

**83.07 (1)** L'entité dont le nom est identique ou semblable à un nom, figurant sur la liste, d'une entité inscrite

who claims not to be that listed entity may apply in writing to the Minister of Public Safety and Emergency Preparedness for a certificate stating that it is not that listed entity.

#### Issuance of certificate

**(2)** The Minister shall, within 30 days after receiving the application, issue a certificate if he or she is satisfied that the applicant is not that listed entity.

2001, c. 41, s. 4; 2005, c. 10, s. 20; 2019, c. 13, s. 142.

## Freezing of Property

#### Freezing of property

**83.08 (1)** No person in Canada and no Canadian outside Canada shall knowingly

**(a)** deal directly or indirectly in any property that is owned or controlled by or on behalf of a terrorist group;

**(b)** enter into or facilitate, directly or indirectly, any transaction in respect of property referred to in paragraph (a); or

**(c)** provide any financial or other related services in respect of property referred to in paragraph (a) to, for the benefit of or at the direction of a terrorist group.

#### No civil liability

**(2)** A person who acts reasonably in taking, or omitting to take, measures to comply with subsection (1) shall not be liable in any civil action arising from having taken or omitted to take the measures, if they took all reasonable steps to satisfy themselves that the relevant property was owned or controlled by or on behalf of a terrorist group.

2001, c. 41, s. 4; 2013, c. 9, s. 3.

#### Exemptions

**83.09 (1)** The Minister of Public Safety and Emergency Preparedness, or a person designated by him or her, may authorize any person in Canada or any Canadian outside Canada to carry out a specified activity or transaction that is prohibited by section 83.08, or a class of such activities or transactions.

#### Ministerial authorization

**(2)** The Minister, or a person designated by him or her, may make the authorization subject to any terms and conditions that are required in their opinion and may amend, suspend, revoke or reinstate it.

et qui prétend ne pas être cette entité peut demander par écrit au ministre de la Sécurité publique et de la Protection civile de lui délivrer un certificat portant qu'elle n'est pas l'entité inscrite.

#### Délivrance du certificat

**(2)** S'il est convaincu que le demandeur n'est pas cette entité inscrite, le ministre délivre le certificat dans les trente jours suivant la réception de la demande.

2001, ch. 41, art. 4; 2005, ch. 10, art. 20; 2019, ch. 13, art. 142.

## Blocage des biens

#### Blocage des biens

**83.08 (1)** Il est interdit à toute personne au Canada et à tout Canadien à l'étranger :

**a)** d'effectuer sciemment, directement ou non, une opération portant sur des biens qui appartiennent à un groupe terroriste, ou qui sont à sa disposition, directement ou non;

**b)** de conclure ou de faciliter sciemment, directement ou non, une opération relativement à des biens visés à l'alinéa a);

**c)** de fournir sciemment à un groupe terroriste, pour son profit ou sur son ordre, des services financiers ou tout autre service connexe liés à des biens visés à l'alinéa a).

#### Immunité

**(2)** Nul ne peut être poursuivi au civil pour avoir fait ou omis de faire quoi que ce soit dans le but de se conformer au paragraphe (1), s'il a agi raisonnablement et pris toutes les dispositions voulues pour se convaincre que le bien en cause appartient à un groupe terroriste ou est à sa disposition, directement ou non.

2001, ch. 41, art. 4; 2013, ch. 9, art. 3.

#### Exemptions

**83.09 (1)** Le ministre de la Sécurité publique et de la Protection civile — ou toute personne qu'il désigne — peut autoriser toute personne au Canada ou tout Canadien à l'étranger à se livrer à toute opération ou activité — ou catégorie d'opérations ou d'activités — qu'interdit l'article 83.08.

#### Autorisation

**(2)** Le ministre peut assortir l'autorisation des conditions qu'il estime nécessaires; il peut également la modifier, la suspendre, la révoquer ou la rétablir.

### Existing equities maintained

**(3)** All secured and unsecured rights and interests in the frozen property that are held by persons, other than terrorist groups or their agents, are entitled to the same ranking that they would have been entitled to had the property not been frozen.

### Third party involvement

**(4)** If a person has obtained an authorization under subsection (1), any other person involved in carrying out the activity or transaction, or class of activities or transactions, to which the authorization relates is not subject to sections 83.08, 83.1 and 83.11 if the terms or conditions of the authorization that are imposed under subsection (2), if any, are met.

2001, c. 41, s. 4; 2005, c. 10, s. 21.

### Disclosure

**83.1 (1)** Every person in Canada and every Canadian outside Canada shall disclose without delay to the Commissioner of the Royal Canadian Mounted Police or to the Director of the Canadian Security Intelligence Service

- (a)** the existence of property in their possession or control that they know is owned or controlled by or on behalf of a terrorist group; and
- (b)** information about a transaction or proposed transaction in respect of property referred to in paragraph (a).

### Immunity

**(2)** No criminal or civil proceedings lie against a person for disclosure made in good faith under subsection (1).

2001, c. 41, s. 4; 2013, c. 9, s. 4.

### Audit

**83.11 (1)** The following entities must determine on a continuing basis whether they are in possession or control of property owned or controlled by or on behalf of a listed entity:

- (a)** authorized foreign banks within the meaning of section 2 of the *Bank Act* in respect of their business in Canada, or banks to which that Act applies;
- (b)** cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the *Cooperative Credit Associations Act*;
- (c)** foreign companies within the meaning of subsection 2(1) of the *Insurance Companies Act* in respect of their insurance business in Canada;

### Rang

**(3)** Le blocage ne porte pas atteinte au rang des droits et intérêts — garantis ou non — détenus sur les biens qui en font l'objet par des personnes qui ne sont pas des groupes terroristes ou des mandataires de ceux-ci.

### Tiers participant

**(4)** Dans le cas où une personne a obtenu une autorisation en vertu du paragraphe (1), toute autre personne qui participe à l'opération ou à l'activité — ou à la catégorie d'opérations ou d'activités — visée par l'autorisation est soustraite à l'application des articles 83.08, 83.1 et 83.11 si les conditions dont l'autorisation est assortie, le cas échéant, sont respectées.

2001, ch. 41, art. 4; 2005, ch. 10, art. 21.

### Communication

**83.1 (1)** Toute personne au Canada et tout Canadien à l'étranger est tenu de communiquer sans délai au directeur du Service canadien du renseignement de sécurité ou au commissaire de la Gendarmerie royale du Canada :

- a)** l'existence de biens qui sont en sa possession ou à sa disposition et qui, à sa connaissance, appartiennent à un groupe terroriste, ou qui sont à sa disposition, directement ou non;
- b)** tout renseignement portant sur une opération, réelle ou projetée, mettant en cause des biens visés à l'alinéa a).

### Immunité

**(2)** Nul ne peut être poursuivi pour avoir fait de bonne foi une communication au titre du paragraphe (1).

2001, ch. 41, art. 4; 2013, ch. 9, art. 4.

### Obligation de vérification

**83.11 (1)** Il incombe aux entités ci-après de vérifier de façon continue l'existence de biens qui sont en leur possession ou à leur disposition et qui appartiennent à une entité inscrite ou sont à sa disposition, directement ou non :

- a)** les banques régies par la *Loi sur les banques* et les banques étrangères autorisées, au sens de l'article 2 de la *Loi sur les banques*, dans le cadre des activités que ces dernières exercent au Canada;
- b)** les coopératives de crédit, caisses d'épargne et de crédit et caisses populaires régies par une loi provinciale et les associations régies par la *Loi sur les associations coopératives de crédit*;

**(c.1)** companies, provincial companies and societies within the meaning of subsection 2(1) of the *Insurance Companies Act*;

**(c.2)** fraternal benefit societies regulated by a provincial Act in respect of their insurance activities, and insurance companies and other entities engaged in the business of insuring risks that are regulated by a provincial Act;

**(d)** companies to which the *Trust and Loan Companies Act* applies;

**(e)** trust companies regulated by a provincial Act;

**(f)** loan companies regulated by a provincial Act; and

**(g)** entities authorized under provincial legislation to engage in the business of dealing in securities, or to provide portfolio management or investment counselling services.

#### Monthly report

**(2)** Subject to the regulations, every entity referred to in paragraphs (1)(a) to (g) must report, within the period specified by regulation or, if no period is specified, monthly, to the principal agency or body that supervises or regulates it under federal or provincial law either

**(a)** that it is not in possession or control of any property referred to in subsection (1), or

**(b)** that it is in possession or control of such property, in which case it must also report the number of persons, contracts or accounts involved and the total value of the property.

#### Immunity

**(3)** No criminal or civil proceedings lie against a person for making a report in good faith under subsection (2).

#### Regulations

**(4)** The Governor in Council may make regulations

**(a)** excluding any entity or class of entities from the requirement to make a report referred to in subsection (2), and specifying the conditions of exclusion; and

**(b)** specifying a period for the purposes of subsection (2).

2001, c. 41, s. 4.

**c)** les sociétés étrangères, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*, dans le cadre des activités d'assurance qu'elles exercent au Canada;

**c.1)** les sociétés, les sociétés de secours et les sociétés provinciales au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*;

**c.2)** les sociétés de secours mutuel régies par une loi provinciale, dans le cadre de leurs activités d'assurance, et les sociétés d'assurances et autres entités régies par une loi provinciale qui exercent le commerce de l'assurance;

**d)** les sociétés régies par la *Loi sur les sociétés de fiducie et de prêt*;

**e)** les sociétés de fiducie régies par une loi provinciale;

**f)** les sociétés de prêt régies par une loi provinciale;

**g)** les entités autorisées en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières, ou à la fourniture de services de gestion de portefeuille ou de conseils en placement.

#### Rapport

**(2)** Sous réserve des règlements, il incombe aux entités visées aux alinéas (1)a) à g) de rendre compte, selon la périodicité précisée dans le règlement ou, à défaut, chaque mois, à l'autorité ou à l'organisme principal de surveillance ou de réglementation dont elles relèvent sous le régime d'une loi fédérale ou provinciale :

**a)** soit du fait qu'elles n'ont pas en leur possession ni à leur disposition des biens visés au paragraphe (1);

**b)** soit du fait qu'elles en ont, auquel cas elles sont tenues d'indiquer le nombre de personnes, de comptes ou de contrats en cause et la valeur totale des biens.

#### Immunité

**(3)** Nul ne peut être poursuivi pour avoir fait rapport de bonne foi au titre du paragraphe (2).

#### Règlements

**(4)** Le gouverneur en conseil peut, par règlement :

**a)** soustraire, aux conditions qui y sont précisées, toute entité ou catégorie d'entités à l'obligation de rendre compte prévue au paragraphe (2);

**b)** préciser la périodicité du rapport.

2001, ch. 41, art. 4.

## Offences — freezing of property, disclosure or audit

**83.12 (1)** Every person who contravenes any of sections 83.08, 83.1 and 83.11 is guilty of an offence and liable

(a) on conviction on indictment, to imprisonment for a term of not more than 10 years; or

(b) on summary conviction, to a fine of not more than \$100,000 or to imprisonment for a term of not more than two years less a day, or to both.

(2) [Repealed, 2013, c. 9, s. 5]

2001, c. 41, s. 4; 2013, c. 9, s. 5; 2019, c. 25, s. 18.

## Seizure and Restraint of Property

### Seizure and restraint of assets

**83.13 (1)** Where a judge of the Federal Court, on an *ex parte* application by the Attorney General, after examining the application in private, is satisfied that there are reasonable grounds to believe that there is in any building, receptacle or place any property in respect of which an order of forfeiture may be made under subsection 83.14(5), the judge may issue

(a) if the property is situated in Canada, a warrant authorizing a person named therein or a peace officer to search the building, receptacle or place for that property and to seize that property and any other property in respect of which that person or peace officer believes, on reasonable grounds, that an order of forfeiture may be made under that subsection; or

(b) if the property is situated in or outside Canada, a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property other than as may be specified in the order.

### Contents of application

(1.1) An affidavit in support of an application under subsection (1) may be sworn on information and belief, and, notwithstanding the *Federal Court Rules, 1998*, no adverse inference shall be drawn from a failure to provide evidence of persons having personal knowledge of material facts.

## Infraction — blocage des biens, communication ou vérification

**83.12 (1)** Quiconque contrevient aux articles 83.08, 83.1 ou 83.11 commet une infraction et encourt, sur déclaration de culpabilité :

a) par mise en accusation, un emprisonnement maximal de dix ans;

b) par procédure sommaire, une amende maximale de 100 000 \$ et un emprisonnement maximal de deux ans moins un jour, ou l'une de ces peines.

(2) [Abrogé, 2013, ch. 9, art. 5]

2001, ch. 41, art. 4; 2013, ch. 9, art. 5; 2019, ch. 25, art. 18.

## Saisie et blocage de biens

### Mandat spécial

**83.13 (1)** Sur demande du procureur général présentée *ex parte* et entendue à huis clos, le juge de la Cour fédérale qui est convaincu qu'il existe des motifs raisonnables de croire qu'il se trouve dans un bâtiment, contenant ou lieu des biens qui pourraient faire l'objet d'une ordonnance de confiscation en vertu du paragraphe 83.14(5) peut :

a) dans le cas où les biens sont situés au Canada, délivrer un mandat autorisant la personne qui y est nommée ou un agent de la paix à perquisitionner dans ce bâtiment, contenant ou lieu et à saisir les biens en cause ainsi que tout autre bien dont cette personne ou l'agent de la paix a des motifs raisonnables de croire qu'il pourrait faire l'objet d'une telle ordonnance;

b) dans le cas où les biens sont situés au Canada ou à l'étranger, rendre une ordonnance de blocage interdisant à toute personne de se départir des biens précisés dans l'ordonnance ou d'effectuer des opérations sur les droits qu'elle détient sur ceux-ci, sauf dans la mesure prévue.

### Teneur de la demande

(1.1) L'affidavit qui accompagne la demande peut contenir des déclarations fondées sur ce que sait et croit le déclarant, mais, par dérogation aux *Règles de la Cour fédérale (1998)*, le fait de ne pas offrir le témoignage de personnes ayant une connaissance personnelle des faits importants ne peut donner lieu à des conclusions défavorables.

### Appointment of manager

(2) On an application under subsection (1), at the request of the Attorney General, if a judge is of the opinion that the circumstances so require, the judge may

- (a) appoint a person to take control of, and to manage or otherwise deal with, all or part of the property in accordance with the directions of the judge; and
- (b) require any person having possession of that property to give possession of the property to the person appointed under paragraph (a).

### Appointment of Minister of Public Works and Government Services

(3) When the Attorney General of Canada so requests, a judge appointing a person under subsection (2) shall appoint the Minister of Public Works and Government Services.

### Power to manage

(4) The power to manage or otherwise deal with property under subsection (2) includes

- (a) the power to make an interlocutory sale of perishable or rapidly depreciating property;
- (b) the power to destroy, in accordance with subsections (5) to (8), property that has little or no value; and
- (c) the power to have property, other than real property or a conveyance, forfeited to Her Majesty in accordance with subsection (8.1).

### Application for destruction order

(5) Before a person who is appointed to manage property destroys property that has little or no value, they shall apply to a judge of the Federal Court for a destruction order.

### Notice

(6) Before making a destruction order, a judge shall require notice in accordance with subsection (7) to be given to and may hear any person who, in the judge's opinion, appears to have a valid interest in the property.

### Manner of giving notice

(7) A notice shall

### Nomination d'un administrateur

(2) Saisi d'une demande en vertu du paragraphe (1), le juge peut, à la demande du procureur général, s'il l'estime indiqué dans les circonstances :

- a) nommer un administrateur et lui ordonner de prendre en charge ces biens en tout ou en partie, de les administrer ou d'effectuer toute autre opération à leur égard conformément à ses directives;
- b) ordonner à toute personne qui a la possession des biens, à l'égard desquels un administrateur est nommé, de les remettre à celui-ci.

### Ministre des Travaux publics et des Services gouvernementaux

(3) À la demande du procureur général du Canada, le juge nomme le ministre des Travaux publics et des Services gouvernementaux à titre d'administrateur visé au paragraphe (2).

### Administration

(4) La charge d'administrer des biens ou d'effectuer toute autre opération à leur égard comprend notamment :

- a) le pouvoir de vendre en cours d'instance les biens périssables ou qui se déprécient rapidement;
- b) le pouvoir de détruire, conformément aux paragraphes (5) à (8), les biens d'aucune ou de peu de valeur;
- c) le pouvoir de faire confisquer, au profit de Sa Majesté, les biens autres que les biens immeubles ou les moyens de transport, conformément au paragraphe (8.1).

### Demande d'ordonnance de destruction

(5) Avant de détruire des biens d'aucune ou de peu de valeur, l'administrateur est tenu de demander à un juge de la Cour fédérale de rendre une ordonnance de destruction.

### Préavis

(6) Avant de rendre une ordonnance de destruction, le juge exige que soit donné un préavis conformément au paragraphe (7) à quiconque, à son avis, semble avoir un droit sur les biens; le juge peut aussi entendre une telle personne.

### Modalités du préavis

(7) Le préavis :



(a) be given in the manner that the judge directs or that may be specified in the rules of the Federal Court; and

(b) specify the effective period of the notice that the judge considers reasonable or that may be set out in the rules of the Federal Court.

#### **Destruction order**

(8) A judge shall order that the property be destroyed if they are satisfied that the property has little or no financial or other value.

#### **Forfeiture order**

(8.1) On application by a person who is appointed to manage the property, a judge of the Federal Court shall order that the property, other than real property or a conveyance, be forfeited to Her Majesty to be disposed of or otherwise dealt with in accordance with the law if

(a) a notice is given or published in the manner that the judge directs or that may be specified in the rules of the Federal Court;

(b) the notice specifies a period of 60 days during which a person may make an application to the judge asserting their interest in the property; and

(c) during that period, no one makes such an application.

#### **When management order ceases to have effect**

(9) A management order ceases to have effect when the property that is the subject of the management order is returned in accordance with the law, destroyed or forfeited to Her Majesty.

#### **For greater certainty**

(9.1) For greater certainty, if property that is the subject of a management order is sold, the management order applies to the net proceeds of the sale.

#### **Application to vary**

(10) The Attorney General may at any time apply to a judge of the Federal Court to cancel or vary an order or warrant made under this section, other than an appointment made under subsection (3).

#### **Procedure**

(11) Subsections 462.32(4) and (6), sections 462.34 to 462.35 and 462.4, subsection 487(3) and section 488 apply, with any modifications that the circumstances require, to a warrant issued under paragraph (1)(a). Any peace

a) est donné selon les modalités précisées par le juge ou prévues par les règles de la Cour fédérale;

b) précise la durée que le juge estime raisonnable quant à sa validité ou que fixent les règles de la Cour fédérale.

#### **Ordonnance de destruction**

(8) Le juge ordonne la destruction des biens s'il est convaincu que ceux-ci n'ont que peu ou pas de valeur, financière ou autre.

#### **Ordonnance de confiscation**

(8.1) Sur demande de l'administrateur, le juge de la Cour fédérale ordonne que le bien autre qu'un bien immeuble ou un moyen de transport soit confisqué au profit de Sa Majesté pour qu'il en soit disposé conformément au droit applicable si, à la fois :

a) un avis a été donné ou publié selon les modalités précisées par le juge ou prévues par les règles de la Cour fédérale;

b) l'avis précise un délai de soixante jours dans lequel toute personne peut présenter une demande alléguant un droit sur le bien;

c) personne ne lui a présenté une telle demande dans ce délai.

#### **Cessation d'effet de l'ordonnance de prise en charge**

(9) L'ordonnance de prise en charge cesse d'avoir effet lorsque les biens qu'elle vise sont restitués, conformément au droit applicable, détruits ou confisqués au profit de Sa Majesté.

#### **Précision**

(9.1) Il est entendu que l'ordonnance de prise en charge s'applique au produit net de la vente du bien faisant l'objet de l'ordonnance.

#### **Demande de modification**

(10) Le procureur général peut demander à un juge de la Cour fédérale d'annuler ou de modifier un mandat délivré ou une ordonnance rendue en vertu du présent article, à l'exclusion de la nomination effectuée en vertu du paragraphe (3).

#### **Dispositions applicables**

(11) Les paragraphes 462.32(4) et (6), les articles 462.34 à 462.35 et 462.4, le paragraphe 487(3) et l'article 488 s'appliquent, avec les adaptations nécessaires, au mandat délivré en vertu de l'alinéa (1)a). Tout agent de la paix qui

officer who executes the warrant must have authority to act as a peace officer in the place where it is executed.

### Procedure

**(12)** Subsections 462.33(4) and (6) to (11) and sections 462.34 to 462.35 and 462.4 apply, with such modifications as the circumstances require, to an order issued under paragraph (1)(b).

2001, c. 41, s. 4; 2017, c. 7, s. 54; 2019, c. 25, s. 19.

## Forfeiture of Property

### Application for order of forfeiture

**83.14 (1)** The Attorney General may make an application to a judge of the Federal Court for an order of forfeiture in respect of

- (a)** property owned or controlled by or on behalf of a terrorist group; or
- (b)** property that has been or will be used, in whole or in part, to facilitate or carry out a terrorist activity.

### Contents of application

**(2)** An affidavit in support of an application by the Attorney General under subsection (1) may be sworn on information and belief, and, notwithstanding the *Federal Court Rules, 1998*, no adverse inference shall be drawn from a failure to provide evidence of persons having personal knowledge of material facts.

### Respondents

**(3)** The Attorney General is required to name as a respondent to an application under subsection (1) only those persons who are known to own or control the property that is the subject of the application.

### Notice

**(4)** The Attorney General shall give notice of an application under subsection (1) to named respondents in such a manner as the judge directs or as provided in the rules of the Federal Court.

### Granting of forfeiture order

**(5)** If a judge is satisfied on a balance of probabilities that property is property referred to in paragraph (1)(a) or (b), the judge shall order that the property be forfeited to Her Majesty to be disposed of as the Attorney General directs or otherwise dealt with in accordance with the law.

exécute le mandat doit être habilité à agir à ce titre dans le lieu où celui-ci est exécuté.

### Dispositions applicables

**(12)** Les paragraphes 462.33(4) et (6) à (11) et les articles 462.34 à 462.35 et 462.4 s'appliquent, avec les adaptations nécessaires, à l'ordonnance rendue en vertu de l'alinéa (1)b).

2001, ch. 41, art. 4; 2017, ch. 7, art. 54; 2019, ch. 25, art. 19.

## Confiscation des biens

### Demande d'ordonnance

**83.14 (1)** Le procureur général peut demander à un juge de la Cour fédérale une ordonnance de confiscation à l'égard :

- a)** de biens qui appartiennent à un groupe terroriste, ou qui sont à sa disposition, directement ou non;
- b)** de biens qui ont été ou seront utilisés — en tout ou en partie — par quiconque pour se livrer à une activité terroriste ou pour la faciliter.

### Teneur de la demande

**(2)** L'affidavit qui accompagne la demande peut contenir des déclarations fondées sur ce que sait et croit le déclarant, mais, par dérogation aux *Règles de la Cour fédérale (1998)*, le fait de ne pas offrir le témoignage de personnes ayant une connaissance personnelle des faits importants ne peut donner lieu à des conclusions défavorables.

### Défendeurs

**(3)** Le procureur général est tenu de ne nommer à titre de défendeur à l'égard de la demande visée au paragraphe (1) que les personnes connues comme des personnes à qui appartiennent les biens visés par la demande ou qui ont ces biens à leur disposition.

### Avis

**(4)** Le procureur général est tenu de donner un avis de la demande visée au paragraphe (1) aux défendeurs nommés de la façon que le juge ordonne ou tel qu'il est prévu par les règles de la Cour fédérale.

### Confiscation

**(5)** S'il est convaincu, selon la prépondérance des probabilités, que les biens sont visés par les alinéas (1)a) ou b), le juge ordonne la confiscation des biens au profit de Sa Majesté; l'ordonnance prévoit qu'il est disposé de ces biens selon les instructions du procureur général ou autrement en conformité avec le droit applicable.

### Use of proceeds

**(5.1)** Any proceeds that arise from the disposal of property under subsection (5) may be used to compensate victims of terrorist activities and to fund anti-terrorist initiatives in accordance with any regulations made by the Governor in Council under subsection (5.2).

### Regulations

**(5.2)** The Governor in Council may make regulations for the purposes of specifying how the proceeds referred to in subsection (5.1) are to be distributed.

### Order refusing forfeiture

**(6)** Where a judge refuses an application under subsection (1) in respect of any property, the judge shall make an order that describes the property and declares that it is not property referred to in that subsection.

### Notice

**(7)** On an application under subsection (1), a judge may require notice to be given to any person who, in the opinion of the Court, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.

### Third party interests

**(8)** If a judge is satisfied that a person referred to in subsection (7) has an interest in property that is subject to an application, has exercised reasonable care to ensure that the property would not be used to facilitate or carry out a terrorist activity, and is not a member of a terrorist group, the judge shall order that the interest is not affected by the forfeiture. Such an order shall declare the nature and extent of the interest in question.

### Dwelling-house

**(9)** Where all or part of property that is the subject of an application under subsection (1) is a dwelling-house, the judge shall also consider

**(a)** the impact of an order of forfeiture on any member of the immediate family of the person who owns or controls the dwelling-house, if the dwelling-house was the member's principal residence at the time the dwelling-house was ordered restrained or at the time the forfeiture application was made and continues to be the member's principal residence; and

**(b)** whether the member appears innocent of any complicity or collusion in the terrorist activity.

### Utilisation du produit de la disposition

**(5.1)** Le produit de la disposition de biens visée au paragraphe (5) peut être utilisé pour dédommager les victimes d'activités terroristes et financer les mesures anti-terroristes, conformément aux règlements pris par le gouverneur en conseil en vertu du paragraphe (5.2).

### Règlement

**(5.2)** Le gouverneur en conseil peut, par règlement, prévoir le mode de distribution du produit mentionné au paragraphe (5.1).

### Ordonnance de non-confiscation

**(6)** Dans le cas où le juge refuse la demande visée au paragraphe (1) à l'égard de biens, il est tenu de rendre une ordonnance décrivant ces biens et les déclarant non visés par ce paragraphe.

### Avis

**(7)** Saisi d'une demande en vertu du paragraphe (1), le juge peut exiger qu'en soit avisée toute personne qui, à son avis, semble avoir un droit sur les biens en cause. Celle-ci a le droit d'être nommée à titre de défendeur à l'égard de cette demande.

### Droits des tiers

**(8)** Le juge, s'il est convaincu que la personne visée au paragraphe (7) a un droit sur les biens, a pris des précautions suffisantes pour que ces biens ne risquent pas d'être utilisés par quiconque pour se livrer à une activité terroriste ou la faciliter et n'est pas membre d'un groupe terroriste, déclare la nature et l'étendue de ce droit et rend une ordonnance selon laquelle l'ordonnance de confiscation ne porte pas atteinte à celui-ci.

### Facteurs : maison d'habitation

**(9)** Dans le cas où les biens qui font l'objet d'une demande visée au paragraphe (1) sont constitués, en tout ou en partie, d'une maison d'habitation, le juge prend aussi en compte les facteurs suivants :

**a)** l'effet qu'aurait la confiscation à l'égard des membres de la famille immédiate de la personne à qui appartient la maison d'habitation ou qui l'a à sa disposition, s'il s'agissait de la résidence principale de l'intéressé avant qu'elle ne soit bloquée par ordonnance ou visée par la demande de confiscation, et qu'elle continue de l'être par la suite;

**b)** le fait que l'intéressé semble innocent ou non de toute complicité ou collusion à l'égard de l'activité terroriste.

### Motion to vary or set aside

**(10)** A person who claims an interest in property that was forfeited and who did not receive notice under subsection (7) may bring a motion to the Federal Court to vary or set aside an order made under subsection (5) not later than 60 days after the day on which the forfeiture order was made.

### No extension of time

**(11)** The Court may not extend the period set out in subsection (10).

2001, c. 41, s. 4; 2017, c. 7, s. 55(F).

### Disposition of property

**83.15** Subsection 462.42(6) and sections 462.43 and 462.46 apply, with such modifications as the circumstances require, to property subject to a warrant or restraint order issued under subsection 83.13(1) or ordered forfeited under subsection 83.14(5).

2001, c. 41, s. 4.

### Interim preservation rights

**83.16 (1)** Pending any appeal of an order made under section 83.14, property restrained under an order issued under section 83.13 shall continue to be restrained, property seized under a warrant issued under that section shall continue to be detained, and any person appointed to manage, control or otherwise deal with that property under that section shall continue in that capacity.

### Appeal of refusal to grant order

**(2)** Section 462.34 applies, with such modifications as the circumstances require, to an appeal taken in respect of a refusal to grant an order under subsection 83.14(5).

2001, c. 41, s. 4.

### Other forfeiture provisions unaffected

**83.17 (1)** This Part does not affect the operation of any other provision of this or any other Act of Parliament respecting the forfeiture of property.

### Priority for restitution to victims of crime

**(2)** Property is subject to forfeiture under subsection 83.14(5) only to the extent that it is not required to satisfy the operation of any other provision of this or any other Act of Parliament respecting restitution to, or compensation of, persons affected by the commission of offences.

2001, c. 41, s. 4.

### Requête pour modifier ou annuler l'ordonnance

**(10)** Dans les soixante jours suivant la date où une ordonnance est rendue en vertu du paragraphe (5), la personne qui prétend avoir un droit sur les biens confisqués et qui n'a pas reçu l'avis prévu au paragraphe (7) peut demander par requête à la Cour fédérale de modifier ou annuler l'ordonnance.

### Nulle prorogation de délai

**(11)** La Cour ne peut proroger le délai visé au paragraphe (10).

2001, ch. 41, art. 4; 2017, ch. 7, art. 55(F).

### Disposition des biens saisis

**83.15** Le paragraphe 462.42(6) et les articles 462.43 et 462.46 s'appliquent, avec les adaptations nécessaires, aux biens visés par le mandat délivré ou l'ordonnance de blocage rendue en vertu du paragraphe 83.13(1) ou confisqués en vertu du paragraphe 83.14(5).

2001, ch. 41, art. 4.

### Sauvegarde des droits

**83.16 (1)** Le blocage ou la saisie de biens sous le régime de l'article 83.13 restent tenants, et la personne nommée pour la prise en charge de ces biens en vertu du même article continue d'agir à ce titre, jusqu'à ce qu'il soit statué sur l'appel formé contre une ordonnance rendue en vertu de l'article 83.14.

### Appel du refus d'accorder l'ordonnance

**(2)** L'article 462.34 s'applique, avec les adaptations nécessaires, aux appels interjetés à l'égard du refus d'accorder une ordonnance en vertu du paragraphe 83.14(5).

2001, ch. 41, art. 4.

### Maintien de dispositions spécifiques

**83.17 (1)** La présente partie ne porte pas atteinte aux autres dispositions de la présente loi ou de toute autre loi fédérale qui visent la confiscation de biens.

### Priorité aux victimes

**(2)** Un bien ne peut être confisqué en vertu du paragraphe 83.14(5) que dans la mesure où il n'est pas requis pour l'application d'une autre disposition de la présente loi ou d'une autre loi fédérale en matière de restitution ou de dédommagement en faveur des victimes d'infractions criminelles.

2001, ch. 41, art. 4.

## Participating, Facilitating, Instructing and Harboring

### Participation in activity of terrorist group

**83.18 (1)** Every person who knowingly participates in or contributes to, directly or indirectly, any activity of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years.

### Prosecution

**(2)** An offence may be committed under subsection (1) whether or not

- (a)** a terrorist group actually facilitates or carries out a terrorist activity;
- (b)** the participation or contribution of the accused actually enhances the ability of a terrorist group to facilitate or carry out a terrorist activity; or
- (c)** the accused knows the specific nature of any terrorist activity that may be facilitated or carried out by a terrorist group.

### Meaning of participating or contributing

**(3)** Participating in or contributing to an activity of a terrorist group includes

- (a)** providing, receiving or recruiting a person to receive training;
- (b)** providing or offering to provide a skill or an expertise for the benefit of, at the direction of or in association with a terrorist group;
- (c)** recruiting a person in order to facilitate or commit
  - (i)** a terrorism offence, or
  - (ii)** an act or omission outside Canada that, if committed in Canada, would be a terrorism offence;
- (d)** entering or remaining in any country for the benefit of, at the direction of or in association with a terrorist group; and
- (e)** making oneself, in response to instructions from any of the persons who constitute a terrorist group, available to facilitate or commit
  - (i)** a terrorism offence, or

## Participer, faciliter, donner des instructions et héberger

### Participation à une activité d'un groupe terroriste

**83.18 (1)** Quiconque, sciemment, participe à une activité d'un groupe terroriste, ou y contribue, directement ou non, dans le but d'accroître la capacité de tout groupe terroriste de se livrer à une activité terroriste ou de la faciliter est coupable d'un acte criminel passible d'un emprisonnement maximal de dix ans.

### Poursuite

**(2)** Pour que l'infraction visée au paragraphe (1) soit commise, il n'est pas nécessaire :

- a)** qu'une activité terroriste soit effectivement menée ou facilitée par un groupe terroriste;
- b)** que la participation ou la contribution de l'accusé accroisse effectivement la capacité d'un groupe terroriste de se livrer à une activité terroriste ou de la faciliter;
- c)** que l'accusé connaisse la nature exacte de toute activité terroriste susceptible d'être menée ou facilitée par un groupe terroriste.

### Participation ou contribution

**(3)** La participation ou la contribution à une activité d'un groupe terroriste s'entend notamment :

- a)** du fait de donner ou d'acquérir de la formation ou de recruter une personne à une telle fin;
- b)** du fait de mettre des compétences ou une expertise à la disposition d'un groupe terroriste, à son profit ou sous sa direction, ou en association avec lui, ou d'offrir de le faire;
- c)** du fait de recruter une personne en vue de faciliter ou de commettre une infraction de terrorisme ou un acte à l'étranger qui, s'il était commis au Canada, constituerait une telle infraction;
- d)** du fait d'entrer ou de demeurer dans un pays au profit ou sous la direction d'un groupe terroriste, ou en association avec lui;
- e)** du fait d'être disponible, sous les instructions de quiconque fait partie d'un groupe terroriste, pour faciliter ou commettre une infraction de terrorisme ou un acte à l'étranger qui, s'il était commis au Canada, constituerait une telle infraction.

**(ii)** an act or omission outside Canada that, if committed in Canada, would be a terrorism offence.

### Factors

**(4)** In determining whether an accused participates in or contributes to any activity of a terrorist group, the court may consider, among other factors, whether the accused

- (a)** uses a name, word, symbol or other representation that identifies, or is associated with, the terrorist group;
- (b)** frequently associates with any of the persons who constitute the terrorist group;
- (c)** receives any benefit from the terrorist group; or
- (d)** repeatedly engages in activities at the instruction of any of the persons who constitute the terrorist group.

2001, c. 41, s. 4; 2019, c. 25, s. 20.

### Leaving Canada to participate in activity of terrorist group

**83.181** Every person who leaves or attempts to leave Canada, or goes or attempts to go on board a conveyance with the intent to leave Canada, for the purpose of committing an act or omission outside Canada that, if committed in Canada, would be an offence under subsection 83.18(1) is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years.

2013, c. 9, s. 6; 2019, c. 25, s. 21.

### Facilitating terrorist activity

**83.19 (1)** Every one who knowingly facilitates a terrorist activity is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

### Facilitation

**(2)** For the purposes of this Part, a terrorist activity is facilitated whether or not

- (a)** the facilitator knows that a particular terrorist activity is facilitated;
- (b)** any particular terrorist activity was foreseen or planned at the time it was facilitated; or
- (c)** any terrorist activity was actually carried out.

2001, c. 41, s. 4.

### Leaving Canada to facilitate terrorist activity

**83.191** Everyone who leaves or attempts to leave Canada, or goes or attempts to go on board a conveyance

### Facteurs

**(4)** Pour déterminer si l'accusé participe ou contribue à une activité d'un groupe terroriste, le tribunal peut notamment prendre en compte les faits suivants :

- a)** l'accusé utilise un nom, un mot, un symbole ou un autre signe qui identifie le groupe ou y est associé;
- b)** il fréquente quiconque fait partie du groupe terroriste;
- c)** il reçoit un avantage du groupe terroriste;
- d)** il se livre régulièrement à des activités selon les instructions d'une personne faisant partie du groupe terroriste.

2001, ch. 41, art. 4; 2019, ch. 25, art. 20.

### Quitter le Canada : participation à une activité d'un groupe terroriste

**83.181** Quiconque quitte ou tente de quitter le Canada — ou monte ou tente de monter dans un moyen de transport dans l'intention de quitter le Canada — dans le but de commettre un acte à l'étranger qui, s'il était commis au Canada, constituerait l'infraction visée au paragraphe 83.18(1) est coupable d'un acte criminel passible d'un emprisonnement maximal de dix ans.

2013, ch. 9, art. 6; 2019, ch. 25, art. 21.

### Facilitation d'une activité terroriste

**83.19 (1)** Est coupable d'un acte criminel passible d'un emprisonnement maximal de quatorze ans quiconque sciemment facilite une activité terroriste.

### Facilitation

**(2)** Pour l'application de la présente partie, il n'est pas nécessaire pour faciliter une activité terroriste :

- a)** que l'intéressé sache qu'il se trouve à faciliter une activité terroriste en particulier;
- b)** qu'une activité terroriste en particulier ait été envisagée au moment où elle est facilitée;
- c)** qu'une activité terroriste soit effectivement mise à exécution.

2001, ch. 41, art. 4.

### Quitter le Canada : facilitation d'une activité terroriste

**83.191** Est coupable d'un acte criminel passible d'un emprisonnement maximal de quatorze ans quiconque

with the intent to leave Canada, for the purpose of committing an act or omission outside Canada that, if committed in Canada, would be an offence under subsection 83.19(1) is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.

2013, c. 9, s. 7.

#### **Commission of offence for terrorist group**

**83.2** Every one who commits an indictable offence under this or any other Act of Parliament for the benefit of, at the direction of or in association with a terrorist group is guilty of an indictable offence and liable to imprisonment for life.

2001, c. 41, s. 4.

#### **Leaving Canada to commit offence for terrorist group**

**83.201** Everyone who leaves or attempts to leave Canada, or goes or attempts to go on board a conveyance with the intent to leave Canada, for the purpose of committing an act or omission outside Canada that, if committed in Canada, would be an indictable offence under this or any other Act of Parliament for the benefit of, at the direction of or in association with a terrorist group is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.

2013, c. 9, s. 8.

#### **Leaving Canada to commit offence that is terrorist activity**

**83.202** Everyone who leaves or attempts to leave Canada, or goes or attempts to go on board a conveyance with the intent to leave Canada, for the purpose of committing an act or omission outside Canada that, if committed in Canada, would be an indictable offence under this or any other Act of Parliament if the act or omission constituting the offence also constitutes a terrorist activity is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.

2013, c. 9, s. 8.

#### **Instructing to carry out activity for terrorist group**

**83.21 (1)** Every person who knowingly instructs, directly or indirectly, any person to carry out any activity for the benefit of, at the direction of or in association with a terrorist group, for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity, is guilty of an indictable offence and liable to imprisonment for life.

#### **Prosecution**

**(2)** An offence may be committed under subsection (1) whether or not

quitte ou tente de quitter le Canada — ou monte ou tente de monter dans un moyen de transport dans l'intention de quitter le Canada — dans le but de commettre un acte à l'étranger qui, s'il était commis au Canada, constituerait l'infraction visée au paragraphe 83.19(1).

2013, ch. 9, art. 7.

#### **Infraction au profit d'un groupe terroriste**

**83.2** Est coupable d'un acte criminel passible d'un emprisonnement à perpétuité quiconque commet un acte criminel prévu par la présente loi ou par une autre loi fédérale au profit ou sous la direction d'un groupe terroriste, ou en association avec lui.

2001, ch. 41, art. 4.

#### **Quitter le Canada : perpétration d'une infraction au profit d'un groupe terroriste**

**83.201** Est coupable d'un acte criminel passible d'un emprisonnement maximal de quatorze ans quiconque quitte ou tente de quitter le Canada — ou monte ou tente de monter dans un moyen de transport dans l'intention de quitter le Canada — dans le but de commettre un acte à l'étranger qui, s'il était commis au Canada, constituerait un acte criminel prévu par la présente loi ou par une autre loi fédérale au profit ou sous la direction d'un groupe terroriste, ou en association avec lui.

2013, ch. 9, art. 8.

#### **Quitter le Canada : perpétration d'une infraction constituant une activité terroriste**

**83.202** Est coupable d'un acte criminel passible d'un emprisonnement maximal de quatorze ans quiconque quitte ou tente de quitter le Canada — ou monte ou tente de monter dans un moyen de transport dans l'intention de quitter le Canada — dans le but de commettre un acte à l'étranger qui, s'il était commis au Canada, constituerait un acte criminel visé par la présente loi ou par une autre loi fédérale et dont l'élément matériel — acte ou omission — constitue également une activité terroriste.

2013, ch. 9, art. 8.

#### **Charger une personne de se livrer à une activité pour un groupe terroriste**

**83.21 (1)** Est coupable d'un acte criminel passible d'un emprisonnement à perpétuité quiconque, sciemment, charge directement ou indirectement une personne de se livrer à une activité au profit ou sous la direction d'un groupe terroriste, ou en association avec lui, dans le but d'accroître la capacité de tout groupe terroriste de se livrer à une activité terroriste ou de la faciliter.

#### **Poursuite**

**(2)** Pour que l'infraction visée au paragraphe (1) soit commise, il n'est pas nécessaire :

- (a)** the activity that the accused instructs to be carried out is actually carried out;
- (b)** the accused instructs a particular person to carry out the activity referred to in paragraph (a);
- (c)** the accused knows the identity of the person whom the accused instructs to carry out the activity referred to in paragraph (a);
- (d)** the person whom the accused instructs to carry out the activity referred to in paragraph (a) knows that it is to be carried out for the benefit of, at the direction of or in association with a terrorist group;
- (e)** a terrorist group actually facilitates or carries out a terrorist activity;
- (f)** the activity referred to in paragraph (a) actually enhances the ability of a terrorist group to facilitate or carry out a terrorist activity; or
- (g)** the accused knows the specific nature of any terrorist activity that may be facilitated or carried out by a terrorist group.

2001, c. 41, s. 4.

### Instructing to carry out terrorist activity

**83.22 (1)** Every person who knowingly instructs, directly or indirectly, any person to carry out a terrorist activity is guilty of an indictable offence and liable to imprisonment for life.

#### Prosecution

**(2)** An offence may be committed under subsection (1) whether or not

- (a)** the terrorist activity is actually carried out;
- (b)** the accused instructs a particular person to carry out the terrorist activity;
- (c)** the accused knows the identity of the person whom the accused instructs to carry out the terrorist activity; or
- (d)** the person whom the accused instructs to carry out the terrorist activity knows that it is a terrorist activity.

2001, c. 41, s. 4.

### Counselling commission of terrorism offence

**83.221 (1)** Every person who counsels another person to commit a terrorism offence without identifying a

- a)** que l'activité à laquelle l'accusé charge quiconque de se livrer soit effectivement mise à exécution;
- b)** que l'accusé charge une personne en particulier de se livrer à l'activité;
- c)** que l'accusé connaisse l'identité de la personne qu'il charge de se livrer à l'activité;
- d)** que la personne chargée par l'accusé de se livrer à l'activité sache que celle-ci est censée être menée au profit ou sous la direction d'un groupe terroriste, ou en association avec lui;
- e)** qu'une activité terroriste soit effectivement menée ou facilitée par un groupe terroriste;
- f)** que l'activité visée à l'alinéa a) accroisse effectivement la capacité d'un groupe terroriste de se livrer à une activité terroriste ou de la faciliter;
- g)** que l'accusé connaisse la nature exacte de toute activité terroriste susceptible d'être menée ou facilitée par un groupe terroriste.

2001, ch. 41, art. 4.

### Charger une personne de se livrer à une activité terroriste

**83.22 (1)** Est coupable d'un acte criminel passible d'un emprisonnement à perpétuité quiconque, sciemment, charge, directement ou non, une personne de se livrer à une activité terroriste.

#### Poursuite

**(2)** Pour que l'infraction visée au paragraphe (1) soit commise, il n'est pas nécessaire :

- a)** que l'activité terroriste soit effectivement mise à exécution;
- b)** que l'accusé charge une personne en particulier de se livrer à l'activité terroriste;
- c)** que l'accusé connaisse l'identité de la personne qu'il charge de se livrer à l'activité terroriste;
- d)** que la personne chargée par l'accusé de se livrer à l'activité terroriste sache qu'il s'agit d'une activité terroriste.

2001, ch. 41, art. 4.

### Conseiller la commission d'une infraction de terrorisme

**83.221 (1)** Est coupable d'un acte criminel et passible d'un emprisonnement maximal de cinq ans, quiconque



specific terrorism offence is guilty of an indictable offence and is liable to imprisonment for a term of not more than five years.

### Application

**(2)** An offence may be committed under subsection (1) whether or not a terrorism offence is committed by the person who is counselled.

2015, c. 20, s. 16; 2019, c. 13, s. 143.

### Warrant of seizure

**83.222 (1)** A judge who is satisfied by information on oath that there are reasonable grounds to believe that any publication, copies of which are kept for sale or distribution in premises within the court's jurisdiction, is terrorist propaganda may issue a warrant authorizing seizure of the copies.

### Summons to occupier

**(2)** Within seven days after the day on which the warrant is issued, the judge shall issue a summons to the premises' occupier requiring the occupier to appear before the court and to show cause why the matter seized should not be forfeited to Her Majesty.

### Owner and author may appear

**(3)** The owner and the author of the matter seized and alleged to be terrorist propaganda may appear and be represented before the court in order to oppose the making of an order for the forfeiture of the matter.

### Order of forfeiture

**(4)** If the court is satisfied, on a balance of probabilities, that the publication is terrorist propaganda, it may make an order declaring that the matter be forfeited to Her Majesty, for disposal as the Attorney General may direct.

### Disposal of matter

**(5)** If the court is not satisfied that the publication is terrorist propaganda, it may order that the matter be restored to the person from whom it was seized without delay after the time for final appeal has expired.

### Appeal

**(6)** An appeal lies from an order made under subsection (4) or (5) by any person who appeared before the court, on any ground of appeal that involves a question of law or fact alone, or a question of mixed law and fact, as if it were an appeal against conviction or against a judgment or verdict of acquittal, as the case may be, on a question

conseille à une autre personne de commettre une infraction de terrorisme sans préciser laquelle.

### Application

**(2)** Pour que l'infraction prévue au paragraphe (1) soit commise, il n'est pas nécessaire que l'infraction de terrorisme soit commise par la personne qui a été conseillée.

2015, ch. 20, art. 16; 2019, ch. 13, art. 143.

### Mandat de saisie

**83.222 (1)** Un juge convaincu, par une dénonciation sous serment, qu'il y a des motifs raisonnables de croire qu'une publication, dont des exemplaires sont gardés aux fins de vente ou de distribution dans un local du ressort du tribunal, constituée de la propagande terroriste, peut décerner un mandat autorisant la saisie des exemplaires.

### Sommation à l'occupant

**(2)** Dans un délai de sept jours suivant la délivrance du mandat, le juge adresse à l'occupant du local une sommation lui ordonnant de comparaître devant le tribunal et d'exposer les raisons pour lesquelles il estime que ce qui a été saisi ne devrait pas être confisqué au profit de Sa Majesté.

### Comparution du propriétaire et de l'auteur

**(3)** Le propriétaire ainsi que l'auteur de ce qui a été saisi et qui est présumé constituer de la propagande terroriste peuvent comparaître devant le tribunal et être représentés pour s'opposer à ce qu'une ordonnance de confiscation soit rendue.

### Ordonnance de confiscation

**(4)** Si le tribunal est convaincu, selon la prépondérance des probabilités, que la publication constitue de la propagande terroriste, il peut rendre une ordonnance la déclarant confisquée au profit de Sa Majesté, pour qu'il en soit disposé comme peut l'ordonner le procureur général.

### Remise de ce qui a été saisi

**(5)** Si le tribunal n'est pas convaincu que la publication constitue de la propagande terroriste, il peut ordonner que ce qui a été saisi soit remis à la personne entre les mains de laquelle cela a été saisi, dès l'expiration du délai imparti pour un appel final.

### Appel

**(6)** Il peut être interjeté appel, par toute personne ayant comparu devant le tribunal, d'une ordonnance rendue aux termes des paragraphes (4) ou (5) pour tout motif d'appel impliquant soit une question de droit, soit une question de fait ou impliquant une question mixte de droit et de fait, comme s'il s'agissait d'un appel contre

of law alone under Part XXI, and sections 673 to 696 apply with any modifications that the circumstances require.

### Consent

(7) No proceeding under this section shall be instituted without the Attorney General's consent.

### Definitions

(8) The following definitions apply in this section.

**court** has the same meaning as in subsection 320(8). (*tribunal*)

**judge** has the same meaning as in subsection 320(8). (*juge*)

**terrorist propaganda** means any writing, sign, visible representation or audio recording that counsels the commission of a terrorism offence. (*propagande terroriste*)

2015, c. 20, s. 16; 2019, c. 13, s. 144.

### Order to computer system's custodian

**83.223 (1)** If a judge is satisfied by information on oath that there are reasonable grounds to believe that there is material — that is terrorist propaganda or computer data that makes terrorist propaganda available — stored on and made available to the public through a computer system that is within the court's jurisdiction, the judge may order the computer system's custodian to

- (a) give an electronic copy of the material to the court;
- (b) ensure that the material is no longer stored on and made available through the computer system; and
- (c) provide the information that is necessary to identify and locate the person who posted the material.

### Notice to person who posted material

(2) Within a reasonable time after receiving the information referred to in paragraph (1)(c), the judge shall cause notice to be given to the person who posted the material, giving that person the opportunity to appear and be represented before the court and to show cause why the material should not be deleted. If the person cannot be identified or located or does not reside in Canada, the judge may order the computer system's custodian to post the text of the notice at the location where the material was

une déclaration de culpabilité ou contre un jugement ou verdict d'acquittement, selon le cas, sur une question de droit seulement en vertu de la partie XXI, les articles 673 à 696 s'appliquant en conséquence, avec les adaptations nécessaires.

### Consentement

(7) Il ne peut être engagé de procédure en vertu du présent article sans le consentement du procureur général.

### Définitions

(8) Les définitions qui suivent s'appliquent au présent article.

**juge** S'entend au sens du paragraphe 320(8). (*judge*)

**propagande terroriste** Écrit, signe, représentation visible ou enregistrement sonore qui conseille la commission d'une infraction de terrorisme. (*terrorist propaganda*)

**tribunal** S'entend au sens du paragraphe 320(8). (*court*)

2015, ch. 20, art. 16; 2019, ch. 13, art. 144.

### Ordonnance au gardien d'un ordinateur

**83.223 (1)** Le juge peut, s'il est convaincu par une dénonciation sous serment qu'il y a des motifs raisonnables de croire qu'il existe une matière — constituant de la propagande terroriste ou contenant des données informatiques qui rendent la propagande terroriste accessible — qui est emmagasinée et rendue accessible au public au moyen d'un ordinateur situé dans le ressort du tribunal, ordonner au gardien de l'ordinateur :

- a) de remettre une copie électronique de la matière au tribunal;
- b) de s'assurer que la matière n'est plus emmagasinée ni accessible au moyen de l'ordinateur;
- c) de fournir les renseignements nécessaires pour identifier et trouver la personne qui a affiché la matière.

### Avis à la personne ayant affiché la matière

(2) Dans un délai raisonnable suivant la réception des renseignements visés à l'alinéa (1)c), le juge fait donner un avis à la personne ayant affiché la matière, donnant à celle-ci l'occasion de comparaître et d'être représentée devant le tribunal et de présenter les raisons pour lesquelles la matière ne devrait pas être effacée. Si la personne ne peut être identifiée ou trouvée ou ne réside pas au Canada, le juge peut ordonner au gardien de l'ordinateur d'afficher le texte de l'avis à l'endroit où la matière

previously stored and made available, until the time set for the appearance.

#### **Person who posted material may appear**

**(3)** The person who posted the material may appear and be represented before the court in order to oppose the making of an order under subsection (5).

#### **Non-appearance**

**(4)** If the person who posted the material does not appear before the court, the court may proceed to hear and determine the proceedings in the absence of the person as fully and effectually as if the person had appeared.

#### **Order of deletion**

**(5)** If the court is satisfied, on a balance of probabilities, that the material is available to the public and is terrorist propaganda or computer data that makes terrorist propaganda available, it may order the computer system's custodian to delete the material.

#### **Destruction of electronic copy**

**(6)** When the court makes the order for the deletion of the material, it may order the destruction of the electronic copy in the court's possession.

#### **Return of material**

**(7)** If the court is not satisfied that the material is available to the public and is terrorist propaganda or computer data that makes terrorist propaganda available, the court shall order that the electronic copy be returned to the computer system's custodian and terminate the order under paragraph (1)(b).

#### **Appeal**

**(8)** An appeal lies from an order made under subsection (5) or (6) by any person who appeared before the court, on any ground of appeal that involves a question of law or fact alone, or a question of mixed law and fact, as if it were an appeal against conviction or against a judgment or verdict of acquittal, as the case may be, on a question of law alone under Part XXI, and sections 673 to 696 apply with any modifications that the circumstances require.

#### **Consent**

**(9)** No proceeding under this section shall be instituted without the Attorney General's consent.

était emmagasinée et rendue accessible, jusqu'à la date fixée pour la comparution de la personne.

#### **Comparution de la personne ayant affiché la matière**

**(3)** La personne ayant affiché la matière peut comparaître devant le tribunal et être représentée pour s'opposer à l'établissement d'une ordonnance en vertu du paragraphe (5).

#### **Non-comparution de la personne ayant affiché la matière**

**(4)** Si la personne ayant affiché la matière ne comparait pas, le tribunal peut statuer sur la procédure, en l'absence de cette personne, aussi complètement et efficacement que si elle avait comparu.

#### **Ordonnance**

**(5)** Si le tribunal est convaincu, selon la prépondérance des probabilités, que la matière est accessible au public et constitue de la propagande terroriste ou contient des données informatiques qui rendent la propagande terroriste accessible, il peut ordonner au gardien de l'ordinateur de l'effacer.

#### **Destruction de la copie électronique**

**(6)** Au moment de rendre une ordonnance en vertu du paragraphe (5), le tribunal peut ordonner la destruction de la copie électronique en sa propre possession.

#### **Sort de la matière**

**(7)** Si le tribunal n'est pas convaincu que la matière est accessible au public et constitue de la propagande terroriste ou contient des données informatiques qui rendent la propagande terroriste accessible, il ordonne que la copie électronique soit remise au gardien de l'ordinateur et met fin à l'ordonnance visée à l'alinéa (1)b).

#### **Appel**

**(8)** Il peut être interjeté appel, par toute personne ayant comparu devant le tribunal, d'une ordonnance rendue aux termes des paragraphes (5) ou (6) pour tout motif d'appel impliquant soit une question de droit, soit une question de fait ou impliquant une question mixte de droit et de fait, comme s'il s'agissait d'un appel contre une déclaration de culpabilité ou contre un jugement ou verdict d'acquiescement, selon le cas, sur une question de droit seulement en vertu de la partie XXI, les articles 673 à 696 s'appliquant en conséquence, avec les adaptations nécessaires.

#### **Consentement**

**(9)** Il ne peut être engagé de procédure en vertu du présent article sans le consentement du procureur général.

### When order takes effect

**(10)** No order made under any of subsections (5) to (7) takes effect until the time for final appeal has expired.

### Definitions

**(11)** The following definitions apply in this section.

**computer data** has the same meaning as in subsection 342.1(2). (*données informatiques*)

**computer system** has the same meaning as in subsection 342.1(2). (*ordinateur*)

**court** has the same meaning as in subsection 320(8). (*tribunal*)

**data** [Repealed, 2015, c. 20, s. 35]

**judge** has the same meaning as in subsection 320(8). (*jugé*)

**terrorist propaganda** has the same meaning as in subsection 83.222(8). (*propagande terroriste*)

2015, c. 20, ss. 16, 35.

### Concealing person who carried out terrorist activity

**83.23 (1)** Every person who knowingly harbours or conceals another person whom they know to be a person who has carried out a terrorist activity, for the purpose of enabling that other person to facilitate or carry out any terrorist activity, is guilty of

**(a)** an indictable offence and liable to imprisonment for a term of not more than 14 years, if the person who is harboured or concealed carried out a terrorist activity that is a terrorism offence for which that person is liable to imprisonment for life; and

**(b)** an indictable offence and liable to imprisonment for a term of not more than 10 years, if the person who is harboured or concealed carried out a terrorist activity that is a terrorism offence for which that person is liable to any other punishment.

### Concealing person who is likely to carry out terrorist activity

**(2)** Every person who knowingly harbours or conceals another person whom they know to be a person who is likely to carry out a terrorist activity, for the purpose of enabling that other person to facilitate or carry out any

### Ordonnance en vigueur

**(10)** L'ordonnance rendue en vertu de l'un des paragraphes (5) à (7) n'est pas en vigueur avant l'expiration de tous les délais d'appel.

### Définitions

**(11)** Les définitions qui suivent s'appliquent au présent article.

**données** [Abrogée, 2015, ch. 20, art. 35]

**données informatiques** S'entend au sens du paragraphe 342.1(2). (*computer data*)

**jugé** S'entend au sens du paragraphe 320(8). (*judge*)

**ordinateur** S'entend au sens du paragraphe 342.1(2). (*computer system*)

**propagande terroriste** S'entend au sens du paragraphe 83.222(8). (*terrorist propaganda*)

**tribunal** S'entend au sens du paragraphe 320(8). (*court*)

2015, ch. 20, art. 16 et 35.

### Cacher une personne qui s'est livrée à une activité terroriste

**83.23 (1)** Quiconque héberge ou cache sciemment une personne dont il sait qu'elle s'est livrée à une activité terroriste, afin de lui permettre de se livrer à une activité terroriste ou de la faciliter, est coupable :

**a)** d'un acte criminel passible d'un emprisonnement maximal de quatorze ans, dans le cas où la personne hébergée ou cachée s'est livrée à une activité terroriste constituant une infraction de terrorisme la rendant passible de l'emprisonnement à perpétuité;

**b)** d'un acte criminel passible d'un emprisonnement maximal de dix ans, dans le cas où la personne hébergée ou cachée s'est livrée à une activité terroriste constituant une infraction de terrorisme la rendant passible de toute autre peine.

### Cacher une personne qui se livrera vraisemblablement à une activité terroriste

**(2)** Quiconque héberge ou cache sciemment une personne dont il sait qu'elle se livrera vraisemblablement à une activité terroriste, afin de lui permettre de se livrer à une activité terroriste ou de la faciliter, est coupable d'un acte criminel passible d'un emprisonnement maximal de dix ans.

2001, ch. 41, art. 4; 2013, ch. 9, art. 9; 2019, ch. 25, art. 22.

terrorist activity, is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years.

2001, c. 41, s. 4; 2013, c. 9, s. 9; 2019, c. 25, s. 22.

## Hoax Regarding Terrorist Activity

### Hoax — terrorist activity

**83.231 (1)** Every one commits an offence who, without lawful excuse and with intent to cause any person to fear death, bodily harm, substantial damage to property or serious interference with the lawful use or operation of property,

(a) conveys or causes or procures to be conveyed information that, in all the circumstances, is likely to cause a reasonable apprehension that terrorist activity is occurring or will occur, without believing the information to be true; or

(b) commits an act that, in all the circumstances, is likely to cause a reasonable apprehension that terrorist activity is occurring or will occur, without believing that such activity is occurring or will occur.

### Punishment

(2) Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term not exceeding five years; or

(b) an offence punishable on summary conviction.

### Causing bodily harm

(3) Every one who commits an offence under subsection (1) and thereby causes bodily harm to any other person is guilty of

(a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or

(b) an offence punishable on summary conviction.

### Causing death

(4) Every one who commits an offence under subsection (1) and thereby causes the death of any other person is guilty of an indictable offence and liable to imprisonment for life.

2004, c. 15, s. 32; 2019, c. 25, s. 23.

## Incitation à craindre des activités terroristes

### Incitation à craindre des activités terroristes

**83.231 (1)** Commet une infraction quiconque, sans excuse légitime et avec l'intention de faire craindre à quelqu'un soit la mort ou des blessures corporelles, soit des dommages matériels considérables à des biens ou une entrave sérieuse à l'emploi ou l'exploitation légitime de ceux-ci :

a) transmet ou fait en sorte que soient transmis des renseignements qui, compte tenu du contexte, sont susceptibles de faire raisonnablement craindre que des activités terroristes sont ou seront menées, sans être convaincu de leur véracité;

b) commet un acte qui, compte tenu du contexte, est susceptible de faire raisonnablement craindre que des activités terroristes sont ou seront menées, sans être convaincu qu'il en est ainsi.

### Peine

(2) Quiconque commet l'infraction prévue au paragraphe (1) est coupable :

a) soit d'un acte criminel passible d'un emprisonnement maximal de cinq ans;

b) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

### Fait de causer des blessures corporelles

(3) Quiconque, en commettant l'infraction prévue au paragraphe (1), cause des blessures corporelles à une autre personne est coupable :

a) soit d'un acte criminel passible d'un emprisonnement maximal de dix ans;

b) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

### Fait de causer la mort

(4) Quiconque, en commettant l'infraction prévue au paragraphe (1), cause la mort d'une autre personne est coupable d'un acte criminel passible de l'emprisonnement à perpétuité.

2004, ch. 15, art. 32; 2019, ch. 25, art. 23.

## Proceedings and Aggravated Punishment

### Attorney General's consent

**83.24** Proceedings in respect of a terrorism offence or an offence under section 83.12 shall not be commenced without the consent of the Attorney General.

2001, c. 41, s. 4.

### Jurisdiction

**83.25 (1)** Where a person is alleged to have committed a terrorism offence or an offence under section 83.12, proceedings in respect of that offence may, whether or not that person is in Canada, be commenced at the instance of the Government of Canada and conducted by the Attorney General of Canada or counsel acting on his or her behalf in any territorial division in Canada, if the offence is alleged to have occurred outside the province in which the proceedings are commenced, whether or not proceedings have previously been commenced elsewhere in Canada.

### Trial and punishment

**(2)** An accused may be tried and punished in respect of an offence referred to in subsection (1) in the same manner as if the offence had been committed in the territorial division where the proceeding is conducted.

2001, c. 41, s. 4.

### Sentences to be served consecutively

**83.26** A sentence, other than one of life imprisonment, imposed on a person for an offence under any of sections 83.02 to 83.04 and 83.18 to 83.23 shall be served consecutively to

- (a)** any other punishment imposed on the person, other than a sentence of life imprisonment, for an offence arising out of the same event or series of events; and
- (b)** any other sentence, other than one of life imprisonment, to which the person is subject at the time the sentence is imposed on the person for an offence under any of those sections.

2001, c. 41, s. 4.

### Punishment for terrorist activity

**83.27 (1)** Notwithstanding anything in this Act, a person convicted of an indictable offence, other than an offence for which a sentence of imprisonment for life is imposed as a minimum punishment, where the act or omission constituting the offence also constitutes a terrorist activity, is liable to imprisonment for life.

## Procédure et aggravation de peine

### Consentement du procureur général

**83.24** Il ne peut être engagé de poursuite à l'égard d'une infraction de terrorisme ou de l'infraction prévue à l'article 83.12 sans le consentement du procureur général.

2001, ch. 41, art. 4.

### Compétence

**83.25 (1)** Les poursuites relatives à une infraction de terrorisme ou à une infraction prévue à l'article 83.12, peuvent, que l'accusé soit présent au Canada ou non, être engagées dans toute circonscription territoriale au Canada par le gouvernement du Canada et menées par le procureur général du Canada ou l'avocat agissant en son nom, dans le cas où l'infraction est censée avoir été commise à l'extérieur de la province dans laquelle les poursuites sont engagées, que des poursuites aient été engagées antérieurement ou non ailleurs au Canada.

### Procès et peine

**(2)** L'accusé peut être jugé et puni à l'égard de l'infraction visée au paragraphe (1) comme si celle-ci avait été commise dans la circonscription territoriale où les poursuites sont menées.

2001, ch. 41, art. 4.

### Peines consécutives

**83.26** La peine — sauf une peine d'emprisonnement à perpétuité — infligée à une personne pour une infraction prévue à l'un des articles 83.02 à 83.04 et 83.18 à 83.23 est purgée consécutivement :

- a)** à toute autre peine — sauf une peine d'emprisonnement à perpétuité — sanctionnant une autre infraction basée sur les mêmes faits;
- b)** à toute autre peine — sauf une peine d'emprisonnement à perpétuité — en cours d'exécution infligée à une personne pour une infraction prévue à l'un de ces articles.

2001, ch. 41, art. 4.

### Aggravation de peine

**83.27 (1)** Malgré toute autre disposition de la présente loi, quiconque est déclaré coupable d'un acte criminel, à l'exception d'une infraction pour laquelle l'emprisonnement à perpétuité constitue la peine minimale, est passible de l'emprisonnement à perpétuité dans le cas où l'acte — acte ou omission — constituant l'infraction constitue également une activité terroriste.

### Offender must be notified

(2) Subsection (1) does not apply unless the prosecutor satisfies the court that the offender, before making a plea, was notified that the application of that subsection would be sought.

2001, c. 41, s. 4.

**83.28** [Repealed, 2019, c. 13, s. 145]

**83.29** [Repealed, 2019, c. 13, s. 145]

## Recognizance with Conditions

### Attorney General's consent

**83.3 (1)** The Attorney General's consent is required before a peace officer may lay an information under subsection (2).

### Terrorist activity

(2) Subject to subsection (1), a peace officer may lay an information before a provincial court judge if the peace officer

(a) believes on reasonable grounds that a terrorist activity may be carried out; and

(b) suspects on reasonable grounds that the imposition of a recognizance with conditions on a person, or the arrest of a person, is necessary to prevent the carrying out of the terrorist activity.

### Appearance

(3) The judge who receives the information may cause the person to appear before any provincial court judge.

### Arrest without warrant

(4) Despite subsections (2) and (3), a peace officer may arrest a person without a warrant and cause the person to be detained in custody, in order to bring them before a provincial court judge in accordance with subsection (6), if

(a) either

(i) the grounds for laying an information referred to in paragraphs (2)(a) and (b) exist but, by reason of exigent circumstances, it would be impracticable to lay an information under subsection (2), or

(ii) an information has been laid under subsection (2) and a summons has been issued; and

### Notification du délinquant

(2) Le paragraphe (1) ne s'applique que si le poursuivant convainc le tribunal que le délinquant, avant de faire son plaidoyer, a été avisé que l'application de ce paragraphe serait demandée.

2001, ch. 41, art. 4.

**83.28** [Abrogé, 2019, ch. 13, art. 145]

**83.29** [Abrogé, 2019, ch. 13, art. 145]

## Engagement assorti de conditions

### Consentement du procureur général

**83.3 (1)** Le dépôt d'une dénonciation au titre du paragraphe (2) est subordonné au consentement préalable du procureur général.

### Activité terroriste

(2) Sous réserve du paragraphe (1), l'agent de la paix peut déposer une dénonciation devant un juge de la cour provinciale si, à la fois :

a) il a des motifs raisonnables de croire à la possibilité qu'une activité terroriste soit entreprise;

b) il a des motifs raisonnables de soupçonner que l'imposition d'un engagement assorti de conditions à une personne ou son arrestation est nécessaire pour empêcher que l'activité terroriste ne soit entreprise.

### Comparution

(3) Le juge qui reçoit la dénonciation peut faire comparaître la personne devant tout juge de la cour provinciale.

### Arrestation sans mandat

(4) Par dérogation aux paragraphes (2) et (3), l'agent de la paix, s'il a des motifs raisonnables de soupçonner que la mise sous garde de la personne est nécessaire pour empêcher qu'une activité terroriste ne soit entreprise, peut, sans mandat, arrêter la personne et la faire mettre sous garde en vue de la conduire devant un juge de la cour provinciale en conformité avec le paragraphe (6) dans l'un ou l'autre des cas suivants :

a) l'urgence de la situation rend difficilement réalisable le dépôt d'une dénonciation au titre du paragraphe (2) et les motifs visés aux alinéas (2)a) et b) sont réunis;

b) une sommation a été décernée par suite de la dénonciation déposée au titre du paragraphe (2).

(b) the peace officer suspects on reasonable grounds that the detention of the person in custody is necessary to prevent a terrorist activity.

#### Duty of peace officer

(5) If a peace officer arrests a person without a warrant in the circumstance described in subparagraph (4)(a)(i), the peace officer shall, within the time prescribed by paragraph (6)(a) or (b),

(a) lay an information in accordance with subsection (2); or

(b) release the person.

#### When person to be taken before judge

(6) Unless a peace officer is satisfied that a person should be released from custody without conditions before their appearance before a provincial court judge in accordance with the rules in paragraph (a) or (b), and so releases the person, the person detained in custody shall be taken before a provincial court judge in accordance with the following rules:

(a) if a provincial court judge is available within 24 hours after the person has been arrested, the person shall be taken before a provincial court judge without unreasonable delay and in any event within that period; and

(b) if a provincial court judge is not available within 24 hours after the person has been arrested, the person shall be taken before a provincial court judge as soon as feasible.

#### How person dealt with

(7) When a person is taken before a provincial court judge under subsection (6),

(a) if an information has not been laid under subsection (2), the judge shall order that the person be released; or

(b) if an information has been laid under subsection (2),

(i) the judge shall order that the person be released unless the peace officer who laid the information shows cause why the person's detention in custody is justified on one or more of the following grounds:

(A) the detention is necessary to ensure the person's appearance before a provincial court judge in order to be dealt with in accordance with subsection (8),

#### Obligation de l'agent de la paix

(5) Si, dans le cas visé à l'alinéa (4)a), l'agent de la paix arrête une personne sans mandat, il dépose une dénonciation au titre du paragraphe (2) au plus tard dans le délai prévu aux alinéas (6)a) ou b), ou met la personne en liberté.

#### Personne conduite devant un juge de la cour provinciale

(6) La personne mise sous garde est conduite devant un juge de la cour provinciale selon les règles ci-après, à moins que, avant sa comparution selon ces règles, l'agent de la paix, étant convaincu qu'elle devrait être mise en liberté sans condition, ne la mette ainsi en liberté :

a) si un juge de la cour provinciale est disponible dans un délai de vingt-quatre heures après l'arrestation, elle est conduite devant un juge de ce tribunal sans retard injustifié et, à tout le moins, dans ce délai;

b) si un juge de la cour provinciale n'est pas disponible dans un délai de vingt-quatre heures après l'arrestation, elle est conduite devant un juge de ce tribunal le plus tôt possible.

#### Traitement de la personne

(7) Dans le cas où la personne est conduite devant le juge au titre du paragraphe (6) :

a) si aucune dénonciation n'a été déposée au titre du paragraphe (2), le juge ordonne qu'elle soit mise en liberté;

b) si une dénonciation a été déposée au titre du paragraphe (2) :

(i) le juge ordonne que la personne soit mise en liberté, sauf si l'agent de la paix qui a déposé la dénonciation fait valoir que sa mise sous garde est justifiée pour un des motifs suivants :

(A) sa détention est nécessaire pour assurer sa comparution devant un juge de la cour provinciale conformément au paragraphe (8),



**(B)** the detention is necessary for the protection or safety of the public, including any witness, having regard to all the circumstances including

**(I)** the likelihood that, if the person is released from custody, a terrorist activity will be carried out, and

**(II)** any substantial likelihood that the person will, if released from custody, interfere with the administration of justice, and

**(C)** the detention is necessary to maintain confidence in the administration of justice, having regard to all the circumstances, including the apparent strength of the peace officer's grounds under subsection (2), and the gravity of any terrorist activity that may be carried out, and

**(ii)** the judge may adjourn the matter for a hearing under subsection (8) but, if the person is not released under subparagraph (i), the adjournment may not exceed 48 hours.

#### Adjournment under subparagraph (7)(b)(ii)

**(7.1)** If a judge has adjourned the matter under subparagraph (7)(b)(ii) and the person remains in custody at the end of the period of adjournment, the person shall be taken before a provincial court judge who

**(a)** shall order that the person be released unless a peace officer shows cause why the person's detention in custody is justified on one or more of the grounds set out in clauses (7)(b)(i)(A) to (C) and satisfies the judge that the investigation in relation to which the person is detained is being conducted diligently and expeditiously; and

**(b)** may adjourn the matter for a hearing under subsection (8) but, if the person is not released under paragraph (a), the adjournment may not exceed 48 hours.

#### Adjournment under paragraph (7.1)(b)

**(7.2)** If a judge has adjourned the matter under paragraph (7.1)(b) and the person remains in custody at the end of the period of adjournment, the person shall be taken before a provincial court judge who

**(a)** shall order that the person be released unless a peace officer shows cause why the person's detention in custody is justified on one or more of the grounds set out in clauses (7)(b)(i)(A) to (C) and satisfies the judge that the investigation in relation to which the

**(B)** sa détention est nécessaire pour la protection ou la sécurité du public, notamment celle d'un témoin, eu égard aux circonstances, y compris :

**(I)** la probabilité que, si la personne est mise en liberté, une activité terroriste sera entreprise,

**(II)** toute probabilité marquée que la personne, si elle est mise en liberté, nuira à l'administration de la justice,

**(C)** sa détention est nécessaire pour ne pas miner la confiance du public envers l'administration de la justice, compte tenu de toutes les circonstances, notamment le fait que les motifs de l'agent de la paix au titre du paragraphe (2) paraissent fondés, et la gravité de toute activité terroriste qui peut être entreprise,

**(ii)** le juge peut ajourner la comparution prévue au paragraphe (8) mais, si la personne n'est pas mise en liberté, l'ajournement ne peut excéder quarante-huit heures.

#### Ajournement en vertu du sous-alinéa (7)(b)(ii)

**(7.1)** Si le juge a ajourné la comparution en vertu du sous-alinéa (7)(b)(ii) et si, au terme de la période d'ajournement, la personne est toujours sous garde, elle est conduite devant un juge de la cour provinciale et celui-ci :

**a)** ordonne que la personne soit mise en liberté, sauf si un agent de la paix fait valoir que sa mise sous garde est justifiée pour l'un des motifs énumérés aux divisions (7)(b)(i)(A) à (C) et convainc le juge que l'enquête sur laquelle s'appuie sa mise sous garde est menée de façon diligente;

**b)** peut ajourner la comparution prévue au paragraphe (8) mais, si la personne n'est pas mise en liberté au titre de l'alinéa a), l'ajournement ne peut excéder quarante-huit heures.

#### Ajournement en vertu de l'alinéa (7.1)(b)

**(7.2)** Si le juge a ajourné la comparution en vertu de l'alinéa (7.1)(b) et si, au terme de la période d'ajournement, la personne est toujours sous garde, elle est conduite devant un juge de la cour provinciale et celui-ci :

**a)** ordonne que la personne soit mise en liberté, sauf si un agent de la paix fait valoir que sa mise sous garde est justifiée pour l'un des motifs énumérés aux divisions (7)(b)(i)(A) à (C) et convainc le juge que l'enquête

person is detained is being conducted diligently and expeditiously; and

**(b)** may adjourn the matter for a hearing under subsection (8) but, if the person is not released under paragraph (a), the adjournment may not exceed 48 hours.

#### Hearing before judge

**(8)** The judge before whom the person appears in accordance with subsection (3)

**(a)** may, if the judge is satisfied by the evidence adduced that the peace officer has reasonable grounds for the suspicion, order that the person enter into a recognizance, with or without sureties, to keep the peace and be of good behaviour for a period of not more than 12 months and to comply with any other reasonable conditions prescribed in the recognizance, including the conditions set out in subsections (10), (11.1) and (11.2), that the judge considers desirable for preventing the carrying out of a terrorist activity; and

**(b)** if the person was not released under subparagraph (7)(b)(i) or paragraph (7.1)(a) or (7.2)(a), shall order that the person be released, subject to the recognizance, if any, ordered under paragraph (a).

#### Duration extended

**(8.1)** However, if the judge is also satisfied that the person was convicted previously of a terrorism offence, the judge may order that the person enter into the recognizance for a period of not more than two years.

#### Refusal to enter into recognizance

**(9)** The judge may commit the person to prison for a term not exceeding 12 months if the person fails or refuses to enter into the recognizance.

#### Conditions — firearms

**(10)** Before making an order under paragraph (8)(a), the judge shall consider whether it is desirable, in the interests of the safety of the person or of any other person, to include as a condition of the recognizance that the person be prohibited from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all of those things, for any period specified in the recognizance, and if the judge decides that it is so desirable, they shall add the condition to the recognizance.

sur laquelle s'appuie sa mise sous garde est menée de façon diligente;

**b)** peut ajourner la comparution prévue au paragraphe (8) mais, si la personne n'est pas mise en liberté au titre de l'alinéa a), l'ajournement ne peut excéder quarante-huit heures.

#### Comparution devant le juge

**(8)** Le juge devant lequel la personne comparait au titre du paragraphe (3) :

**a)** peut, s'il est convaincu par la preuve apportée que les soupçons de l'agent de la paix sont fondés sur des motifs raisonnables, ordonner que la personne contracte l'engagement, avec ou sans caution, de ne pas troubler l'ordre public et d'observer une bonne conduite pour une période maximale de douze mois, et se conforme aux autres conditions raisonnables énoncées dans l'engagement, y compris celles visées aux paragraphes (10), (11.1) et (11.2), que le juge estime souhaitables pour empêcher qu'une activité terroriste ne soit entreprise;

**b)** si la personne n'a pas été mise en liberté au titre du sous-alinéa (7)b)(i) ou des alinéas (7.1)a) ou (7.2)a), ordonne qu'elle soit mise en liberté, sous réserve, le cas échéant, de l'engagement imposé conformément à l'alinéa a).

#### Prolongation

**(8.1)** Toutefois, s'il est également convaincu que la personne a déjà été reconnue coupable d'une infraction de terrorisme, le juge peut lui ordonner de contracter l'engagement pour une période maximale de deux ans.

#### Refus de contracter un engagement

**(9)** Le juge peut infliger à la personne qui omet ou refuse de contracter l'engagement une peine de prison maximale de douze mois.

#### Conditions : armes à feu

**(10)** En rendant l'ordonnance prévue à l'alinéa (8)a), le juge doit, s'il estime qu'il est souhaitable pour la sécurité de la personne ou pour celle d'autrui de lui interdire d'avoir en sa possession une arme à feu, une arbalète, une arme prohibée, une arme à autorisation restreinte, un dispositif prohibé, des munitions, des munitions prohibées ou des substances explosives, ordonner que la personne contracte l'engagement de s'abstenir d'avoir en sa possession l'un ou l'autre ou la totalité de ces objets pour la période indiquée dans l'engagement.

### **Surrender, etc.**

**(11)** If the judge adds the condition described in subsection (10) to a recognizance, they shall specify in it the manner and method by which

**(a)** the things referred to in that subsection that are in the person's possession shall be surrendered, disposed of, detained, stored or dealt with; and

**(b)** the authorizations, licences and registration certificates that are held by the person shall be surrendered.

### **Condition — passport**

**(11.1)** The judge shall consider whether it is desirable, to prevent the carrying out of a terrorist activity, to include in the recognizance a condition that the person deposit, in the specified manner, any passport or other travel document issued in their name that is in their possession or control. If the judge decides that it is desirable, the judge shall add the condition to the recognizance and specify the period during which it applies.

### **Condition — specified geographic area**

**(11.2)** The judge shall consider whether it is desirable, to prevent the carrying out of a terrorist activity, to include in the recognizance a condition that the person remain within a specified geographic area unless written permission to leave that area is obtained from the judge or any individual designated by the judge. If the judge decides that it is desirable, the judge shall add the condition to the recognizance and specify the period during which it applies.

### **Reasons**

**(12)** If the judge does not add a condition described in subsection (10), (11.1) or (11.2) to a recognizance, the judge shall include in the record a statement of the reasons for not adding it.

### **Variance of conditions**

**(13)** The judge, or any other judge of the same court, may, on application of the peace officer, the Attorney General or the person, vary the conditions fixed in the recognizance.

### **Other provisions to apply**

**(14)** Subsections 810(4) and (5) apply, with any necessary modifications, to proceedings under this section.

2001, c. 41, s. 4; 2013, c. 9, s. 10; 2015, c. 20, s. 17; 2019, c. 13, s. 146; 2019, c. 25, s. 24.

**83.31 (1)** [Repealed, 2019, c. 13, s. 147]

### **Remise**

**(11)** Le cas échéant, l'ordonnance prévoit la façon de remettre, de détenir ou d'entreposer les objets visés au paragraphe (10) qui sont en la possession de la personne, ou d'en disposer, et de remettre les autorisations, permis et certificats d'enregistrement dont la personne est titulaire.

### **Condition : passeport**

**(11.1)** Le juge doit décider s'il est souhaitable, pour empêcher qu'une activité terroriste ne soit entreprise, d'intimer à la personne de déposer, de la manière précisée dans l'engagement, tout passeport ou autre document de voyage établi à son nom qui est en sa possession ou en son contrôle, et, dans l'affirmative, il doit assortir l'engagement d'une condition à cet effet et y prévoir la période d'application de celle-ci.

### **Condition : région désignée**

**(11.2)** Le juge doit décider s'il est souhaitable, pour empêcher qu'une activité terroriste ne soit entreprise, d'intimer à la personne de rester dans une région désignée, sauf permission écrite qu'il pourrait lui accorder ou qu'un individu qu'il désigne pourrait lui accorder, et, dans l'affirmative, il doit assortir l'engagement d'une condition à cet effet et y prévoir la période d'application de celle-ci.

### **Motifs**

**(12)** Le juge, s'il n'assortit pas l'ordonnance de la condition prévue aux paragraphes (10), (11.1) ou (11.2), est tenu d'en donner les motifs, qui sont consignés au dossier de l'instance.

### **Modification des conditions**

**(13)** Le juge ou un autre juge du même tribunal peut, sur demande de l'agent de la paix, du procureur général ou de la personne, modifier les conditions fixées dans l'engagement.

### **Autres dispositions applicables**

**(14)** Les paragraphes 810(4) et (5) s'appliquent, avec les adaptations nécessaires, à toute procédure engagée en vertu du présent article.

2001, ch. 41, art. 4; 2013, ch. 9, art. 10; 2015, ch. 20, art. 17; 2019, ch. 13, art. 146; 2019, ch. 25, art. 24.

**83.31 (1)** [Abrogé, 2019, ch. 13, art. 147]

**(1.1)** [Repealed, 2019, c. 13, s. 147]

**Annual report (section 83.3)**

**(2)** The Attorney General of Canada shall prepare and cause to be laid before Parliament and the Attorney General of every province shall publish or otherwise make available to the public an annual report for the previous year on the operation of section 83.3 that includes

- (a)** the number of consents to lay an information that were sought, and the number that were obtained, by virtue of subsections 83.3(1) and (2);
- (b)** the number of cases in which a summons or a warrant of arrest was issued for the purposes of subsection 83.3(3);
- (c)** the number of cases in which a person was not released under subsection 83.3(7), (7.1) or (7.2) pending a hearing;
- (d)** the number of cases in which an order to enter into a recognizance was made under paragraph 83.3(8)(a), and the types of conditions that were imposed;
- (e)** the number of times that a person failed or refused to enter into a recognizance, and the term of imprisonment imposed under subsection 83.3(9) in each case; and
- (f)** the number of cases in which the conditions fixed in a recognizance were varied under subsection 83.3(13).

**Annual report (section 83.3)**

**(3)** The Minister of Public Safety and Emergency Preparedness shall prepare and cause to be laid before Parliament and the Minister responsible for policing in every province shall publish or otherwise make available to the public an annual report for the previous year on the operation of section 83.3 that includes

- (a)** the number of arrests without warrant that were made under subsection 83.3(4) and the period of the arrested person's detention in custody in each case; and
- (b)** the number of cases in which a person was arrested without warrant under subsection 83.3(4) and was released
  - (i)** by a peace officer under paragraph 83.3(5)(b), or
  - (ii)** by a judge under paragraph 83.3(7)(a), (7.1)(a) or (7.2)(a).

**(1.1)** [Abrogé, 2019, ch. 13, art. 147]

**Rapport annuel : article 83.3**

**(2)** Chaque année, le procureur général du Canada établit et fait déposer devant le Parlement, et le procureur général de chaque province publie — ou met à la disposition du public de toute autre façon —, un rapport sur l'application de l'article 83.3, qui contient notamment les renseignements ci-après à l'égard de l'année précédente :

- a)** le nombre de consentements au dépôt d'une dénonciation demandés et obtenus au titre des paragraphes 83.3(1) et (2);
- b)** le nombre de sommations ou de mandat d'arrestation délivrés pour l'application du paragraphe 83.3(3);
- c)** le nombre de cas où la personne n'a pas été en liberté au titre des paragraphes 83.3(7), (7.1) ou (7.2) en attendant sa comparution;
- d)** le nombre de cas où une ordonnance de contracter un engagement a été rendue au titre de l'alinéa 83.3(8)a) et la nature des conditions afférentes qui ont été imposées;
- e)** le nombre de refus de contracter un engagement et la durée de la peine d'emprisonnement infligée au titre du paragraphe 83.3(9) dans chacun des cas;
- f)** le nombre de cas où les conditions d'un engagement ont été modifiées au titre du paragraphe 83.3(13).

**Rapport annuel : article 83.3**

**(3)** Chaque année, le ministre de la Sécurité publique et de la Protection civile établit et fait déposer devant le Parlement, et le ministre responsable de la sécurité publique dans chaque province publie — ou met à la disposition du public de toute autre façon —, un rapport sur l'application de l'article 83.3, qui contient notamment les renseignements ci-après à l'égard de l'année précédente :

- a)** le nombre d'arrestations effectuées sans mandat au titre du paragraphe 83.3(4) et la durée de la détention de la personne dans chacun des cas;
- b)** le nombre de cas d'arrestation sans mandat au titre du paragraphe 83.3(4) et de mise en liberté :
  - (i)** par l'agent de la paix au titre de l'alinéa 83.3(5)b),
  - (ii)** par un juge au titre des alinéas 83.3(7)a), (7.1)a) ou (7.2)a).

### Opinions

**(3.1)** The Attorney General of Canada and the Minister of Public Safety and Emergency Preparedness shall include in their annual reports under subsections (2) and (3), respectively, their opinion, supported by reasons, on whether the operation of section 83.3 should be extended.

### Limitation

**(4)** The annual report shall not contain any information the disclosure of which would

- (a)** compromise or hinder an ongoing investigation of an offence under an Act of Parliament;
- (b)** endanger the life or safety of any person;
- (c)** prejudice a legal proceeding; or
- (d)** otherwise be contrary to the public interest.

2001, c. 41, s. 4; 2005, c. 10, s. 34; 2013, c. 9, s. 11; 2015, c. 20, s. 18; 2019, c. 13, s. 147.

### Sunset provision

**83.32 (1)** Section 83.3 ceases to have effect at the end of the fifth anniversary of the day on which the *National Security Act, 2017* receives royal assent unless, before the end of that fifth anniversary, the operation of that section is extended by resolution — whose text is established under subsection (2) — passed by both Houses of Parliament in accordance with the rules set out in subsection (3).

### Review

**(1.1)** A comprehensive review of section 83.3 and its operation shall be undertaken by any committee of the Senate, of the House of Commons or of both Houses of Parliament that may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.

### Report

**(1.2)** The committee shall, no later than one year before the fifth anniversary referred to subsection (1), submit a report on the review to the appropriate House of Parliament, or to both Houses, as the case may be, including its recommendation with respect to extending the operation of section 83.3.

### Order in council

**(2)** The Governor in Council may, by order, establish the text of a resolution that provides for the extension of the operation of section 83.3 and that specifies the period of the extension, which may not exceed five years from the

### Opinions

**(3.1)** Le procureur général du Canada et le ministre de la Sécurité publique et de la Protection civile expriment dans leur rapport annuel établi au titre des paragraphes (2) et (3) respectivement leur opinion quant à la nécessité de proroger l'article 83.3 et la motivent.

### Réserve

**(4)** Sont exclus du rapport annuel les renseignements dont la divulgation, selon le cas :

- a)** compromettrait une enquête en cours relativement à une infraction à une loi fédérale ou nuirait à une telle enquête;
- b)** mettrait en danger la vie ou la sécurité d'une personne;
- c)** porterait atteinte à une procédure judiciaire;
- d)** serait contraire à l'intérêt public.

2001, ch. 41, art. 4; 2005, ch. 10, art. 34; 2013, ch. 9, art. 11; 2015, ch. 20, art. 18; 2019, ch. 13, art. 147.

### Temporarisation

**83.32 (1)** L'article 83.3 cesse d'avoir effet à la fin du cinquième anniversaire de la sanction de la *Loi de 2017 sur la sécurité nationale*, sauf si, avant la fin de ce jour, cet article est prorogé par résolution — dont le texte est établi en vertu du paragraphe (2) — adoptée par les deux chambres du Parlement conformément aux règles prévues au paragraphe (3).

### Examen

**(1.1)** Un examen approfondi de l'article 83.3 et de son application est effectué par le comité soit du Sénat, soit de la Chambre des communes, soit mixte, que le Sénat, la Chambre des communes ou les deux, selon le cas, désignent ou constituent à cette fin.

### Rapport

**(1.2)** Au plus tard un an avant le cinquième anniversaire visé au paragraphe (1), le comité dépose son rapport devant la ou les chambres en cause, accompagné de sa recommandation quant à la nécessité de proroger l'article 83.3.

### Décret

**(2)** Le gouverneur en conseil peut, par décret, établir le texte de toute résolution prévoyant la prorogation de l'article 83.3 et précisant la durée de la prorogation, à concurrence d'un maximum de cinq ans à compter de la

first day on which the resolution has been passed by both Houses of Parliament.

### Rules

(3) A motion for the adoption of the resolution may be debated in both Houses of Parliament but may not be amended. At the conclusion of the debate, the Speaker of the House of Parliament shall immediately put every question necessary to determine whether or not the motion is concurred in.

### Subsequent extensions

(4) The operation of section 83.3 may be further extended in accordance with this section, but

(a) the reference to “at the end of the fifth anniversary of the day on which the *National Security Act, 2017* receives royal assent unless, before the end of that fifth anniversary” in subsection (1) is to be read as a reference to “on the expiry of the most recent extension under this section unless, before that extension expires”; and

(b) the reference to “the fifth anniversary referred to subsection (1)” in subsection (1.2) is to be read as a reference to “the expiry of the most recent extension under this section”.

(5) [Repealed, 2019, c. 13, s. 148]

2001, c. 41, s. 4; 2013, c. 9, s. 12; 2019, c. 13, s. 148.

**83.33 (1)** [Repealed, 2019, c. 13, s. 149]

### Transitional provision — section 83.3

(2) In the event that section 83.3 ceases to have effect in accordance with section 83.32, a person detained in custody under section 83.3 shall be released when that section ceases to have effect, except that subsections 83.3(7) to (14) continue to apply to a person who was taken before a judge under subsection 83.3(6) before section 83.3 ceased to have effect.

2001, c. 41, s. 4; 2013, c. 9, s. 13; 2019, c. 13, s. 149.

## PART III

# Firearms and Other Weapons

## Interpretation

### Definitions

**84 (1)** In this Part,

date à laquelle la deuxième chambre a adopté la résolution.

### Règles

(3) La motion visant l'adoption de la résolution peut faire l'objet d'un débat dans les deux chambres du Parlement mais ne peut être amendée. Au terme du débat, le président de la chambre du Parlement met immédiatement aux voix toute question nécessaire pour décider de son agrément.

### Prorogations subséquentes

(4) L'article 83.3 peut être prorogé par la suite en conformité avec le présent article, auquel cas :

a) la mention « à la fin du cinquième anniversaire de la sanction de la *Loi de 2017 sur la sécurité nationale*, sauf si, avant la fin de ce jour », au paragraphe (1), est remplacée par « à la date d'expiration de la dernière période de prorogation fixée par résolution conformément au présent article, sauf si, à la fin de cette date »;

b) la mention « le cinquième anniversaire visé au paragraphe (1) », au paragraphe (1.2), est remplacée par « l'expiration de la dernière période de prorogation fixée par résolution conformément au présent article ».

(5) [Abrogé, 2019, ch. 13, art. 148]

2001, ch. 41, art. 4; 2013, ch. 9, art. 12; 2019, ch. 13, art. 148.

**83.33 (1)** [Abrogé, 2019, ch. 13, art. 149]

### Disposition transitoire : article 83.3

(2) Dans le cas où, conformément à l'article 83.32, l'article 83.3 cesse d'avoir effet, la personne mise sous garde au titre de cet article est mise en liberté à la date de cessation d'effet de cet article, sauf que les paragraphes 83.3(7) à (14) continuent de s'appliquer à la personne qui a été conduite devant le juge au titre du paragraphe 83.3(6) avant cette date.

2001, ch. 41, art. 4; 2013, ch. 9, art. 13; 2019, ch. 13, art. 149.

## PARTIE III

# Armes à feu et autres armes

## Définitions et interprétation

### Définitions

**84 (1)** Les définitions qui suivent s'appliquent à la présente partie.

### Duty of persons undertaking acts

**217** Every one who undertakes to do an act is under a legal duty to do it if an omission to do the act is or may be dangerous to life.

R.S., c. C-34, s. 199.

### Duty of persons directing work

**217.1** Every one who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.

2003, c. 21, s. 3.

### Abandoning child

**218** Every one who unlawfully abandons or exposes a child who is under the age of ten years, so that its life is or is likely to be endangered or its health is or is likely to be permanently injured,

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or

(b) is guilty of an offence punishable on summary conviction.

R.S., 1985, c. C-46, s. 218; 2005, c. 32, s. 12; 2019, c. 25, s. 75.

## Criminal Negligence

### Criminal negligence

**219 (1)** Every one is criminally negligent who

(a) in doing anything, or

(b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

### Definition of *duty*

(2) For the purposes of this section, **duty** means a duty imposed by law.

R.S., c. C-34, s. 202.

### Causing death by criminal negligence

**220** Every person who by criminal negligence causes death to another person is guilty of an indictable offence and liable

### Obligation des personnes qui s'engagent à accomplir un acte

**217** Quiconque entreprend d'accomplir un acte est légalement tenu de l'accomplir si une omission de le faire met ou peut mettre la vie humaine en danger.

S.R., ch. C-34, art. 199.

### Obligation de la personne qui supervise un travail

**217.1** Il incombe à quiconque dirige l'accomplissement d'un travail ou l'exécution d'une tâche ou est habilité à le faire de prendre les mesures voulues pour éviter qu'il n'en résulte de blessure corporelle pour autrui.

2003, ch. 21, art. 3.

### Abandon d'un enfant

**218** Quiconque illicitement abandonne ou expose un enfant de moins de dix ans, de manière que la vie de cet enfant soit effectivement mise en danger ou exposée à l'être, ou que sa santé soit effectivement compromise de façon permanente ou exposée à l'être est coupable :

a) soit d'un acte criminel passible d'un emprisonnement maximal de cinq ans;

b) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

L.R. (1985), ch. C-46, art. 218; 2005, ch. 32, art. 12; 2019, ch. 25, art. 75.

## Négligence criminelle

### Négligence criminelle

**219 (1)** Est coupable de négligence criminelle quiconque :

a) soit en faisant quelque chose;

b) soit en omettant de faire quelque chose qu'il est de son devoir d'accomplir,

montre une insouciance déréglée ou téméraire à l'égard de la vie ou de la sécurité d'autrui.

### Définition de *devoir*

(2) Pour l'application du présent article, **devoir** désigne une obligation imposée par la loi.

S.R., ch. C-34, art. 202.

### Le fait de causer la mort par négligence criminelle

**220** Quiconque, par négligence criminelle, cause la mort d'une autre personne est coupable d'un acte criminel passible :

### Exemption for medical assistance in dying

**227 (1)** No medical practitioner or nurse practitioner commits culpable homicide if they provide a person with medical assistance in dying in accordance with section 241.2.

### Exemption for person aiding practitioner

**(2)** No person is a party to culpable homicide if they do anything for the purpose of aiding a medical practitioner or nurse practitioner to provide a person with medical assistance in dying in accordance with section 241.2.

### Reasonable but mistaken belief

**(3)** For greater certainty, the exemption set out in subsection (1) or (2) applies even if the person invoking it has a reasonable but mistaken belief about any fact that is an element of the exemption.

### Non-application of section 14

**(4)** Section 14 does not apply with respect to a person who consents to have death inflicted on them by means of medical assistance in dying provided in accordance with section 241.2.

### Definitions

**(5)** In this section, *medical assistance in dying*, *medical practitioner* and *nurse practitioner* have the same meanings as in section 241.1.

R.S., 1985, c. C-46, s. 227; R.S., 1985, c. 27 (1st Suppl.), s. 34; 1997, c. 18, s. 9; 1999, c. 5, s. 9; 2016, c. 3, s. 2.

### Killing by influence on the mind

**228** No person commits culpable homicide where he causes the death of a human being

- (a)** by any influence on the mind alone, or
- (b)** by any disorder or disease resulting from influence on the mind alone,

but this section does not apply where a person causes the death of a child or sick person by wilfully frightening him.

R.S., c. C-34, s. 211.

## Murder, Manslaughter and Infanticide

### Murder

**229** Culpable homicide is murder

### Exemption — aide médicale à mourir

**227 (1)** Ne commet pas un homicide coupable le médecin ou l'infirmier praticien qui fournit l'aide médicale à mourir à une personne en conformité avec l'article 241.2.

### Exemption — personne aidant le médecin ou l'infirmier praticien

**(2)** Ne participe pas à un homicide coupable la personne qui fait quelque chose en vue d'aider un médecin ou un infirmier praticien à fournir l'aide médicale à mourir à une personne en conformité avec l'article 241.2.

### Croyance raisonnable mais erronée

**(3)** Il est entendu que l'exemption prévue aux paragraphes (1) ou (2) s'applique même si la personne qui l'invoque a une croyance raisonnable, mais erronée, à l'égard de tout fait qui en est un élément constitutif.

### Non-application de l'article 14

**(4)** L'article 14 ne s'applique pas à l'égard d'une personne qui consent à ce que la mort lui soit infligée au moyen de l'aide médicale à mourir fournie en conformité avec l'article 241.2.

### Définitions

**(5)** Au présent article, *aide médicale à mourir*, *infirmier praticien* et *médecin* s'entendent au sens de l'article 241.1.

L.R. (1985), ch. C-46, art. 227; L.R. (1985), ch. 27 (1<sup>er</sup> suppl.), art. 34; 1997, ch. 18, art. 9; 1999, ch. 5, art. 9; 2016, ch. 3, art. 2.

### Homicide par influence sur l'esprit

**228** Nul ne commet un homicide coupable lorsqu'il cause la mort d'un être humain :

- a)** soit par une influence sur l'esprit seulement;
- b)** soit par un désordre ou une maladie résultant d'une influence sur l'esprit seulement.

Toutefois, le présent article ne s'applique pas lorsqu'une personne cause la mort d'un enfant ou d'une personne malade en l'effrayant volontairement.

S.R., ch. C-34, art. 211.

## Meurtre, homicide involontaire coupable et infanticide

### Meurtre

**229** L'homicide coupable est un meurtre dans l'un ou l'autre des cas suivants :



**(a)** where the person who causes the death of a human being

**(i)** means to cause his death, or

**(ii)** means to cause him bodily harm that he knows is likely to cause his death, and is reckless whether death ensues or not;

**(b)** where a person, meaning to cause death to a human being or meaning to cause him bodily harm that he knows is likely to cause his death, and being reckless whether death ensues or not, by accident or mistake causes death to another human being, notwithstanding that he does not mean to cause death or bodily harm to that human being; or

**(c)** if a person, for an unlawful object, does anything that they know is likely to cause death, and by doing so causes the death of a human being, even if they desire to effect their object without causing death or bodily harm to any human being.

R.S., 1985, c. C-46, s. 229; 2019, c. 25, s. 77.

**230** [Repealed, 2019, c. 25, s. 78]

#### Classification of murder

**231 (1)** Murder is first degree murder or second degree murder.

#### Planned and deliberate murder

**(2)** Murder is first degree murder when it is planned and deliberate.

#### Contracted murder

**(3)** Without limiting the generality of subsection (2), murder is planned and deliberate when it is committed pursuant to an arrangement under which money or anything of value passes or is intended to pass from one person to another, or is promised by one person to another, as consideration for that other's causing or assisting in causing the death of anyone or counselling another person to do any act causing or assisting in causing that death.

#### Murder of peace officer, etc.

**(4)** Irrespective of whether a murder is planned and deliberate on the part of any person, murder is first degree murder when the victim is

**(a)** a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties;

**a)** la personne qui cause la mort d'un être humain :

**(i)** ou bien a l'intention de causer sa mort,

**(ii)** ou bien a l'intention de lui causer des lésions corporelles qu'elle sait être de nature à causer sa mort, et qu'il lui est indifférent que la mort s'en-suive ou non;

**b)** une personne, ayant l'intention de causer la mort d'un être humain ou ayant l'intention de lui causer des lésions corporelles qu'elle sait de nature à causer sa mort, et ne se souciant pas que la mort en résulte ou non, par accident ou erreur cause la mort d'un autre être humain, même si elle n'a pas l'intention de causer la mort ou des lésions corporelles à cet être humain;

**c)** une personne, pour une fin illégale, fait quelque chose qu'elle sait de nature à causer la mort et, conséquemment, cause la mort d'un être humain, même si elle désire atteindre son but sans causer la mort ou une lésion corporelle à qui que ce soit.

L.R. (1985), ch. C-46, art. 229; 2019, ch. 25, art. 77.

**230** [Abrogé, 2019, ch. 25, art. 78]

#### Classification

**231 (1)** Il existe deux catégories de meurtres : ceux du premier degré et ceux du deuxième degré.

#### Meurtre au premier degré

**(2)** Le meurtre au premier degré est le meurtre commis avec préméditation et de propos délibéré.

#### Entente

**(3)** Sans que soit limitée la portée générale du paragraphe (2), est assimilé au meurtre au premier degré quant aux parties intéressées, le meurtre commis à la suite d'une entente dont la contrepartie matérielle, notamment financière, était proposée ou promise en vue d'en encourager la perpétration ou la complicité par assistance ou fourniture de conseils.

#### Meurtre d'un officier de police, etc.

**(4)** Est assimilé au meurtre au premier degré le meurtre, dans l'exercice de ses fonctions :

**a)** d'un officier ou d'un agent de police, d'un shérif, d'un shérif adjoint, d'un officier de shérif ou d'une autre personne employée à la préservation et au maintien de la paix publique;

(b) a warden, deputy warden, instructor, keeper, jailer, guard or other officer or a permanent employee of a prison, acting in the course of his duties; or

(c) a person working in a prison with the permission of the prison authorities and acting in the course of his work therein.

### Hijacking, sexual assault or kidnapping

(5) Irrespective of whether a murder is planned and deliberate on the part of any person, murder is first degree murder in respect of a person when the death is caused by that person while committing or attempting to commit an offence under one of the following sections:

(a) section 76 (hijacking an aircraft);

(b) section 271 (sexual assault);

(c) section 272 (sexual assault with a weapon, threats to a third party or causing bodily harm);

(d) section 273 (aggravated sexual assault);

(e) section 279 (kidnapping and forcible confinement); or

(f) section 279.1 (hostage taking).

### Criminal harassment

(6) Irrespective of whether a murder is planned and deliberate on the part of any person, murder is first degree murder when the death is caused by that person while committing or attempting to commit an offence under section 264 and the person committing that offence intended to cause the person murdered to fear for the safety of the person murdered or the safety of anyone known to the person murdered.

### Murder — terrorist activity

(6.01) Irrespective of whether a murder is planned and deliberate on the part of a person, murder is first degree murder when the death is caused by that person while committing or attempting to commit an indictable offence under this or any other Act of Parliament if the act or omission constituting the offence also constitutes a terrorist activity.

### Murder — criminal organization

(6.1) Irrespective of whether a murder is planned and deliberate on the part of a person, murder is first degree murder when

b) d'un directeur, d'un sous-directeur, d'un instructeur, d'un gardien, d'un geôlier, d'un garde ou d'un autre fonctionnaire ou employé permanent d'une prison;

c) d'une personne travaillant dans une prison avec la permission des autorités de la prison.

### Détournement, enlèvement, infraction sexuelle ou prise d'otage

(5) Indépendamment de toute préméditation, le meurtre que commet une personne est assimilé à un meurtre au premier degré lorsque la mort est causée par cette personne, en commettant ou tentant de commettre une infraction prévue à l'un des articles suivants :

a) l'article 76 (détournement d'aéronef);

b) l'article 271 (agression sexuelle);

c) l'article 272 (agression sexuelle armée, menaces à une tierce personne ou infliction de lésions corporelles);

d) l'article 273 (agression sexuelle grave);

e) l'article 279 (enlèvement et séquestration);

f) l'article 279.1 (prise d'otage).

### Harcèlement criminel

(6) Indépendamment de toute préméditation, le meurtre que commet une personne est assimilé à un meurtre au premier degré lorsque celle-ci cause la mort en commettant ou en tentant de commettre une infraction prévue à l'article 264 alors qu'elle avait l'intention de faire craindre à la personne assassinée pour sa sécurité ou celle d'une de ses connaissances.

### Meurtre : activité terroriste

(6.01) Indépendamment de toute préméditation, le meurtre que commet une personne est assimilé à un meurtre au premier degré lorsque celle-ci cause la mort au cours de la perpétration ou de la tentative de perpétration, visée par la présente loi ou une autre loi fédérale, d'un acte criminel dont l'élément matériel — action ou omission — constitue également une activité terroriste.

### Meurtre : organisation criminelle

(6.1) Indépendamment de toute préméditation, le meurtre que commet une personne est assimilé à un meurtre au premier degré :

(a) the death is caused by that person for the benefit of, at the direction of or in association with a criminal organization; or

(b) the death is caused by that person while committing or attempting to commit an indictable offence under this or any other Act of Parliament for the benefit of, at the direction of or in association with a criminal organization.

### Intimidation

**(6.2)** Irrespective of whether a murder is planned and deliberate on the part of a person, murder is first degree murder when the death is caused by that person while committing or attempting to commit an offence under section 423.1.

### Second degree murder

**(7)** All murder that is not first degree murder is second degree murder.

R.S., 1985, c. C-46, s. 231; R.S., 1985, c. 27 (1st Supp.), ss. 7, 35, 40, 185(F), c. 1 (4th Supp.), s. 18(F); 1997, c. 16, s. 3, c. 23, s. 8; 2001, c. 32, s. 9, c. 41, s. 9; 2009, c. 22, s. 5.

### Murder reduced to manslaughter

**232 (1)** Culpable homicide that otherwise would be murder may be reduced to manslaughter if the person who committed it did so in the heat of passion caused by sudden provocation.

### What is provocation

**(2)** Conduct of the victim that would constitute an indictable offence under this Act that is punishable by five or more years of imprisonment and that is of such a nature as to be sufficient to deprive an ordinary person of the power of self-control is provocation for the purposes of this section, if the accused acted on it on the sudden and before there was time for their passion to cool.

### Questions of fact

**(3)** For the purposes of this section, the questions

(a) whether the conduct of the victim amounted to provocation under subsection (2), and

(b) whether the accused was deprived of the power of self-control by the provocation that he alleges he received,

are questions of fact, but no one shall be deemed to have given provocation to another by doing anything that he had a legal right to do, or by doing anything that the accused incited him to do in order to provide the accused with an excuse for causing death or bodily harm to any human being.

a) lorsque la mort est causée par cette personne au profit ou sous la direction d'une organisation criminelle, ou en association avec elle;

b) lorsque celle-ci cause la mort au cours de la perpétration ou de la tentative de perpétration d'un acte criminel visé par la présente loi ou une autre loi fédérale, au profit ou sous la direction d'une organisation criminelle, ou en association avec elle.

### Intimidation

**(6.2)** Indépendamment de toute préméditation, le meurtre que commet une personne est assimilé à un meurtre au premier degré lorsque celle-ci cause la mort au cours de la perpétration ou de la tentative de perpétration d'une infraction prévue à l'article 423.1.

### Meurtre au deuxième degré

**(7)** Les meurtres qui n'appartiennent pas à la catégorie des meurtres au premier degré sont des meurtres au deuxième degré.

L.R. (1985), ch. C-46, art. 231; L.R. (1985), ch. 27 (1<sup>er</sup> suppl.), art. 7, 35, 40 et 185(F), ch. 1 (4<sup>e</sup> suppl.), art. 18(F); 1997, ch. 16, art. 3, ch. 23, art. 8; 2001, ch. 32, art. 9, ch. 41, art. 9; 2009, ch. 22, art. 5.

### Meurtre réduit à un homicide involontaire coupable

**232 (1)** Un homicide coupable qui autrement serait un meurtre peut être réduit à un homicide involontaire coupable si la personne qui l'a commis a ainsi agi dans un accès de colère causé par une provocation soudaine.

### Ce qu'est la provocation

**(2)** Une conduite de la victime, qui constituerait un acte criminel prévu à la présente loi passible d'un emprisonnement de cinq ans ou plus, de telle nature qu'elle suffise à priver une personne ordinaire du pouvoir de se maîtriser est une provocation pour l'application du présent article si l'accusé a agi sous l'impulsion du moment et avant d'avoir eu le temps de reprendre son sang-froid.

### Questions de fait

**(3)** Pour l'application du présent article, les questions de savoir :

a) si la conduite de la victime équivalait à une provocation au titre du paragraphe (2);

b) si l'accusé a été privé du pouvoir de se maîtriser par la provocation qu'il allègue avoir reçue,

sont des questions de fait, mais nul n'est censé avoir provoqué un autre individu en faisant quelque chose qu'il avait un droit légal de faire, ou en faisant une chose que l'accusé l'a incité à faire afin de fournir à l'accusé une excuse pour causer la mort ou des lésions corporelles à un être humain.

### Unlawfully causing bodily harm

**269** Every one who unlawfully causes bodily harm to any person is guilty of

- (a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or
- (b) an offence punishable on summary conviction.

R.S., 1985, c. C-46, s. 269; 1994, c. 44, s. 18; 2019, c. 25, s. 94.

### Aggravating circumstance — assault against a public transit operator

**269.01 (1)** When a court imposes a sentence for an offence referred to in paragraph 264.1(1)(a) or any of sections 266 to 269, it shall consider as an aggravating circumstance the fact that the victim of the offence was, at the time of the commission of the offence, a public transit operator engaged in the performance of his or her duty.

### Definitions

(2) The following definitions apply in this section.

**public transit operator** means an individual who operates a vehicle used in the provision of passenger transportation services to the public, and includes an individual who operates a school bus. (*conducteur de véhicule de transport en commun*)

**vehicle** includes a bus, paratransit vehicle, licensed taxi cab, train, subway, tram and ferry. (*véhicule*)

2015, c. 1, s. 1.

### Torture

**269.1 (1)** Every official, or every person acting at the instigation of or with the consent or acquiescence of an official, who inflicts torture on any other person is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

### Definitions

(2) For the purposes of this section,

**official** means

- (a) a peace officer,
- (b) a public officer,

du clitoris, sauf dans les cas prévus aux alinéas (3)a) et b).

L.R. (1985), ch. C-46, art. 268; 1997, ch. 16, art. 5.

### Lésions corporelles

**269** Quiconque cause illégalement des lésions corporelles à une personne est coupable :

- a) soit d'un acte criminel et passible d'un emprisonnement maximal de dix ans;
- b) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

L.R. (1985), ch. C-46, art. 269; 1994, ch. 44, art. 18; 2019, c. 25, art. 94.

### Circonstance aggravante — voies de fait contre un conducteur de véhicule de transport en commun

**269.01 (1)** Le tribunal qui détermine la peine à infliger à l'égard d'une infraction prévue à l'alinéa 264.1(1)a) ou à l'un des articles 266 à 269 est tenu de considérer comme circonstance aggravante le fait que la victime est le conducteur d'un véhicule de transport en commun qui exerçait cette fonction au moment de la perpétration de l'infraction.

### Définitions

(2) Les définitions qui suivent s'appliquent au présent article.

**conducteur de véhicule de transport en commun** Personne qui conduit un véhicule servant à la prestation au public de services de transport de passagers; y est assimilé le conducteur d'autobus scolaire. (*public transit operator*)

**véhicule** S'entend notamment d'un autobus, d'un véhicule de transport adapté, d'un taxi agréé, d'un train, d'un métro, d'un tramway et d'un traversier. (*vehicle*)

2015, ch. 1, art. 1.

### Torture

**269.1 (1)** Est coupable d'un acte criminel et passible d'un emprisonnement maximal de quatorze ans le fonctionnaire qui — ou la personne qui, avec le consentement exprès ou tacite d'un fonctionnaire ou à sa demande — torture une autre personne.

### Définitions

(2) Les définitions qui suivent s'appliquent au présent article.

**fonctionnaire** L'une des personnes suivantes, qu'elle exerce ses pouvoirs au Canada ou à l'étranger :

- a) un agent de la paix;

- (c) a member of the Canadian Forces, or
- (d) any person who may exercise powers, pursuant to a law in force in a foreign state, that would, in Canada, be exercised by a person referred to in paragraph (a), (b), or (c),

whether the person exercises powers in Canada or outside Canada; (*fonctionnaire*)

**torture** means any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person

- (a) for a purpose including
  - (i) obtaining from the person or from a third person information or a statement,
  - (ii) punishing the person for an act that the person or a third person has committed or is suspected of having committed, and
  - (iii) intimidating or coercing the person or a third person, or
- (b) for any reason based on discrimination of any kind,

but does not include any act or omission arising only from, inherent in or incidental to lawful sanctions. (*torture*)

#### No defence

(3) It is no defence to a charge under this section that the accused was ordered by a superior or a public authority to perform the act or omission that forms the subject-matter of the charge or that the act or omission is alleged to have been justified by exceptional circumstances, including a state of war, a threat of war, internal political instability or any other public emergency.

#### Evidence

(4) In any proceedings over which Parliament has jurisdiction, any statement obtained as a result of the commission of an offence under this section is inadmissible in evidence, except as evidence that the statement was so obtained.

R.S., 1985, c. 10 (3rd Suppl.), s. 2.

#### Assaulting a peace officer

**270 (1)** Every one commits an offence who

- b) un fonctionnaire public;
- c) un membre des forces canadiennes;
- d) une personne que la loi d'un État étranger investit de pouvoirs qui, au Canada, seraient ceux d'une personne mentionnée à l'un des alinéas a), b) ou c). (*officielle*)

**torture** Acte, commis par action ou omission, par lequel une douleur ou des souffrances aiguës, physiques ou mentales, sont intentionnellement infligées à une personne :

- a) soit afin notamment :
  - (i) d'obtenir d'elle ou d'une tierce personne des renseignements ou une déclaration,
  - (ii) de la punir d'un acte qu'elle ou une tierce personne a commis ou est soupçonnée d'avoir commis,
  - (iii) de l'intimider ou de faire pression sur elle ou d'intimider une tierce personne ou de faire pression sur celle-ci;
- b) soit pour tout autre motif fondé sur quelque forme de discrimination que ce soit.

La torture ne s'entend toutefois pas d'actes qui résultent uniquement de sanctions légitimes, qui sont inhérents à celles-ci ou occasionnés par elles. (*torture*)

#### Inadmissibilité de certains moyens de défense

(3) Ne constituent pas un moyen de défense contre une accusation fondée sur le présent article ni le fait que l'accusé a obéi aux ordres d'un supérieur ou d'une autorité publique en commettant les actes qui lui sont reprochés ni le fait que ces actes auraient été justifiés par des circonstances exceptionnelles, notamment un état de guerre, une menace de guerre, l'instabilité politique intérieure ou toute autre situation d'urgence.

#### Admissibilité en preuve

(4) Dans toute procédure qui relève de la compétence du Parlement, une déclaration obtenue par la perpétration d'une infraction au présent article est inadmissible en preuve, sauf à titre de preuve de cette infraction.

L.R. (1985), ch. 10 (3<sup>e</sup> suppl.), art. 2.

#### Voies de fait contre un agent de la paix

**270 (1)** Commet une infraction quiconque exerce des voies de fait :

**Trafficking in persons**

**279.01 (1)** Every person who recruits, transports, transfers, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable

(a) to imprisonment for life and to a minimum punishment of imprisonment for a term of five years if they kidnap, commit an aggravated assault or aggravated sexual assault against, or cause death to, the victim during the commission of the offence; or

(b) to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of four years in any other case.

**Consent**

(2) No consent to the activity that forms the subject-matter of a charge under subsection (1) is valid.

**Presumption**

(3) For the purposes of subsections (1) and 279.011(1), evidence that a person who is not exploited lives with or is habitually in the company of a person who is exploited is, in the absence of evidence to the contrary, proof that the person exercises control, direction or influence over the movements of that person for the purpose of exploiting them or facilitating their exploitation.

2005, c. 43, s. 3; 2014, c. 25, s. 18; 2015, c. 16, s. 1.

**Trafficking of a person under the age of eighteen years**

**279.011 (1)** Every person who recruits, transports, transfers, receives, holds, conceals or harbours a person under the age of eighteen years, or exercises control, direction or influence over the movements of a person under the age of eighteen years, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable

(a) to imprisonment for life and to a minimum punishment of imprisonment for a term of six years if they kidnap, commit an aggravated assault or aggravated sexual assault against, or cause death to, the victim during the commission of the offence; or

(b) to imprisonment for a term of not more than fourteen years and to a minimum punishment of imprisonment for a term of five years, in any other case.

**Traite des personnes**

**279.01 (1)** Quiconque recrute, transporte, transfère, reçoit, détient, cache ou héberge une personne, ou exerce un contrôle, une direction ou une influence sur les mouvements d'une personne, en vue de l'exploiter ou de faciliter son exploitation commet une infraction passible, sur déclaration de culpabilité par voie de mise en accusation :

a) s'il enlève la personne, se livre à des voies de fait graves ou à une agression sexuelle grave sur elle ou cause sa mort lors de la perpétration de l'infraction, d'un emprisonnement à perpétuité, la peine minimale étant de cinq ans;

b) dans les autres cas, d'un emprisonnement maximal de quatorze ans, la peine minimale étant de quatre ans.

**Consentement**

(2) Ne constitue pas un consentement valable le consentement aux actes à l'origine de l'accusation.

**Présomption**

(3) Pour l'application du paragraphe (1) et du paragraphe 279.011(1), la preuve qu'une personne qui n'est pas exploitée vit avec une personne exploitée ou se trouve habituellement en sa compagnie constitue, sauf preuve contraire, la preuve qu'elle exerce un contrôle, une direction ou une influence sur les mouvements de cette personne en vue de l'exploiter ou de faciliter son exploitation.

2005, ch. 43, art. 3; 2014, ch. 25, art. 18; 2015, ch. 16, art. 1.

**Traite de personnes âgées de moins de dix-huit ans**

**279.011 (1)** Quiconque recrute, transporte, transfère, reçoit, détient, cache ou héberge une personne âgée de moins de dix-huit ans, ou exerce un contrôle, une direction ou une influence sur les mouvements d'une telle personne, en vue de l'exploiter ou de faciliter son exploitation commet une infraction passible, sur déclaration de culpabilité par voie de mise en accusation :

a) d'un emprisonnement à perpétuité, la peine minimale étant de six ans, s'il enlève la personne, se livre à des voies de fait graves ou une agression sexuelle grave sur elle ou cause sa mort lors de la perpétration de l'infraction;

b) dans les autres cas, d'un emprisonnement maximal de quatorze ans, la peine minimale étant de cinq ans.

**Consent**

**(2)** No consent to the activity that forms the subject-matter of a charge under subsection (1) is valid.

2010, c. 3, s. 2.

**Material benefit — trafficking**

**279.02 (1)** Every person who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 279.01(1), is guilty of

- (a)** an indictable offence and liable to imprisonment for a term of not more than 10 years; or
- (b)** an offence punishable on summary conviction.

**Material benefit — trafficking of person under 18 years**

**(2)** Everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 279.011(1), is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of two years.

2005, c. 43, s. 3; 2010, c. 3, s. 3; 2014, c. 25, s. 19; 2019, c. 25, s. 104.

**Withholding or destroying documents — trafficking**

**279.03 (1)** Every person who, for the purpose of committing or facilitating an offence under subsection 279.01(1), conceals, removes, withholds or destroys any travel document that belongs to another person or any document that establishes or purports to establish another person's identity or immigration status — whether or not the document is of Canadian origin or is authentic — is guilty of

- (a)** an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b)** an offence punishable on summary conviction.

**Withholding or destroying documents — trafficking of person under 18 years**

**(2)** Everyone who, for the purpose of committing or facilitating an offence under subsection 279.011(1), conceals, removes, withholds or destroys any travel document that belongs to another person or any document that establishes or purports to establish another person's identity or immigration status — whether or not the document is of Canadian origin or is authentic — is guilty of an indictable offence and liable to imprisonment for a

**Consentement**

**(2)** Ne constitue pas un consentement valable le consentement aux actes à l'origine de l'accusation.

2010, ch. 3, art. 2.

**Avantage matériel — traite de personnes**

**279.02 (1)** Quiconque bénéficie d'un avantage matériel, notamment pécuniaire, qu'il sait provenir ou avoir été obtenu, directement ou indirectement, de la perpétration de l'infraction visée au paragraphe 279.01(1) est coupable :

- a)** soit d'un acte criminel passible d'un emprisonnement maximal de dix ans;
- b)** soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

**Avantage matériel — traite de personnes âgées de moins de dix-huit ans**

**(2)** Quiconque bénéficie d'un avantage matériel, notamment pécuniaire, qu'il sait provenir ou avoir été obtenu, directement ou indirectement de la perpétration de l'infraction visée au paragraphe 279.011(1) commet une infraction passible, sur déclaration de culpabilité par voie de mise en accusation, d'un emprisonnement maximal de quatorze ans, la peine minimale étant de deux ans.

2005, ch. 43, art. 3; 2010, ch. 3, art. 3; 2014, ch. 25, art. 19; 2019, ch. 25, art. 104.

**Rétention ou destruction de documents — traite de personnes**

**279.03 (1)** Quiconque, en vue de faciliter ou de perpétrer l'infraction visée au paragraphe 279.01(1), cache, enlève, retient ou détruit tout document de voyage d'une personne ou tout document pouvant établir ou censé établir l'identité ou le statut d'immigrant d'une personne, qu'il soit authentique ou non, canadien ou étranger, est coupable :

- a)** soit d'un acte criminel passible d'un emprisonnement maximal de cinq ans;
- b)** soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

**Rétention ou destruction de documents — traite de personnes âgées de moins de dix-huit ans**

**(2)** Quiconque, en vue de faciliter ou de perpétrer l'infraction visée au paragraphe 279.011(1), cache, enlève, retient ou détruit tout document de voyage d'une personne ou tout document pouvant établir ou censé établir l'identité ou le statut d'immigrant d'une personne, qu'il soit authentique ou non, canadien ou étranger, commet une infraction passible, sur déclaration de culpabilité par voie

term of not more than 10 years and to a minimum punishment of imprisonment for a term of one year.

2005, c. 43, s. 3; 2010, c. 3, s. 3; 2014, c. 25, s. 19; 2019, c. 25, s. 105.

### Exploitation

**279.04 (1)** For the purposes of sections 279.01 to 279.03, a person exploits another person if they cause them to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service.

### Factors

**(2)** In determining whether an accused exploits another person under subsection (1), the Court may consider, among other factors, whether the accused

- (a)** used or threatened to use force or another form of coercion;
- (b)** used deception; or
- (c)** abused a position of trust, power or authority.

### Organ or tissue removal

**(3)** For the purposes of sections 279.01 to 279.03, a person exploits another person if they cause them, by means of deception or the use or threat of force or of any other form of coercion, to have an organ or tissue removed.

2005, c. 43, s. 3; 2012, c. 15, s. 2; 2015, c. 16, s. 2(F).

### Hostage taking

**279.1 (1)** Everyone takes a person hostage who — with intent to induce any person, other than the hostage, or any group of persons or any state or international or intergovernmental organization to commit or cause to be committed any act or omission as a condition, whether express or implied, of the release of the hostage —

- (a)** confines, imprisons, forcibly seizes or detains that person; and
- (b)** in any manner utters, conveys or causes any person to receive a threat that the death of, or bodily harm to, the hostage will be caused or that the confinement, imprisonment or detention of the hostage will be continued.

### Hostage-taking

**(2)** Every person who takes a person hostage is guilty of an indictable offence and liable

de mise en accusation, d'un emprisonnement maximal de dix ans, la peine minimale étant de un an.

2005, ch. 43, art. 3; 2010, ch. 3, art. 3; 2014, ch. 25, art. 19; 2019, ch. 25, art. 105.

### Exploitation

**279.04 (1)** Pour l'application des articles 279.01 à 279.03, une personne en exploite une autre si elle l'amène à fournir — ou à offrir de fournir — son travail ou ses services, par des agissements dont il est raisonnable de s'attendre, compte tenu du contexte, à ce qu'ils lui fassent croire qu'un refus de sa part mettrait en danger sa sécurité ou celle d'une personne qu'elle connaît.

### Facteurs

**(2)** Pour déterminer si un accusé exploite une autre personne au titre du paragraphe (1), le tribunal peut notamment prendre en compte les faits suivants :

- a)** l'accusé a utilisé ou menacé d'utiliser la force ou toute autre forme de contrainte;
- b)** il a recouru à la tromperie;
- c)** il a abusé de son pouvoir ou de la confiance d'une personne.

### Prélèvement d'organes ou de tissus

**(3)** Pour l'application des articles 279.01 à 279.03, une personne en exploite une autre si elle l'amène, par la tromperie ou la menace ou l'usage de la force ou de toute autre forme de contrainte, à se faire prélever un organe ou des tissus.

2005, ch. 43, art. 3; 2012, ch. 15, art. 2; 2015, ch. 16, art. 2(F).

### Prise d'otage

**279.1 (1)** Commet une prise d'otage quiconque, dans l'intention d'amener une personne, ou un groupe de personnes, un État ou une organisation internationale ou intergouvernementale à faire ou à omettre de faire quelque chose comme condition, expresse ou implicite, de la libération de l'otage :

- a)** d'une part, séquestre, emprisonne, saisit ou détient de force une autre personne;
- b)** d'autre part, de quelque façon, menace de causer la mort de cette autre personne ou de la blesser, ou de continuer à la séquestrer, l'emprisonner ou la détenir.

### Peine

**(2)** Quiconque commet une prise d'otage est coupable d'un acte criminel passible :



**(b)** not being authorized or required by law to make or issue a certified copy of, extract from or certificate in respect of a register, record or document, fraudulently makes or issues a copy, extract or certificate that purports to be certified as authorized or required by law, or

**(c)** being authorized or required by law to make a certificate or declaration concerning any particular required for the purpose of making entries in a register, record or document, knowingly and falsely makes the certificate or declaration.

R.S., 1985, c. C-46, s. 378; 2019, c. 25, s. 136.

## PART X

# Fraudulent Transactions Relating to Contracts and Trade

## Interpretation

### Definition of *goods*

**379** In this Part, *goods* means anything that is the subject of trade or commerce.

R.S., 1985, c. C-46, s. 379; 2018, c. 29, s. 43.1.

## Fraud

### Fraud

**380 (1)** Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, defrauds the public or any person, whether ascertained or not, of any property, money or valuable security or any service,

**(a)** is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years, where the subject-matter of the offence is a testamentary instrument or the value of the subject-matter of the offence exceeds five thousand dollars; or

**(b)** is guilty

**(i)** of an indictable offence and is liable to imprisonment for a term not exceeding two years, or

**(ii)** of an offence punishable on summary conviction,

**b)** n'ayant, d'après la loi, ni l'autorisation ni l'obligation de faire ou d'émettre une copie ou un extrait d'un registre, dossier ou document, ou un certificat y relatif, attestés conformes, frauduleusement fait ou émet une copie, un extrait ou certificat donné comme étant attesté selon une autorisation ou une prescription de la loi;

**c)** ayant, d'après la loi, l'autorisation ou l'obligation de faire un certificat ou une déclaration concernant tout détail requis pour permettre d'opérer des inscriptions dans un registre, dossier ou document, sciemment et faussement fait le certificat ou la déclaration.

L.R. (1985), ch. C-46, art. 378; 2019, ch. 25, art. 136.

## PARTIE X

# Opérations frauduleuses en matière de contrats et de commerce

## Définitions

### Définition de *marchandises*

**379** Dans la présente partie, *marchandises* s'entend de toute chose qui fait l'objet d'un commerce.

L.R. (1985), ch. C-46, art. 379; 2018, ch. 29, art. 43.1.

## Fraude

### Fraude

**380 (1)** Quiconque, par supercherie, mensonge ou autre moyen dolosif, constituant ou non un faux semblant au sens de la présente loi, frustre le public ou toute personne, déterminée ou non, de quelque bien, service, argent ou valeur :

**a)** est coupable d'un acte criminel et passible d'un emprisonnement maximal de quatorze ans, si l'objet de l'infraction est un titre testamentaire ou si la valeur de l'objet de l'infraction dépasse cinq mille dollars;

**b)** est coupable :

**(i)** soit d'un acte criminel et passible d'un emprisonnement maximal de deux ans,

**(ii)** soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire,

si la valeur de l'objet de l'infraction ne dépasse pas cinq mille dollars.

where the value of the subject-matter of the offence does not exceed five thousand dollars.

### Minimum punishment

**(1.1)** When a person is prosecuted on indictment and convicted of one or more offences referred to in subsection (1), the court that imposes the sentence shall impose a minimum punishment of imprisonment for a term of two years if the total value of the subject-matter of the offences exceeds one million dollars.

### Affecting public market

**(2)** Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, with intent to defraud, affects the public market price of stocks, shares, merchandise or anything that is offered for sale to the public is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

R.S., 1985, c. C-46, s. 380; R.S., 1985, c. 27 (1st Suppl.), s. 54; 1994, c. 44, s. 25; 1997, c. 18, s. 26; 2004, c. 3, s. 2; 2011, c. 6, s. 2.

### Sentencing — aggravating circumstances

**380.1 (1)** Without limiting the generality of section 718.2, where a court imposes a sentence for an offence referred to in section 380, 382, 382.1 or 400, it shall consider the following as aggravating circumstances:

- (a)** the magnitude, complexity, duration or degree of planning of the fraud committed was significant;
- (b)** the offence adversely affected, or had the potential to adversely affect, the stability of the Canadian economy or financial system or any financial market in Canada or investor confidence in such a financial market;
- (c)** the offence involved a large number of victims;
  - (c.1)** the offence had a significant impact on the victims given their personal circumstances including their age, health and financial situation;
- (d)** in committing the offence, the offender took advantage of the high regard in which the offender was held in the community;
- (e)** the offender did not comply with a licensing requirement, or professional standard, that is normally applicable to the activity or conduct that forms the subject-matter of the offence; and
- (f)** the offender concealed or destroyed records related to the fraud or to the disbursement of the proceeds of the fraud.

### Peine minimale

**(1.1)** Le tribunal qui détermine la peine à infliger à une personne qui, après avoir été poursuivie par acte d'accusation, est déclarée coupable d'une ou de plusieurs infractions prévues au paragraphe (1) est tenu de lui infliger une peine minimale d'emprisonnement de deux ans si la valeur totale de l'objet des infractions en cause dépasse un million de dollars.

### Influence sur le marché public

**(2)** Est coupable d'un acte criminel et passible d'un emprisonnement maximal de quatorze ans quiconque, par supercherie, mensonge ou autre moyen dolosif, constituant ou non un faux semblant au sens de la présente loi, avec l'intention de frauder, influe sur la cote publique des stocks, actions, marchandises ou toute chose offerte en vente au public.

L.R. (1985), ch. C-46, art. 380; L.R. (1985), ch. 27 (1<sup>er</sup> suppl.), art. 54; 1994, ch. 44, art. 25; 1997, ch. 18, art. 26; 2004, ch. 3, art. 2; 2011, ch. 6, art. 2.

### Détermination de la peine : circonstances aggravantes

**380.1 (1)** Sans que soit limitée la portée générale de l'article 718.2, lorsque le tribunal détermine la peine à infliger à l'égard d'une infraction prévue aux articles 380, 382, 382.1 ou 400, les faits ci-après constituent des circonstances aggravantes :

- a)** l'ampleur, la complexité, la durée ou le niveau de planification de la fraude commise est important;
- b)** l'infraction a nui — ou pouvait nuire — à la stabilité de l'économie canadienne, du système financier canadien ou des marchés financiers au Canada ou à la confiance des investisseurs dans un marché financier au Canada;
- c)** l'infraction a causé des dommages à un nombre élevé de victimes;
  - c.1)** l'infraction a entraîné des conséquences importantes pour les victimes étant donné la situation personnelle de celles-ci, notamment leur âge, leur état de santé et leur situation financière;
- d)** le délinquant a indûment tiré parti de la réputation d'intégrité dont il jouissait dans la collectivité;
- e)** il n'a pas satisfait à une exigence d'un permis ou d'une licence, ou à une norme de conduite professionnelle, qui est habituellement applicable à l'activité ou à la conduite qui est à l'origine de la fraude;

**Aggravating circumstance — value of the fraud**

**(1.1)** Without limiting the generality of section 718.2, when a court imposes a sentence for an offence referred to in section 382, 382.1 or 400, it shall also consider as an aggravating circumstance the fact that the value of the fraud committed exceeded one million dollars.

**Non-mitigating factors**

**(2)** When a court imposes a sentence for an offence referred to in section 380, 382, 382.1 or 400, it shall not consider as mitigating circumstances the offender's employment, employment skills or status or reputation in the community if those circumstances were relevant to, contributed to, or were used in the commission of the offence.

**Record of proceedings**

**(3)** The court shall cause to be stated in the record the aggravating and mitigating circumstances it took into account when determining the sentence.

2004, c. 3, s. 3; 2011, c. 6, s. 3.

**Prohibition order**

**380.2 (1)** When an offender is convicted, or is discharged on the conditions prescribed in a probation order under section 730, of an offence referred to in subsection 380(1), the court that sentences or discharges the offender, in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, may make, subject to the conditions or exemptions that the court directs, an order prohibiting the offender from seeking, obtaining or continuing any employment, or becoming or being a volunteer in any capacity, that involves having authority over the real property, money or valuable security of another person.

**Duration**

**(2)** The prohibition may be for any period that the court considers appropriate, including any period to which the offender is sentenced to imprisonment.

**Court may vary order**

**(3)** A court that makes an order of prohibition or, if the court is for any reason unable to act, another court of equivalent jurisdiction in the same province, may, on application of the offender or the prosecutor, require the offender to appear before it at any time and, after hearing

**f)** il a dissimulé ou détruit des dossiers relatifs à la fraude ou au décaissement du produit de la fraude.

**Circonstance aggravante : valeur de la fraude**

**(1.1)** Sans que soit limitée la portée générale de l'article 718.2, lorsque le tribunal détermine la peine à infliger à l'égard d'une infraction prévue aux articles 382, 382.1 ou 400, le fait que la fraude commise ait une valeur supérieure à un million de dollars constitue également une circonstance aggravante.

**Circonstances atténuantes**

**(2)** Lorsque le tribunal détermine la peine à infliger à l'égard d'une infraction prévue aux articles 380, 382, 382.1 ou 400, il ne prend pas en considération à titre de circonstances atténuantes l'emploi qu'occupe le délinquant, ses compétences professionnelles ni son statut ou sa réputation dans la collectivité, si ces facteurs ont contribué à la perpétration de l'infraction, ont été utilisés pour la commettre ou y étaient liés.

**Inscription obligatoire**

**(3)** Le tribunal fait inscrire au dossier de l'instance les circonstances aggravantes ou atténuantes qui ont été prises en compte pour déterminer la peine.

2004, ch. 3, art. 3; 2011, ch. 6, art. 3.

**Ordonnance d'interdiction**

**380.2 (1)** Dans le cas où un délinquant est déclaré coupable, ou absous en vertu de l'article 730 aux conditions prévues dans une ordonnance de probation, d'une infraction mentionnée au paragraphe 380(1), le tribunal qui lui inflige une peine ou prononce son absolution peut par ordonnance, en plus de toute autre peine ou de toute autre condition de l'ordonnance d'absolution applicables en l'espèce, sous réserve des conditions ou exemptions qu'il indique, lui interdire de chercher, d'accepter ou de garder un emploi ou un travail bénévole dans le cadre duquel il exerce ou exercerait un pouvoir sur les biens immeubles, l'argent ou les valeurs d'autrui.

**Durée de l'interdiction**

**(2)** L'interdiction peut être ordonnée pour la période que le tribunal juge appropriée, y compris pour la période d'emprisonnement à laquelle le délinquant est condamné.

**Modification de l'ordonnance**

**(3)** Le tribunal qui rend l'ordonnance ou, s'il est pour quelque raison dans l'impossibilité d'agir, tout autre tribunal ayant une compétence équivalente dans la même province peut, à tout moment, sur demande du poursuivant ou du délinquant, requérir ce dernier de

### Definition of *police officer*

**(17)** In this section, *police officer* means any officer, constable or other person employed for the preservation and maintenance of the public peace.

R.S., 1985, c. 42 (4th Supp.), s. 2; 1994, c. 13, s. 7; 1996, c. 19, s. 70; 1997, c. 23, s. 10; 1999, c. 17, s. 120; 2001, c. 32, s. 26, c. 41, ss. 15, 133; 2005, c. 38, ss. 138, 140; 2010, c. 14, s. 9; 2013, c. 9, s. 15; 2014, c. 17, s. 7; 2018, c. 16, s. 215, c. 27, s. 28; 2022, c. 5, s. 13; 2022, c. 10, s. 138; 2022, c. 10, s. 173.

## Specific Rules of Forfeiture

### Specific forfeiture provisions unaffected by this Part

**462.49 (1)** This Part does not affect the operation of any other provision of this or any other Act of Parliament respecting the forfeiture of property.

### Priority for restitution to victims of crime

**(2)** The property of an offender may be used to satisfy the operation of a provision of this or any other Act of Parliament respecting the forfeiture of property only to the extent that it is not required to satisfy the operation of any other provision of this or any other Act of Parliament respecting restitution to or compensation of persons affected by the commission of offences.

R.S., 1985, c. 42 (4th Supp.), s. 2.

## Regulations

### Regulations

**462.5** The Attorney General may make regulations governing the manner of disposing of or otherwise dealing with, in accordance with the law, property forfeited under this Part.

R.S., 1985, c. 42 (4th Supp.), s. 2.

## PART XIII

# Attempts — Conspiracies — Accessories

### Attempts, accessories

**463** Except where otherwise expressly provided by law, the following provisions apply in respect of persons who attempt to commit or are accessories after the fact to the commission of offences:

- (a)** every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, on conviction, an accused is liable to be sentenced to imprisonment for life is guilty of an

### Définition de *policier*

**(17)** Au présent article, *policier* s'entend d'un officier ou d'un agent de police ou de toute autre personne chargée du maintien de la paix publique.

L.R. (1985), ch. 42 (4<sup>e</sup> suppl.), art. 2; 1994, ch. 13, art. 7; 1996, ch. 19, art. 70; 1997, ch. 23, art. 10; 1999, ch. 17, art. 120; 2001, ch. 32, art. 26, ch. 41, art. 15 et 133; 2005, ch. 38, art. 138 et 140; 2010, ch. 14, art. 9; 2013, ch. 9, art. 15; 2014, ch. 17, art. 7; 2018, ch. 16, art. 215, ch. 27, art. 28; 2022, ch. 5, art. 13; 2022, ch. 10, art. 138; 2022, ch. 10, art. 173.

## Autres dispositions en matière de confiscation

### Maintien des dispositions spécifiques

**462.49 (1)** La présente partie ne porte pas atteinte aux autres dispositions de la présente loi ou de toute autre loi fédérale qui visent la confiscation de biens.

### Priorité aux victimes

**(2)** Les biens d'un contrevenant ne peuvent être affectés à l'exécution d'une disposition de la présente loi ou d'une autre loi fédérale en matière de confiscation que dans la mesure où ils ne sont pas requis dans le cadre d'une autre disposition de la présente loi ou d'une autre loi fédérale en matière de restitution aux victimes d'infractions criminelles ou de leur dédommagement.

L.R. (1985), ch. 42 (4<sup>e</sup> suppl.), art. 2.

## Règlements

### Règlements

**462.5** Le procureur général peut prendre des règlements sur la façon dont il peut être disposé des biens confisqués sous le régime de la présente partie.

L.R. (1985), ch. 42 (4<sup>e</sup> suppl.), art. 2.

## PARTIE XIII

# Tentatives — complots — complices

### Punition de la tentative et de la complicité

**463** Sauf disposition expressément contraire de la loi, les dispositions suivantes s'appliquent à l'égard des personnes qui tentent de commettre des infractions ou sont complices, après le fait, de la perpétration d'infractions :

- a)** quiconque tente de commettre un acte criminel pour lequel, sur déclaration de culpabilité, un accusé est passible de l'emprisonnement à perpétuité, ou est complice, après le fait, de la perpétration d'un tel acte

indictable offence and liable to imprisonment for a term not exceeding fourteen years;

**(b)** every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, on conviction, an accused is liable to imprisonment for fourteen years or less is guilty of an indictable offence and liable to imprisonment for a term that is one-half of the longest term to which a person who is guilty of that offence is liable;

**(c)** every one who attempts to commit or is an accessory after the fact to the commission of an offence punishable on summary conviction is guilty of an offence punishable on summary conviction; and

**(d)** every one who attempts to commit or is an accessory after the fact to the commission of an offence for which the offender may be prosecuted by indictment or for which he is punishable on summary conviction

**(i)** is guilty of an indictable offence and liable to imprisonment for a term not exceeding a term that is one-half of the longest term to which a person who is guilty of that offence is liable, or

**(ii)** is guilty of an offence punishable on summary conviction.

R.S., 1985, c. C-46, s. 463; R.S., 1985, c. 27 (1st Supp.), s. 59; 1998, c. 35, s. 120.

### Counselling offence that is not committed

**464** Except where otherwise expressly provided by law, the following provisions apply in respect of persons who counsel other persons to commit offences, namely,

**(a)** every one who counsels another person to commit an indictable offence is, if the offence is not committed, guilty of an indictable offence and liable to the same punishment to which a person who attempts to commit that offence is liable; and

**(b)** every one who counsels another person to commit an offence punishable on summary conviction is, if the offence is not committed, guilty of an offence punishable on summary conviction.

R.S., 1985, c. C-46, s. 464; R.S., 1985, c. 27 (1st Supp.), s. 60.

criminel, est coupable d'un acte criminel passible d'un emprisonnement maximal de quatorze ans;

**b)** quiconque tente de commettre un acte criminel pour lequel, sur déclaration de culpabilité, un accusé est passible d'un emprisonnement de quatorze ans ou moins, ou est complice, après le fait, de la perpétration d'un tel acte criminel, est coupable d'un acte criminel et passible d'un emprisonnement égal à la moitié de la durée de l'emprisonnement maximal encouru par une personne coupable de cet acte;

**c)** quiconque tente de commettre une infraction punissable sur déclaration de culpabilité par procédure sommaire, ou est complice, après le fait, de la perpétration d'une telle infraction, est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire;

**d)** quiconque tente de commettre une infraction pour laquelle l'accusé peut être poursuivi par mise en accusation ou punissable sur déclaration de culpabilité par procédure sommaire ou est complice après le fait de la commission d'une telle infraction est coupable :

**(i)** soit d'un acte criminel et passible d'une peine d'emprisonnement égale à la moitié de la peine d'emprisonnement maximale dont est passible une personne déclarée coupable de cette infraction,

**(ii)** soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

L.R. (1985), ch. C-46, art. 463; L.R. (1985), ch. 27 (1<sup>er</sup> suppl.), art. 59; 1998, ch. 35, art. 120.

### Conseiller une infraction qui n'est pas commise

**464** Sauf disposition expressément contraire de la loi, les dispositions suivantes s'appliquent à l'égard des personnes qui conseillent à d'autres personnes de commettre des infractions :

**a)** quiconque conseille à une autre personne de commettre un acte criminel est, si l'infraction n'est pas commise, coupable d'un acte criminel et passible de la même peine que celui qui tente de commettre cette infraction;

**b)** quiconque conseille à une autre personne de commettre une infraction punissable sur déclaration de culpabilité par procédure sommaire est, si l'infraction n'est pas commise, coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

L.R. (1985), ch. C-46, art. 464; L.R. (1985), ch. 27 (1<sup>er</sup> suppl.), art. 60.

### Conspiracy

**465 (1)** Except where otherwise expressly provided by law, the following provisions apply in respect of conspiracy:

**(a)** every one who conspires with any one to commit murder or to cause another person to be murdered, whether in Canada or not, is guilty of an indictable offence and liable to a maximum term of imprisonment for life;

**(b)** every one who conspires with any one to prosecute a person for an alleged offence, knowing that they did not commit that offence, is guilty of

**(i)** an indictable offence and liable to imprisonment for a term of not more than 10 years or an offence punishable on summary conviction, if the alleged offence is one for which, on conviction, that person would be liable to be sentenced to imprisonment for life or for a term of not more than 14 years, or

**(ii)** an indictable offence and liable to imprisonment for a term of not more than five years or an offence punishable on summary conviction, if the alleged offence is one for which, on conviction, that person would be liable to imprisonment for less than 14 years;

**(c)** every one who conspires with any one to commit an indictable offence not provided for in paragraph (a) or (b) is guilty of an indictable offence and liable to the same punishment as that to which an accused who is guilty of that offence would, on conviction, be liable; and

**(d)** every one who conspires with any one to commit an offence punishable on summary conviction is guilty of an offence punishable on summary conviction.

**(2)** [Repealed, 1985, c. 27 (1st Supp.), s. 61]

### Conspiracy to commit offences

**(3)** Every one who, while in Canada, conspires with any one to do anything referred to in subsection (1) in a place outside Canada that is an offence under the laws of that place shall be deemed to have conspired to do that thing in Canada.

### Complot

**465 (1)** Sauf disposition expressément contraire de la loi, les dispositions suivantes s'appliquent à l'égard des complots :

**a)** quiconque complotte avec quelqu'un de commettre un meurtre ou de faire assassiner une autre personne, au Canada ou à l'étranger, est coupable d'un acte criminel et passible de l'emprisonnement à perpétuité;

**b)** quiconque complotte avec quelqu'un de poursuivre une personne pour une prétendue infraction, sachant qu'elle n'a pas commis cette infraction, est coupable :

**(i)** d'un acte criminel passible d'un emprisonnement maximal de dix ans ou d'une infraction punissable sur déclaration de culpabilité par procédure sommaire, si la prétendue infraction en est une pour laquelle, sur déclaration de culpabilité, cette personne serait passible de l'emprisonnement à perpétuité ou d'un emprisonnement maximal de quatorze ans,

**(ii)** d'un acte criminel passible d'un emprisonnement maximal de cinq ans ou d'une infraction punissable sur déclaration de culpabilité par procédure sommaire, si la prétendue infraction en est une pour laquelle, sur déclaration de culpabilité, cette personne serait passible d'un emprisonnement de moins de quatorze ans;

**c)** quiconque complotte avec quelqu'un de commettre un acte criminel que ne vise pas l'alinéa a) ou b) est coupable d'un acte criminel et passible de la même peine que celle dont serait passible, sur déclaration de culpabilité, un prévenu coupable de cette infraction;

**d)** quiconque complotte avec quelqu'un de commettre une infraction punissable sur déclaration de culpabilité par procédure sommaire est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

**(2)** [Abrogé, L.R. (1985), ch. 27 (1<sup>er</sup> suppl.), art. 61]

### Complot en vue de commettre une infraction

**(3)** Les personnes qui, au Canada, complotent de commettre, à l'étranger, des infractions visées au paragraphe (1) et également punissables dans ce pays sont réputées l'avoir fait en vue de les commettre au Canada.

### Idem

**(4)** Every one who, while in a place outside Canada, conspires with any one to do anything referred to in subsection (1) in Canada shall be deemed to have conspired in Canada to do that thing.

### Jurisdiction

**(5)** Where a person is alleged to have conspired to do anything that is an offence by virtue of subsection (3) or (4), proceedings in respect of that offence may, whether or not that person is in Canada, be commenced in any territorial division in Canada, and the accused may be tried and punished in respect of that offence in the same manner as if the offence had been committed in that territorial division.

### Appearance of accused at trial

**(6)** For greater certainty, the provisions of this Act relating to

**(a)** requirements that an accused appear at and be present during proceedings, and

**(b)** the exceptions to those requirements,

apply to proceedings commenced in any territorial division pursuant to subsection (5).

### If previously tried outside Canada

**(7)** If a person is alleged to have conspired to do anything that is an offence by virtue of subsection (3) or (4) and that person has been tried and dealt with outside Canada in respect of the offence in such a manner that, if the person had been tried and dealt with in Canada, they would be able to plead *autrefois acquit*, *autrefois convict*, pardon or an expungement order under the *Expungement of Historically Unjust Convictions Act*, the person shall be deemed to have been so tried and dealt with in Canada.

R.S., 1985, c. C-46, s. 465; R.S., 1985, c. 27 (1st Supp.), s. 61; 1998, c. 35, s. 121; 2018, c. 11, s. 28; 2019, c. 25, s. 183.

### Conspiracy in restraint of trade

**466 (1)** A conspiracy in restraint of trade is an agreement between two or more persons to do or to procure to be done any unlawful act in restraint of trade.

### Trade union, exception

**(2)** The purposes of a trade union are not, by reason only that they are in restraint of trade, unlawful within the meaning of subsection (1).

R.S., 1985, c. C-46, s. 466; 1992, c. 1, s. 60(F).

### Idem

**(4)** Les personnes qui, à l'étranger, complotent de commettre, au Canada, les infractions visées au paragraphe (1) sont réputées avoir comploté au Canada.

### Compétence

**(5)** Lorsqu'il est allégué qu'une personne a comploté de faire quelque chose qui est une infraction en vertu des paragraphes (3) ou (4), des procédures peuvent être engagées à l'égard de cette infraction dans toute circonscription territoriale du Canada, que l'accusé soit ou non présent au Canada et il peut subir son procès et être puni à l'égard de cette infraction comme si elle avait été commise dans cette circonscription territoriale.

### Comparution de l'accusé lors du procès

**(6)** Il est entendu que s'appliquent aux procédures engagées dans une circonscription territoriale en conformité avec le paragraphe (5) les dispositions de la présente loi concernant :

**a)** l'obligation pour un accusé d'être présent et de demeurer présent lors des procédures;

**b)** les exceptions à cette obligation.

### Cas d'un jugement antérieur rendu à l'étranger

**(7)** Lorsqu'il est allégué qu'une personne a comploté de faire quelque chose qui est une infraction en vertu des paragraphes (3) ou (4) et que cette personne a subi son procès et a été traitée à l'étranger à l'égard de l'infraction de manière que, si elle avait subi son procès ou avait été traitée au Canada, elle pourrait invoquer les moyens de défense *d'autrefois acquit*, *d'autrefois convict*, de pardon ou relatif à une ordonnance de radiation rendue au titre de la *Loi sur la radiation de condamnations constituant des injustices historiques*, elle est réputée avoir subi son procès et avoir été traitée au Canada.

L.R. (1985), ch. C-46, art. 465; L.R. (1985), ch. 27 (1<sup>er</sup> suppl.), art. 61; 1998, ch. 35, art. 121; 2018, ch. 11, art. 28; 2019, ch. 25, art. 183.

### Complot de restreindre le commerce

**466 (1)** Un complot en vue de restreindre le commerce est une convention entre deux ou plusieurs personnes pour accomplir ou faire accomplir un acte illégal destiné à restreindre le commerce.

### Syndicats exceptés

**(2)** Les objets d'un syndicat ne sont pas illégaux au sens du paragraphe (1) pour la seule raison qu'ils restreignent le commerce.

L.R. (1985), ch. C-46, art. 466; 1992, ch. 1, art. 60(F).



## ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT\*

### PREAMBLE

The States Parties to this Statute,

Conscious that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time,

Mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity,

Recognizing that such grave crimes threaten the peace, security and well-being of the world,

Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation,

Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes,

Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,

Reaffirming the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,

Emphasizing in this connection that nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict or in the internal affairs of any State,

Determined to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole,

Emphasizing that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions,

Resolved to guarantee lasting respect for and the enforcement of international justice,

Have agreed as follows

### PART 1. ESTABLISHMENT OF THE COURT

#### Article 1

##### The Court

An International Criminal Court ("the Court") is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute.

#### Article 2

##### Relationship of the Court with the United Nations

The Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties to this Statute and thereafter concluded by the President of the Court on its behalf.

#### Article 3

##### Seat of the Court

1. The seat of the Court shall be established at The Hague in the Netherlands ("the host State").
2. The Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf.
3. The Court may sit elsewhere, whenever it considers it desirable, as provided in this Statute.

#### Article 4

##### Legal status and powers of the Court

1. The Court shall have international legal personality. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.
2. The Court may exercise its functions and powers, as provided in this Statute, on the territory of any State Party and, by special agreement, on the territory of any other State.

### PART 2. JURISDICTION, ADMISSIBILITY AND APPLICABLE LAW

#### Article 5

##### Crimes within the jurisdiction of the Court



1. The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:
  - (a) The crime of genocide;
  - (b) Crimes against humanity;
  - (c) War crimes;
  - (d) The crime of aggression.
2. The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations.

#### Article 6

##### Genocide

For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

#### Article 7

##### Crimes against humanity

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
  - (a) Murder;
  - (b) Extermination;
  - (c) Enslavement;
  - (d) Deportation or forcible transfer of population;
  - (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
  - (f) Torture;
  - (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
  - (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
  - (i) Enforced disappearance of persons;
  - (j) The crime of apartheid;
  - (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.
2. For the purpose of paragraph 1:
  - (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
  - (b) "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
  - (c) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
  - (d) "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
  - (e) "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
  - (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
  - (g) "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
  - (h) "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
  - (i) "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.
3. For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

Article 8  
War crimes

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.
2. For the purpose of this Statute, "war crimes" means:
  - (a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
    - (i) Wilful killing;
    - (ii) Torture or inhuman treatment, including biological experiments;
    - (iii) Wilfully causing great suffering, or serious injury to body or health;
    - (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
    - (v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
    - (vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
    - (vii) Unlawful deportation or transfer or unlawful confinement;
    - (viii) Taking of hostages.
  - (b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:
    - (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
    - (ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
    - (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
    - (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
    - (v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
    - (vi) Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;
    - (vii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
    - (viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
    - (ix) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
    - (x) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
    - (xi) Killing or wounding treacherously individuals belonging to the hostile nation or army;
    - (xii) Declaring that no quarter will be given;
    - (xiii) Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
    - (xiv) Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
    - (xv) Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
    - (xvi) Pillaging a town or place, even when taken by assault;
    - (xvii) Employing poison or poisoned weapons;
    - (xviii) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
    - (xix) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
    - (xx) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;
    - (xxi) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

- (xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
- (xxiii) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
- (xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- (xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
- (xxvi) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

(c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:

- (i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
- (iii) Taking of hostages;
- (iv) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

(d) Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

(e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

- (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- (ii) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (iv) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (v) Pillaging a town or place, even when taken by assault;
- (vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
- (vii) Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
- (viii) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
- (ix) Killing or wounding treacherously a combatant adversary;
- (x) Declaring that no quarter will be given;
- (xi) Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- (xii) Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;

(f) Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.

3. Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.

#### Article 9 Elements of Crimes

1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7 and 8. They shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.
2. Amendments to the Elements of Crimes may be proposed by:
  - (a) Any State Party;
  - (b) The judges acting by an absolute majority;

(c) The Prosecutor.

Such amendments shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.

3. The Elements of Crimes and amendments thereto shall be consistent with this Statute.

#### Article 10

Nothing in this Part shall be interpreted as limiting or prejudicing in any way existing or developing rules of international law for purposes other than this Statute.

#### Article 11

##### Jurisdiction *ratione temporis*

1. The Court has jurisdiction only with respect to crimes committed after the entry into force of this Statute.

2. If a State becomes a Party to this Statute after its entry into force, the Court may exercise its jurisdiction only with respect to crimes committed after the entry into force of this Statute for that State, unless that State has made a declaration under article 12, paragraph 3.

#### Article 12

##### Preconditions to the exercise of jurisdiction

1. A State which becomes a Party to this Statute thereby accepts the jurisdiction of the Court with respect to the crimes referred to in article 5.

2. In the case of article 13, paragraph (a) or (c), the Court may exercise its jurisdiction if one or more of the following States are Parties to this Statute or have accepted the jurisdiction of the Court in accordance with paragraph 3:

(a) The State on the territory of which the conduct in question occurred or, if the crime was committed on board a vessel or aircraft, the State of registration of that vessel or aircraft;

(b) The State of which the person accused of the crime is a national.

3. If the acceptance of a State which is not a Party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court with respect to the crime in question. The accepting State shall cooperate with the Court without any delay or exception in accordance with Part 9.

#### Article 13

##### Exercise of jurisdiction

The Court may exercise its jurisdiction with respect to a crime referred to in article 5 in accordance with the provisions of this Statute if:

(a) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by a State Party in accordance with article 14;

(b) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or

(c) The Prosecutor has initiated an investigation in respect of such a crime in accordance with article 15.

#### Article 14

##### Referral of a situation by a State Party

1. A State Party may refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed requesting the Prosecutor to investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes.

2. As far as possible, a referral shall specify the relevant circumstances and be accompanied by such supporting documentation as is available to the State referring the situation.

#### Article 15

##### Prosecutor

1. The Prosecutor may initiate investigations proprio motu on the basis of information on crimes within the jurisdiction of the Court.

2. The Prosecutor shall analyse the seriousness of the information received. For this purpose, he or she may seek additional information from States, organs of the United Nations, intergovernmental or non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court.

3. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected. Victims may make representations to the Pre-Trial Chamber, in accordance with the Rules of Procedure and Evidence.

4. If the Pre-Trial Chamber, upon examination of the request and the supporting material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation, without prejudice to subsequent determinations by the Court with regard to the jurisdiction and admissibility of a case.

5. The refusal of the Pre-Trial Chamber to authorize the investigation shall not preclude the presentation of a subsequent request by the Prosecutor based on new facts or evidence regarding the same situation.

6. If, after the preliminary examination referred to in paragraphs 1 and 2, the Prosecutor concludes that the information provided does not constitute a reasonable basis for an investigation, he or she shall inform those who provided the information. This shall not

preclude the Prosecutor from considering further information submitted to him or her regarding the same situation in the light of new facts or evidence.

Article 16  
Deferral of investigation or prosecution

No investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect; that request may be renewed by the Council under the same conditions.

Article 17  
Issues of admissibility

1. Having regard to paragraph 10 of the Preamble and article 1, the Court shall determine that a case is inadmissible where:
  - (a) The case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution;
  - (b) The case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute;
  - (c) The person concerned has already been tried for conduct which is the subject of the complaint, and a trial by the Court is not permitted under article 20, paragraph 3;
  - (d) The case is not of sufficient gravity to justify further action by the Court.
2. In order to determine unwillingness in a particular case, the Court shall consider, having regard to the principles of due process recognized by international law, whether one or more of the following exist, as applicable:
  - (a) The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court referred to in article 5;
  - (b) There has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice;
  - (c) The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.
3. In order to determine inability in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings.

Article 18  
Preliminary rulings regarding admissibility

1. When a situation has been referred to the Court pursuant to article 13 (a) and the Prosecutor has determined that there would be a reasonable basis to commence an investigation, or the Prosecutor initiates an investigation pursuant to articles 13 (c) and 15, the Prosecutor shall notify all States Parties and those States which, taking into account the information available, would normally exercise jurisdiction over the crimes concerned. The Prosecutor may notify such States on a confidential basis and, where the Prosecutor believes it necessary to protect persons, prevent destruction of evidence or prevent the absconding of persons, may limit the scope of the information provided to States.
2. Within one month of receipt of that notification, a State may inform the Court that it is investigating or has investigated its nationals or others within its jurisdiction with respect to criminal acts which may constitute crimes referred to in article 5 and which relate to the information provided in the notification to States. At the request of that State, the Prosecutor shall defer to the State's investigation of those persons unless the Pre-Trial Chamber, on the application of the Prosecutor, decides to authorize the investigation.
3. The Prosecutor's deferral to a State's investigation shall be open to review by the Prosecutor six months after the date of deferral or at any time when there has been a significant change of circumstances based on the State's unwillingness or inability genuinely to carry out the investigation.
4. The State concerned or the Prosecutor may appeal to the Appeals Chamber against a ruling of the Pre-Trial Chamber, in accordance with article 82. The appeal may be heard on an expedited basis.
5. When the Prosecutor has deferred an investigation in accordance with paragraph 2, the Prosecutor may request that the State concerned periodically inform the Prosecutor of the progress of its investigations and any subsequent prosecutions. States Parties shall respond to such requests without undue delay.
6. Pending a ruling by the Pre-Trial Chamber, or at any time when the Prosecutor has deferred an investigation under this article, the Prosecutor may, on an exceptional basis, seek authority from the Pre-Trial Chamber to pursue necessary investigative steps for the purpose of preserving evidence where there is a unique opportunity to obtain important evidence or there is a significant risk that such evidence may not be subsequently available.
7. A State which has challenged a ruling of the Pre-Trial Chamber under this article may challenge the admissibility of a case under article 19 on the grounds of additional significant facts or significant change of circumstances.

Article 19  
Challenges to the jurisdiction of the Court  
or the admissibility of a case

1. The Court shall satisfy itself that it has jurisdiction in any case brought before it. The Court may, on its own motion, determine the admissibility of a case in accordance with article 17.

2. Challenges to the admissibility of a case on the grounds referred to in article 17 or challenges to the jurisdiction of the Court may be made by:
  - (a) An accused or a person for whom a warrant of arrest or a summons to appear has been issued under article 58;
  - (b) A State which has jurisdiction over a case, on the ground that it is investigating or prosecuting the case or has investigated or prosecuted; or
  - (c) A State from which acceptance of jurisdiction is required under article 12.
3. The Prosecutor may seek a ruling from the Court regarding a question of jurisdiction or admissibility. In proceedings with respect to jurisdiction or admissibility, those who have referred the situation under article 13, as well as victims, may also submit observations to the Court.
4. The admissibility of a case or the jurisdiction of the Court may be challenged only once by any person or State referred to in paragraph 2. The challenge shall take place prior to or at the commencement of the trial. In exceptional circumstances, the Court may grant leave for a challenge to be brought more than once or at a time later than the commencement of the trial. Challenges to the admissibility of a case, at the commencement of a trial, or subsequently with the leave of the Court, may be based only on article 17, paragraph 1 (c).
5. A State referred to in paragraph 2 (b) and (c) shall make a challenge at the earliest opportunity.
6. Prior to the confirmation of the charges, challenges to the admissibility of a case or challenges to the jurisdiction of the Court shall be referred to the Pre-Trial Chamber. After confirmation of the charges, they shall be referred to the Trial Chamber. Decisions with respect to jurisdiction or admissibility may be appealed to the Appeals Chamber in accordance with article 82.
7. If a challenge is made by a State referred to in paragraph 2 (b) or (c), the Prosecutor shall suspend the investigation until such time as the Court makes a determination in accordance with article 17.
8. Pending a ruling by the Court, the Prosecutor may seek authority from the Court:
  - (a) To pursue necessary investigative steps of the kind referred to in article 18, paragraph 6;
  - (b) To take a statement or testimony from a witness or complete the collection and examination of evidence which had begun prior to the making of the challenge; and
  - (c) In cooperation with the relevant States, to prevent the absconding of persons in respect of whom the Prosecutor has already requested a warrant of arrest under article 58.
9. The making of a challenge shall not affect the validity of any act performed by the Prosecutor or any order or warrant issued by the Court prior to the making of the challenge.
10. If the Court has decided that a case is inadmissible under article 17, the Prosecutor may submit a request for a review of the decision when he or she is fully satisfied that new facts have arisen which negate the basis on which the case had previously been found inadmissible under article 17.
11. If the Prosecutor, having regard to the matters referred to in article 17, defers an investigation, the Prosecutor may request that the relevant State make available to the Prosecutor information on the proceedings. That information shall, at the request of the State concerned, be confidential. If the Prosecutor thereafter decides to proceed with an investigation, he or she shall notify the State to which deferral of the proceedings has taken place.

#### Article 20

#### Ne bis in idem

1. Except as provided in this Statute, no person shall be tried before the Court with respect to conduct which formed the basis of crimes for which the person has been convicted or acquitted by the Court.
2. No person shall be tried by another court for a crime referred to in article 5 for which that person has already been convicted or acquitted by the Court.
3. No person who has been tried by another court for conduct also proscribed under article 6, 7 or 8 shall be tried by the Court with respect to the same conduct unless the proceedings in the other court:
  - (a) Were for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court; or
  - (b) Otherwise were not conducted independently or impartially in accordance with the norms of due process recognized by international law and were conducted in a manner which, in the circumstances, was inconsistent with an intent to bring the person concerned to justice.

#### Article 21

#### Applicable law

1. The Court shall apply:
  - (a) In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;
  - (b) In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;
  - (c) Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.
2. The Court may apply principles and rules of law as interpreted in its previous decisions.
3. The application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights, and be without any adverse distinction founded on grounds such as gender as defined in article 7, paragraph 3, age, race, colour, language, religion or belief, political or other opinion, national, ethnic or social origin, wealth, birth or other status.

Article 22

Nullum crimen sine lege

1. A person shall not be criminally responsible under this Statute unless the conduct in question constitutes, at the time it takes place, a crime within the jurisdiction of the Court.
2. The definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.
3. This article shall not affect the characterization of any conduct as criminal under international law independently of this Statute.

Article 23

Nulla poena sine lege

A person convicted by the Court may be punished only in accordance with this Statute.

Article 24

Non-retroactivity ratione personae

1. No person shall be criminally responsible under this Statute for conduct prior to the entry into force of the Statute.
2. In the event of a change in the law applicable to a given case prior to a final judgement, the law more favourable to the person being investigated, prosecuted or convicted shall apply.

Article 25

Individual criminal responsibility

1. The Court shall have jurisdiction over natural persons pursuant to this Statute.
2. A person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute.
3. In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:
  - (a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
  - (b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;
  - (c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;
  - (d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
    - (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or
    - (ii) Be made in the knowledge of the intention of the group to commit the crime;
  - (e) In respect of the crime of genocide, directly and publicly incites others to commit genocide;
  - (f) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.
4. No provision in this Statute relating to individual criminal responsibility shall affect the responsibility of States under international law.

Article 26

Exclusion of jurisdiction over persons under eighteen

The Court shall have no jurisdiction over any person who was under the age of 18 at the time of the alleged commission of a crime.

Article 27

Irrelevance of official capacity

1. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.
2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.

Article 28

Responsibility of commanders and other superiors

In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

- (a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:
  - (i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
  - (ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

(b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

- (i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
- (ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and
- (iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

#### Article 29

##### Non-applicability of statute of limitations

The crimes within the jurisdiction of the Court shall not be subject to any statute of limitations.

#### Article 30

##### Mental element

1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge.
2. For the purposes of this article, a person has intent where:
  - (a) In relation to conduct, that person means to engage in the conduct;
  - (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.
3. For the purposes of this article, "knowledge" means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. "Know" and "knowingly" shall be construed accordingly.

#### Article 31

##### Grounds for excluding criminal responsibility

1. In addition to other grounds for excluding criminal responsibility provided for in this Statute, a person shall not be criminally responsible if, at the time of that person's conduct:
  - (a) The person suffers from a mental disease or defect that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law;
  - (b) The person is in a state of intoxication that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law, unless the person has become voluntarily intoxicated under such circumstances that the person knew, or disregarded the risk, that, as a result of the intoxication, he or she was likely to engage in conduct constituting a crime within the jurisdiction of the Court;
  - (c) The person acts reasonably to defend himself or herself or another person or, in the case of war crimes, property which is essential for the survival of the person or another person or property which is essential for accomplishing a military mission, against an imminent and unlawful use of force in a manner proportionate to the degree of danger to the person or the other person or property protected. The fact that the person was involved in a defensive operation conducted by forces shall not in itself constitute a ground for excluding criminal responsibility under this subparagraph;
  - (d) The conduct which is alleged to constitute a crime within the jurisdiction of the Court has been caused by duress resulting from a threat of imminent death or of continuing or imminent serious bodily harm against that person or another person, and the person acts necessarily and reasonably to avoid this threat, provided that the person does not intend to cause a greater harm than the one sought to be avoided. Such a threat may either be:
    - (i) Made by other persons; or
    - (ii) Constituted by other circumstances beyond that person's control.
2. The Court shall determine the applicability of the grounds for excluding criminal responsibility provided for in this Statute to the case before it.
3. At trial, the Court may consider a ground for excluding criminal responsibility other than those referred to in paragraph 1 where such a ground is derived from applicable law as set forth in article 21. The procedures relating to the consideration of such a ground shall be provided for in the Rules of Procedure and Evidence.

#### Article 32

##### Mistake of fact or mistake of law

1. A mistake of fact shall be a ground for excluding criminal responsibility only if it negates the mental element required by the crime.
2. A mistake of law as to whether a particular type of conduct is a crime within the jurisdiction of the Court shall not be a ground for excluding criminal responsibility. A mistake of law may, however, be a ground for excluding criminal responsibility if it negates the mental element required by such a crime, or as provided for in article 33.

#### Article 33

##### Superior orders and prescription of law

1. The fact that a crime within the jurisdiction of the Court has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless:
  - (a) The person was under a legal obligation to obey orders of the Government or the superior in question;
  - (b) The person did not know that the order was unlawful; and
  - (c) The order was not manifestly unlawful.



2. For the purposes of this article, orders to commit genocide or crimes against humanity are manifestly unlawful.

#### PART 4. COMPOSITION AND ADMINISTRATION OF THE COURT

##### Article 34

##### Organs of the Court

The Court shall be composed of the following organs:

- (a) The Presidency;
- (b) An Appeals Division, a Trial Division and a Pre-Trial Division;
- (c) The Office of the Prosecutor;
- (d) The Registry.

##### Article 35

##### Service of judges

1. All judges shall be elected as full-time members of the Court and shall be available to serve on that basis from the commencement of their terms of office.
2. The judges composing the Presidency shall serve on a full-time basis as soon as they are elected.
3. The Presidency may, on the basis of the workload of the Court and in consultation with its members, decide from time to time to what extent the remaining judges shall be required to serve on a full-time basis. Any such arrangement shall be without prejudice to the provisions of article 40.
4. The financial arrangements for judges not required to serve on a full-time basis shall be made in accordance with article 49.

##### Article 36

##### Qualifications, nomination and election of judges

1. Subject to the provisions of paragraph 2, there shall be 18 judges of the Court.
2. (a) The Presidency, acting on behalf of the Court, may propose an increase in the number of judges specified in paragraph 1, indicating the reasons why this is considered necessary and appropriate. The Registrar shall promptly circulate any such proposal to all States Parties.
  - (b) Any such proposal shall then be considered at a meeting of the Assembly of States Parties to be convened in accordance with article 112. The proposal shall be considered adopted if approved at the meeting by a vote of two thirds of the members of the Assembly of States Parties and shall enter into force at such time as decided by the Assembly of States Parties.
  - (c) (i) Once a proposal for an increase in the number of judges has been adopted under subparagraph (b), the election of the additional judges shall take place at the next session of the Assembly of States Parties in accordance with paragraphs 3 to 8, and article 37, paragraph 2;
    - (ii) Once a proposal for an increase in the number of judges has been adopted and brought into effect under subparagraphs (b) and (c) (i), it shall be open to the Presidency at any time thereafter, if the workload of the Court justifies it, to propose a reduction in the number of judges, provided that the number of judges shall not be reduced below that specified in paragraph 1. The proposal shall be dealt with in accordance with the procedure laid down in subparagraphs (a) and (b). In the event that the proposal is adopted, the number of judges shall be progressively decreased as the terms of office of serving judges expire, until the necessary number has been reached.
3. (a) The judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices.
  - (b) Every candidate for election to the Court shall:
    - (i) Have established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings; or
    - (ii) Have established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court;
  - (c) Every candidate for election to the Court shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.
4. (a) Nominations of candidates for election to the Court may be made by any State Party to this Statute, and shall be made either:
  - (i) By the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question; or
  - (ii) By the procedure provided for the nomination of candidates for the International Court of Justice in the Statute of that Court.

Nominations shall be accompanied by a statement in the necessary detail specifying how the candidate fulfils the requirements of paragraph 3.

(b) Each State Party may put forward one candidate for any given election who need not necessarily be a national of that State Party but shall in any case be a national of a State Party.

(c) The Assembly of States Parties may decide to establish, if appropriate, an Advisory Committee on nominations. In that event, the Committee's composition and mandate shall be established by the Assembly of States Parties.

5. For the purposes of the election, there shall be two lists of candidates:

- List A containing the names of candidates with the qualifications specified in paragraph 3 (b) (i); and
- List B containing the names of candidates with the qualifications specified in paragraph 3 (b) (ii).

A candidate with sufficient qualifications for both lists may choose on which list to appear. At the first election to the Court, at least nine judges shall be elected from list A and at least five judges from list B. Subsequent elections shall be so organized as to maintain the equivalent proportion on the Court of judges qualified on the two lists.



CANADA

CONSOLIDATION

CODIFICATION

## Crimes Against Humanity and War Crimes Act

## Loi sur les crimes contre l'humanité et les crimes de guerre

S.C. 2000, c. 24

L.C. 2000, ch. 24

Current to November 16, 2022

À jour au 16 novembre 2022

Last amended on September 19, 2019

Dernière modification le 19 septembre 2019

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## OFFICIAL STATUS OF CONSOLIDATIONS

Subsections 31(1) and (2) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

### Published consolidation is evidence

**31 (1)** Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

### Inconsistencies in Acts

**(2)** In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the *Publication of Statutes Act*, the original statute or amendment prevails to the extent of the inconsistency.

## LAYOUT

The notes that appeared in the left or right margins are now in boldface text directly above the provisions to which they relate. They form no part of the enactment, but are inserted for convenience of reference only.

## NOTE

This consolidation is current to November 16, 2022. The last amendments came into force on September 19, 2019. Any amendments that were not in force as of November 16, 2022 are set out at the end of this document under the heading “Amendments Not in Force”.

## CARACTÈRE OFFICIEL DES CODIFICATIONS

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1<sup>er</sup> juin 2009, prévoient ce qui suit :

### Codifications comme élément de preuve

**31 (1)** Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

### Incompatibilité – lois

**(2)** Les dispositions de la loi d'origine avec ses modifications subséquentes par le greffier des Parlements en vertu de la *Loi sur la publication des lois* l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

## MISE EN PAGE

Les notes apparaissant auparavant dans les marges de droite ou de gauche se retrouvent maintenant en caractères gras juste au-dessus de la disposition à laquelle elles se rattachent. Elles ne font pas partie du texte, n'y figurant qu'à titre de repère ou d'information.

## NOTE

Cette codification est à jour au 16 novembre 2022. Les dernières modifications sont entrées en vigueur le 19 septembre 2019. Toutes modifications qui n'étaient pas en vigueur au 16 novembre 2022 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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S.C. 2000, c. 24

L.C. 2000, ch. 24

**An Act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts**

**Loi concernant le génocide, les crimes contre l'humanité et les crimes de guerre et visant la mise en œuvre du Statut de Rome de la Cour pénale internationale, et modifiant certaines lois en conséquence**

[Assented to 29th June 2000]

[Sanctionnée le 29 juin 2000]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

## Short Title

### Short title

**1** This Act may be cited as the *Crimes Against Humanity and War Crimes Act*.

## Titre abrégé

### Titre abrégé

**1** *Loi sur les crimes contre l'humanité et les crimes de guerre*.

## Interpretation

### Definitions

**2 (1)** The definitions in this subsection apply in this Act.

**conventional international law** means any convention, treaty or other international agreement

(a) that is in force and to which Canada is a party; or

(b) that is in force and the provisions of which Canada has agreed to accept and apply in an armed conflict in which it is involved. (*droit international conventionnel*)

**International Criminal Court** means the International Criminal Court established by the Rome Statute. (*Cour pénale internationale*)

**official**, in respect of the International Criminal Court, means the Prosecutor, Registrar, Deputy Prosecutor and

## Définitions

### Définitions

**2 (1)** Les définitions qui suivent s'appliquent à la présente loi.

**Cour pénale internationale** La Cour pénale internationale constituée par le Statut de Rome. (*International Criminal Court*)

**droit international conventionnel** Conventions, traités et autres ententes internationales en vigueur, auxquels le Canada est partie ou qu'il a accepté d'appliquer dans un conflit armé auquel il participe. (*conventional international law*)

**fonctionnaire** En ce qui concerne la Cour pénale internationale, le procureur, le greffier, le procureur adjoint, le greffier adjoint et le personnel des organes de la Cour. (*official*)

Deputy Registrar, and the staff of the organs of the Court. (*fonctionnaire*)

**Rome Statute** means the Rome Statute of the International Criminal Court adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998, as corrected by the *procès-verbaux* of November 10, 1998, July 12, 1999, November 30, 1999 and May 8, 2000, portions of which are set out in the schedule. (*Statut de Rome*)

### Words and Expressions

(2) Unless otherwise provided, words and expressions used in this Act have the same meaning as in the *Criminal Code*.

## Her Majesty

### Binding on Her Majesty

3 This Act is binding on Her Majesty in right of Canada or a province.

## Offences Within Canada

### Genocide, etc., committed in Canada

4 (1) Every person is guilty of an indictable offence who commits

- (a) genocide;
- (b) a crime against humanity; or
- (c) a war crime.

### Conspiracy, attempt, etc.

(1.1) Every person who conspires or attempts to commit, is an accessory after the fact in relation to, or counsels in relation to, an offence referred to in subsection (1) is guilty of an indictable offence.

### Punishment

(2) Every person who commits an offence under subsection (1) or (1.1)

- (a) shall be sentenced to imprisonment for life, if an intentional killing forms the basis of the offence; and
- (b) is liable to imprisonment for life, in any other case.

**Statut de Rome** Le Statut de Rome de la Cour pénale internationale, adopté le 17 juillet 1998 par la Conférence diplomatique de plénipotentiaires des Nations Unies sur la création d'une Cour criminelle internationale, corrigé par les procès-verbaux du 10 novembre 1998, du 12 juillet 1999, du 30 novembre 1999 et du 8 mai 2000, et dont certaines dispositions figurent à l'annexe. (*Rome Statute*)

### Terminologie

(2) Sauf indication contraire, les termes de la présente loi s'entendent au sens du *Code criminel*.

## Sa Majesté

### Obligation de Sa Majesté

3 La présente loi lie Sa Majesté du chef du Canada ou d'une province.

## Infractions commises au Canada

### Génocide, crime contre l'humanité, etc., commis au Canada

4 (1) Quiconque commet une des infractions ci-après est coupable d'un acte criminel :

- a) génocide;
- b) crime contre l'humanité;
- c) crime de guerre.

### Punition de la tentative, de la complicité, etc.

(1.1) Est coupable d'un acte criminel quiconque complotte ou tente de commettre une des infractions visées au paragraphe (1), est complice après le fait à son égard ou conseille de la commettre.

### Peines

(2) Quiconque commet une infraction visée aux paragraphes (1) ou (1.1) :

- a) est condamné à l'emprisonnement à perpétuité, si le meurtre intentionnel est à l'origine de l'infraction;
- b) est passible de l'emprisonnement à perpétuité, dans les autres cas.

## Definitions

(3) The definitions in this subsection apply in this section.

**crime against humanity** means murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*crime contre l'humanité*)

**genocide** means an act or omission committed with intent to destroy, in whole or in part, an identifiable group of persons, as such, that, at the time and in the place of its commission, constitutes genocide according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*génocide*)

**war crime** means an act or omission committed during an armed conflict that, at the time and in the place of its commission, constitutes a war crime according to customary international law or conventional international law applicable to armed conflicts, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*crime de guerre*)

## Interpretation – customary international law

(4) For greater certainty, crimes described in Articles 6 and 7 and paragraph 2 of Article 8 of the Rome Statute are, as of July 17, 1998, crimes according to customary international law. This does not limit or prejudice in any way the application of existing or developing rules of international law.

## Breach of responsibility by military commander

\*5 (1) A military commander commits an indictable offence if

- (a) the military commander

## Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

**crime contre l'humanité** Meurtre, extermination, réduction en esclavage, déportation, emprisonnement, torture, violence sexuelle, persécution ou autre fait — acte ou omission — inhumain, d'une part, commis contre une population civile ou un groupe identifiable de personnes et, d'autre part, qui constitue, au moment et au lieu de la perpétration, un crime contre l'humanité selon le droit international coutumier ou le droit international conventionnel, ou en raison de son caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu. (*crime against humanity*)

**crime de guerre** Fait — acte ou omission — commis au cours d'un conflit armé et constituant, au moment et au lieu de la perpétration, un crime de guerre selon le droit international coutumier ou le droit international conventionnel applicables à ces conflits, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu. (*war crime*)

**génocide** Fait — acte ou omission — commis dans l'intention de détruire, en tout ou en partie, un groupe identifiable de personnes et constituant, au moment et au lieu de la perpétration, un génocide selon le droit international coutumier ou le droit international conventionnel, ou en raison de son caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu. (*genocide*)

## Interprétation : droit international coutumier

(4) Il est entendu que, pour l'application du présent article, les crimes visés aux articles 6 et 7 et au paragraphe 2 de l'article 8 du Statut de Rome sont, au 17 juillet 1998, des crimes selon le droit international coutumier sans que soit limitée ou entravée de quelque manière que ce soit l'application des règles de droit international existantes ou en formation.

## Manquement à la responsabilité : chef militaire

\*5 (1) Tout chef militaire est coupable d'un acte criminel si les conditions suivantes sont réunies :

- a) selon le cas :

- (i) il n'exerce pas le contrôle qui convient sur une personne placée sous son commandement et son contrôle effectifs ou sous son autorité et son



**(i)** fails to exercise control properly over a person under their effective command and control or effective authority and control, and as a result the person commits an offence under section 4, or

**(ii)** fails, after the coming into force of this section, to exercise control properly over a person under their effective command and control or effective authority and control, and as a result the person commits an offence under section 6;

**(b)** the military commander knows, or is criminally negligent in failing to know, that the person is about to commit or is committing such an offence; and

**(c)** the military commander subsequently

**(i)** fails to take, as soon as practicable, all necessary and reasonable measures within their power to prevent or repress the commission of the offence, or the further commission of offences under section 4 or 6, or

**(ii)** fails to take, as soon as practicable, all necessary and reasonable measures within their power to submit the matter to the competent authorities for investigation and prosecution.

\* [Note: Section 5 in force October 23, 2000, see SI/2000-95.]

#### **Breach of responsibility by a superior**

**(2)** A superior commits an indictable offence if

**(a)** the superior

**(i)** fails to exercise control properly over a person under their effective authority and control, and as a result the person commits an offence under section 4, or

**(ii)** fails, after the coming into force of this section, to exercise control properly over a person under their effective authority and control, and as a result the person commits an offence under section 6;

**(b)** the superior knows that the person is about to commit or is committing such an offence, or consciously disregards information that clearly indicates that such an offence is about to be committed or is being committed by the person;

**(c)** the offence relates to activities for which the superior has effective authority and control; and

**(d)** the superior subsequently

**(i)** fails to take, as soon as practicable, all necessary and reasonable measures within their power to

contrôle effectifs et, en conséquence, la personne commet l'infraction visée à l'article 4,

**(ii)** il n'exerce pas, après l'entrée en vigueur du présent article, le contrôle qui convient sur une personne placée sous son commandement et son contrôle effectifs ou son autorité et son contrôle effectifs et, en conséquence, la personne commet l'infraction visée à l'article 6;

**b)** il sait que la personne est sur le point ou en train de commettre l'infraction ou il se rend coupable de négligence criminelle du fait qu'il ignore qu'elle est sur le point ou en train de commettre l'infraction;

**c)** en conséquence, il ne prend pas, dès que possible, toutes les mesures nécessaires et raisonnables en son pouvoir pour :

**(i)** soit empêcher ou réprimer la perpétration de l'infraction ou empêcher la perpétration d'autres infractions visées aux articles 4 ou 6,

**(ii)** soit en référer aux autorités compétentes aux fins d'enquête et de poursuite.

\* [Note: Article 5 en vigueur le 23 octobre 2000, voir TR/2000-95.]

#### **Manquement à la responsabilité : autres supérieurs**

**(2)** Tout supérieur est coupable d'un acte criminel si les conditions suivantes sont réunies :

**a)** selon le cas :

**(i)** il n'exerce pas le contrôle qui convient sur une personne placée sous son autorité et son contrôle effectifs et, en conséquence, la personne commet l'infraction visée à l'article 4,

**(ii)** il n'exerce pas, après l'entrée en vigueur du présent article, le contrôle qui convient sur une personne placée sous son autorité et son contrôle effectifs et, en conséquence, la personne commet l'infraction visée à l'article 6;

**b)** il sait que la personne est sur le point ou en train de commettre l'infraction ou il néglige délibérément de tenir compte de renseignements qui indiquent clairement qu'elle est sur le point ou en train de commettre l'infraction;

**c)** l'infraction est liée à des activités relevant de son autorité et de son contrôle effectifs;

prevent or repress the commission of the offence, or the further commission of offences under section 4 or 6, or

(ii) fails to take, as soon as practicable, all necessary and reasonable measures within their power to submit the matter to the competent authorities for investigation and prosecution.

\* [Note: Section 5 in force October 23, 2000, see SI/2000-95.]

### Conspiracy, attempt, etc.

(2.1) Every person who conspires or attempts to commit, is an accessory after the fact in relation to, or counsels in relation to, an offence referred to in subsection (1) or (2) is guilty of an indictable offence.

### Punishment

(3) Every person who commits an offence under subsection (1), (2) or (2.1) is liable to imprisonment for life.

### Definitions

(4) The definitions in this subsection apply in this section.

**military commander** includes a person effectively acting as a military commander and a person who commands police with a degree of authority and control comparable to a military commander. (*chef militaire*)

**superior** means a person in authority, other than a military commander. (*supérieur*)

## Offences Outside Canada

### Genocide, etc., committed outside Canada

6 (1) Every person who, either before or after the coming into force of this section, commits outside Canada

- (a) genocide,
- (b) a crime against humanity, or
- (c) a war crime,

is guilty of an indictable offence and may be prosecuted for that offence in accordance with section 8.

d) en conséquence, il ne prend pas, dès que possible, toutes les mesures nécessaires et raisonnables en son pouvoir pour :

(i) soit empêcher ou réprimer la perpétration de l'infraction ou empêcher la perpétration d'autres infractions visées aux articles 4 ou 6,

(ii) soit en référer aux autorités compétentes aux fins d'enquête et de poursuite.

\* [Note: Article 5 en vigueur le 23 octobre 2000, voir TR/2000-95.]

### Punition de la tentative, de la complicité, etc.

(2.1) Est coupable d'un acte criminel quiconque complotte ou tente de commettre une des infractions visées aux paragraphes (1) ou (2), est complice après le fait à son égard ou conseille de la commettre.

### Peines

(3) Quiconque commet une infraction visée aux paragraphes (1), (2) ou (2.1) est passible de l'emprisonnement à perpétuité.

### Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

**chef militaire** S'entend notamment de toute personne faisant effectivement fonction de chef militaire et de toute personne commandant un corps de police avec un degré d'autorité et de contrôle similaire à un chef militaire. (*military commander*)

**supérieur** Personne investie d'une autorité, autre qu'un chef militaire. (*superior*)

## Infractions commises à l'étranger

### Génocide, crime contre l'humanité, etc., commis à l'étranger

6 (1) Quiconque commet à l'étranger une des infractions ci-après, avant ou après l'entrée en vigueur du présent article, est coupable d'un acte criminel et peut être poursuivi pour cette infraction aux termes de l'article 8 :

- a) génocide;
- b) crime contre l'humanité;
- c) crime de guerre.

### Conspiracy, attempt, etc.

(1.1) Every person who conspires or attempts to commit, is an accessory after the fact in relation to, or counsels in relation to, an offence referred to in subsection (1) is guilty of an indictable offence.

### Punishment

(2) Every person who commits an offence under subsection (1) or (1.1)

(a) shall be sentenced to imprisonment for life, if an intentional killing forms the basis of the offence; and

(b) is liable to imprisonment for life, in any other case.

### Definitions

(3) The definitions in this subsection apply in this section.

**crime against humanity** means murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*crime contre l'humanité*)

**genocide** means an act or omission committed with intent to destroy, in whole or in part, an identifiable group of persons, as such, that at the time and in the place of its commission, constitutes genocide according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*génocide*)

**war crime** means an act or omission committed during an armed conflict that, at the time and in the place of its commission, constitutes a war crime according to customary international law or conventional international law applicable to armed conflicts, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*crime de guerre*)

### Punition de la tentative, de la complicité, etc.

(1.1) Est coupable d'un acte criminel quiconque complotte ou tente de commettre une des infractions visées au paragraphe (1), est complice après le fait à son égard ou conseille de la commettre.

### Peines

(2) Quiconque commet une infraction visée aux paragraphes (1) ou (1.1) :

a) est condamné à l'emprisonnement à perpétuité, si le meurtre intentionnel est à l'origine de l'infraction;

b) est passible de l'emprisonnement à perpétuité, dans les autres cas.

### Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

**crime contre l'humanité** Meurtre, extermination, réduction en esclavage, déportation, emprisonnement, torture, violence sexuelle, persécution ou autre fait — acte ou omission — inhumain, d'une part, commis contre une population civile ou un groupe identifiable de personnes et, d'autre part, qui constitue, au moment et au lieu de la perpétration, un crime contre l'humanité selon le droit international coutumier ou le droit international conventionnel ou en raison de son caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu. (*crime against humanity*)

**crime de guerre** Fait — acte ou omission — commis au cours d'un conflit armé et constituant, au moment et au lieu de la perpétration, un crime de guerre selon le droit international coutumier ou le droit international conventionnel applicables à ces conflits, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu. (*war crime*)

**génocide** Fait — acte ou omission — commis dans l'intention de détruire, en tout ou en partie, un groupe identifiable de personnes et constituant, au moment et au lieu de la perpétration, un génocide selon le droit international coutumier ou le droit international conventionnel, ou en raison de son caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu. (*genocide*)

### Interpretation — customary international law

**(4)** For greater certainty, crimes described in articles 6 and 7 and paragraph 2 of article 8 of the Rome Statute are, as of July 17, 1998, crimes according to customary international law, and may be crimes according to customary international law before that date. This does not limit or prejudice in any way the application of existing or developing rules of international law.

### Interpretation — crimes against humanity

**(5)** For greater certainty, the offence of crime against humanity was part of customary international law or was criminal according to the general principles of law recognized by the community of nations before the coming into force of either of the following:

- (a)** the Agreement for the prosecution and punishment of the major war criminals of the European Axis, signed at London on August 8, 1945; and
- (b)** the Proclamation by the Supreme Commander for the Allied Powers, dated January 19, 1946.

### Breach of responsibility by military commander

**7 (1)** A military commander commits an indictable offence if

- (a)** the military commander, outside Canada,
  - (i)** fails to exercise control properly over a person under their effective command and control or effective authority and control, and as a result the person commits an offence under section 4, or
  - (ii)** fails, before or after the coming into force of this section, to exercise control properly over a person under their effective command and control or effective authority and control, and as a result the person commits an offence under section 6;
- (b)** the military commander knows, or is criminally negligent in failing to know, that the person is about to commit or is committing such an offence; and
- (c)** the military commander subsequently
  - (i)** fails to take, as soon as practicable, all necessary and reasonable measures within their power to prevent or repress the commission of the offence, or the further commission of offences under section 4 or 6, or
  - (ii)** fails to take, as soon as practicable, all necessary and reasonable measures within their power to

### Interprétation : droit international coutumier

**(4)** Il est entendu que, pour l'application du présent article, les crimes visés aux articles 6 et 7 et au paragraphe 2 de l'article 8 du Statut de Rome sont, au 17 juillet 1998, des crimes selon le droit international coutumier, et qu'ils peuvent l'être avant cette date, sans que soit limitée ou entravée de quelque manière que ce soit l'application des règles de droit international existantes ou en formation.

### Interprétation : crimes contre l'humanité

**(5)** Il est entendu qu'un crime contre l'humanité transgressait le droit international coutumier ou avait un caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations avant l'entrée en vigueur des documents suivants :

- a)** l'Accord concernant la poursuite et le châtiement des grands criminels de guerre des Puissances européennes de l'Axe, signé à Londres le 8 août 1945;
- b)** la Proclamation du Commandant suprême des Forces alliées datée du 19 janvier 1946.

### Manquement à la responsabilité : chef militaire

**7 (1)** Tout chef militaire est coupable d'un acte criminel si les conditions suivantes sont réunies :

- a)** selon le cas, à l'étranger :
  - (i)** il n'exerce pas le contrôle qui convient sur une personne placée sous son commandement et son contrôle effectifs ou sous son autorité et son contrôle effectifs et, en conséquence, la personne commet l'infraction visée à l'article 4,
  - (ii)** il n'exerce pas, avant ou après l'entrée en vigueur du présent article, le contrôle qui convient sur une personne placée sous son commandement et son contrôle effectifs ou sous son autorité et son contrôle effectifs et, en conséquence, la personne commet l'infraction visée à l'article 6;
- b)** il sait que la personne est sur le point ou en train de commettre l'infraction ou il se rend coupable de négligence criminelle du fait qu'il ignore qu'elle est sur le point ou en train de commettre l'infraction;
- c)** en conséquence, il ne prend pas, dès que possible, toutes les mesures nécessaires et raisonnables en son pouvoir pour :
  - (i)** soit empêcher ou réprimer la perpétration de l'infraction ou empêcher la perpétration d'autres infractions visées aux articles 4 ou 6,

submit the matter to the competent authorities for investigation and prosecution.

### **Breach of responsibility by a superior**

**(2)** A superior commits an indictable offence if

**(a)** the superior, outside Canada,

**(i)** fails to exercise control properly over a person under their effective authority and control, and as a result the person commits an offence under section 4, or

**(ii)** fails, before or after the coming into force of this section, to exercise control properly over a person under their effective authority and control, and as a result the person commits an offence under section 6;

**(b)** the superior knows that the person is about to commit or is committing such an offence, or consciously disregards information that clearly indicates that such an offence is about to be committed or is being committed by the person;

**(c)** the offence relates to activities for which the superior has effective authority and control; and

**(d)** the superior subsequently

**(i)** fails to take, as soon as practicable, all necessary and reasonable measures within their power to prevent or repress the commission of the offence, or the further commission of offences under section 4 or 6, or

**(ii)** fails to take, as soon as practicable, all necessary and reasonable measures within their power to submit the matter to the competent authorities for investigation and prosecution.

### **Conspiracy, attempt, etc.**

**(2.1)** Every person who conspires or attempts to commit, is an accessory after the fact in relation to, or counsels in relation to, an offence referred to in subsection (1) or (2) is guilty of an indictable offence.

### **Jurisdiction**

**(3)** A person who is alleged to have committed an offence under subsection (1), (2) or (2.1) may be prosecuted for that offence in accordance with section 8.

**(ii)** soit en référer aux autorités compétentes aux fins d'enquête et de poursuite.

### **Manquement à la responsabilité : autres supérieurs**

**(2)** Tout supérieur est coupable d'un acte criminel si les conditions suivantes sont réunies :

**a)** selon le cas, à l'étranger :

**(i)** il n'exerce pas le contrôle qui convient sur une personne placée sous son autorité et son contrôle effectifs et, en conséquence, la personne commet l'infraction visée à l'article 4,

**(ii)** il n'exerce pas, avant ou après l'entrée en vigueur du présent article, le contrôle qui convient sur une personne placée sous son autorité et son contrôle effectifs et, en conséquence, la personne commet l'infraction visée à l'article 6;

**b)** il sait que la personne est sur le point ou en train de commettre l'infraction ou il néglige délibérément de tenir compte de renseignements qui indiquent clairement qu'elle est sur le point ou en train de commettre l'infraction;

**c)** l'infraction est liée à des activités relevant de son autorité et de son contrôle effectifs;

**d)** en conséquence, il ne prend pas, dès que possible, toutes les mesures nécessaires et raisonnables en son pouvoir pour :

**(i)** soit empêcher ou réprimer la perpétration de l'infraction ou empêcher la perpétration d'autres infractions visées aux articles 4 ou 6,

**(ii)** soit en référer aux autorités compétentes aux fins d'enquête et de poursuite.

### **Punition de la tentative, de la complicité, etc.**

**(2.1)** Est coupable d'un acte criminel quiconque complotte ou tente de commettre une des infractions visées aux paragraphes (1) ou (2), est complice après le fait à son égard ou conseille de la commettre.

### **Compétence**

**(3)** La personne accusée d'avoir commis une infraction visée aux paragraphes (1), (2) ou (2.1) peut être poursuivie pour cette infraction aux termes de l'article 8.

## Punishment

**(4)** Every person who commits an offence under subsection (1), (2) or (2.1) is liable to imprisonment for life.

## Application before coming into force

**(5)** Where an act or omission constituting an offence under this section occurred before the coming into force of this section, subparagraphs (1)(a)(ii) and (2)(a)(ii) apply to the extent that, at the time and in the place of the act or omission, the act or omission constituted a contravention of customary international law or conventional international law or was criminal according to the general principles of law recognized by the community of nations, whether or not it constituted a contravention of the law in force at the time and in the place of its commission.

\* [Note: Section 7 in force October 23, 2000, see SI/2000-95.]

## Definitions

**(6)** The definitions in this subsection apply in this section.

**military commander** includes a person effectively acting as a military commander and a person who commands police with a degree of authority and control comparable to a military commander. (*chef militaire*)

**superior** means a person in authority, other than a military commander. (*supérieur*)

## Jurisdiction

**8** A person who is alleged to have committed an offence under section 6 or 7 may be prosecuted for that offence if

**(a)** at the time the offence is alleged to have been committed,

**(i)** the person was a Canadian citizen or was employed by Canada in a civilian or military capacity,

**(ii)** the person was a citizen of a state that was engaged in an armed conflict against Canada, or was employed in a civilian or military capacity by such a state,

**(iii)** the victim of the alleged offence was a Canadian citizen, or

**(iv)** the victim of the alleged offence was a citizen of a state that was allied with Canada in an armed conflict; or

## Peines

**(4)** Quiconque commet une infraction visée aux paragraphes (1), (2) ou (2.1) est passible de l'emprisonnement à perpétuité.

## Application avant l'entrée en vigueur

**(5)** Lorsqu'un fait — acte ou omission — constituant une infraction visée au présent article est commis avant l'entrée en vigueur de celui-ci, les sous-alinéas (1)a)(ii) et (2)a)(ii) s'appliquent dans la mesure où, au moment et au lieu de la perpétration, l'acte ou l'omission constituait une transgression du droit international coutumier ou du droit international conventionnel, ou avait un caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations, qu'il ait ou non constitué une transgression du droit en vigueur à ce moment et dans ce lieu.

\* [Note: Article 7 en vigueur le 23 octobre 2000, voir TR/2000-95.]

## Définitions

**(6)** Les définitions qui suivent s'appliquent au présent article.

**chef militaire** S'entend notamment de toute personne faisant effectivement fonction de chef militaire et de toute personne commandant un corps de police avec un degré d'autorité et de contrôle similaire à un chef militaire. (*military commander*)

**supérieur** Personne en position d'autorité, autre qu'un chef militaire. (*superior*)

## Compétence

**8** Quiconque est accusé d'avoir commis une infraction visée aux articles 6 ou 7 peut être poursuivi pour cette infraction si l'une des conditions suivantes est remplie :

**a)** à l'époque :

**(i)** soit lui-même est citoyen canadien ou employé au service du Canada à titre civil ou militaire,

**(ii)** soit lui-même est citoyen d'un État participant à un conflit armé contre le Canada ou employé au service d'un tel État à titre civil ou militaire,

**(iii)** soit la victime est citoyen canadien,

**(iv)** soit la victime est un ressortissant d'un État allié du Canada dans un conflit armé;

**b)** après la commission présumée de l'infraction, l'auteur se trouve au Canada.

(b) after the time the offence is alleged to have been committed, the person is present in Canada.

## Procedure and Defences

### Place of trial

**9 (1)** Proceedings for an offence under this Act alleged to have been committed outside Canada for which a person may be prosecuted under this Act may, whether or not the person is in Canada, be commenced in any territorial division in Canada and the person may be tried and punished in respect of that offence in the same manner as if the offence had been committed in that territorial division.

### Presence of accused at trial

**(2)** For greater certainty, in a proceeding commenced in any territorial division under subsection (1), the provisions of the *Criminal Code* relating to requirements that an accused appear at and be present during proceedings and any exceptions to those requirements apply.

### Personal consent of Attorney General

**(3)** No proceedings for an offence under any of sections 4 to 7 of this Act, or under section 354 or subsection 462.31(1) of the *Criminal Code* in relation to property or proceeds obtained or derived directly or indirectly as a result of the commission of an offence under this Act, may be commenced without the personal consent in writing of the Attorney General or Deputy Attorney General of Canada, and those proceedings may be conducted only by the Attorney General of Canada or counsel acting on their behalf.

### Consent of Attorney General

**(4)** No proceedings for an offence under section 18 may be commenced without the consent of the Attorney General of Canada.

2000, c. 24, s. 9; 2001, c. 32, s. 59.

### Evidence and procedure

**\*10** Proceedings for an offence alleged to have been committed before the coming into force of this section shall be conducted in accordance with the laws of evidence and procedure in force at the time of the proceedings.

\* [Note: Section 10 in force October 23, 2000, *see* SI/2000-95.]

### Defences

**11** In proceedings for an offence under any of sections 4 to 7, the accused may, subject to sections 12 to 14 and to

## Procédure et moyens de défense

### Lieu du procès

**9 (1)** Les poursuites à l'égard d'une infraction visée par la présente loi qui aurait été commise à l'étranger peuvent être engagées dans toute circonscription territoriale au Canada, que l'accusé se trouve ou non au Canada, et celui-ci peut subir son procès et être puni, à l'égard de cette infraction, comme si elle avait été commise dans cette circonscription territoriale.

### Comparution de l'accusé lors du procès

**(2)** Il est entendu que la procédure visée au paragraphe (1) est assujettie aux dispositions du *Code criminel* concernant l'obligation pour un accusé d'être présent et de demeurer présent pour la durée de la procédure et les exceptions à cette obligation.

### Consentement personnel du procureur général

**(3)** Les poursuites à l'égard des infractions visées aux articles 4 à 7 de la présente loi ou à l'article 354 ou au paragraphe 462.23(1) du *Code criminel* à l'égard de biens ou de leur produit qui ont été obtenus ou qui proviennent directement ou indirectement de la perpétration d'une infraction prévue à la présente loi, sont subordonnées au consentement personnel écrit du procureur général du Canada ou du sous-procureur général du Canada et sont menées par le procureur général du Canada ou en son nom.

### Consentement du procureur général

**(4)** Les poursuites à l'égard d'une infraction visée à l'article 18 sont subordonnées au consentement du procureur général du Canada.

2000, ch. 24, art. 9; 2001, ch. 32, art. 59.

### Poursuites et preuve

**\*10** Les poursuites engagées à l'égard d'une infraction qui aurait été commise avant l'entrée en vigueur du présent article sont menées conformément aux règles de preuve et de procédure en vigueur au moment du procès.

\* [Note: Article 10 en vigueur le 23 octobre 2000, *voir* TR/2000-95.]

### Moyens de défense

**11** Sous réserve du paragraphe 607(6) du *Code criminel* et des articles 12 à 14, l'accusé peut, dans le cadre des

subsection 607(6) of the *Criminal Code*, rely on any justification, excuse or defence available under the laws of Canada or under international law at the time of the alleged offence or at the time of the proceedings.

### When previously tried outside Canada

**12 (1)** If a person is alleged to have committed an act or omission that is an offence under this Act, and the person has been tried and dealt with outside Canada in respect of the offence in such a manner that, had they been tried and dealt with in Canada, they would be able to plead *autrefois acquit*, *autrefois convict* or pardon, the person is deemed to have been so tried and dealt with in Canada.

### Exception

**(2)** Despite subsection (1), a person may not plead *autrefois acquit*, *autrefois convict* or pardon in respect of an offence under any of sections 4 to 7 if the person was tried in a court of a foreign state or territory and the proceedings in that court

**(a)** were for the purpose of shielding the person from criminal responsibility; or

**(b)** were not otherwise conducted independently or impartially in accordance with the norms of due process recognized by international law, and were conducted in a manner that, in the circumstances, was inconsistent with an intent to bring the person to justice.

### Conflict with internal law

**13** Despite section 15 of the *Criminal Code*, it is not a justification, excuse or defence with respect to an offence under any of sections 4 to 7 that the offence was committed in obedience to or in conformity with the law in force at the time and in the place of its commission.

### Defence of superior orders

**14 (1)** In proceedings for an offence under any of sections 4 to 7, it is not a defence that the accused was ordered by a government or a superior — whether military or civilian — to perform the act or omission that forms the subject-matter of the offence, unless

**(a)** the accused was under a legal obligation to obey orders of the government or superior;

**(b)** the accused did not know that the order was unlawful; and

**(c)** the order was not manifestly unlawful.

poursuites intentées à l'égard des articles 4 à 7, se prévaloir des justifications, excuses et moyens de défense reconnus, au moment de la prétendue perpétration ou au moment du procès, par le droit canadien ou le droit international.

### Cas d'un jugement antérieur rendu à l'étranger

**12 (1)** Lorsqu'une personne accusée d'avoir commis, par acte ou omission, un fait constituant une infraction en raison de la présente loi a subi son procès et a été traitée à l'étranger à l'égard de l'infraction de manière que, si elle avait subi son procès ou avait été traitée au Canada, elle pourrait invoquer les moyens de défense *d'autrefois acquit*, *d'autrefois convict* ou de pardon, elle est réputée avoir subi son procès et avoir été traitée au Canada.

### Exception

**(2)** Par dérogation au paragraphe (1), une personne ne peut invoquer les moyens de défense spéciaux *d'autrefois acquit*, *d'autrefois convict* ou de pardon à l'égard d'une infraction visée à l'un des articles 4 à 7 si elle a subi son procès devant un tribunal d'un État ou d'un territoire étranger et si la procédure devant ce tribunal :

**a)** soit avait pour but de soustraire la personne concernée à sa responsabilité pénale;

**b)** soit n'a pas été par ailleurs menée de manière indépendante ou impartiale, dans le respect des garanties prévues par le droit international, mais d'une manière qui, dans les circonstances, démentait l'intention de traduire l'intéressé en justice.

### Incompatibilité avec le droit interne

**13** Par dérogation à l'article 15 du *Code criminel*, ne constitue pas une justification, une excuse ou un moyen de défense à l'égard d'une infraction visée à l'un des articles 4 à 7 le fait que l'infraction ait été commise en exécution du droit en vigueur au moment et au lieu de la perpétration ou en conformité avec ce droit.

### Moyen de défense — ordre d'un supérieur

**14 (1)** Ne constitue pas un moyen de défense contre une accusation fondée sur l'un des articles 4 à 7 le fait que l'accusé ait reçu d'un gouvernement ou d'un supérieur — militaire ou civil — l'ordre de commettre l'acte ou l'omission qui lui est reproché, à moins que :

**a)** l'accusé n'ait eu l'obligation légale d'obéir aux ordres du gouvernement ou du supérieur en question;

**b)** l'accusé n'ait pas su que l'ordre était illégal;

**c)** l'ordre n'ait pas été manifestement illégal.



### Interpretation — manifestly unlawful

**(2)** For the purpose of paragraph (1)(c), orders to commit genocide or crimes against humanity are manifestly unlawful.

### Limitation — belief of accused

**(3)** An accused cannot base their defence under subsection (1) on a belief that an order was lawful if the belief was based on information about a civilian population or an identifiable group of persons that encouraged, was likely to encourage or attempted to justify the commission of inhumane acts or omissions against the population or group.

## Parole Eligibility

### Parole eligibility

**15 (1)** The following sentence shall be pronounced against a person who is to be sentenced to imprisonment for life for an offence under section 4 or 6:

**(a)** imprisonment for life without eligibility for parole until the person has served 25 years of the sentence, if a planned and deliberate killing forms the basis of the offence;

**(b)** imprisonment for life without eligibility for parole until the person has served 25 years of the sentence, if an intentional killing that is not planned and deliberate forms the basis of the offence, and

**(i)** the person has previously been convicted of an offence under section 4 or 6 that had, as its basis, an intentional killing, whether or not it was planned and deliberate, or

**(ii)** the person has previously been convicted of culpable homicide that is murder, however described in the *Criminal Code*;

**(c)** imprisonment for life without eligibility for parole until the person has served at least 10 years of the sentence or any greater number of years, not being more than 25, that has been substituted for it under section 745.4 of the *Criminal Code*, if an intentional killing that is not planned and deliberate forms the basis of the offence; and

**(d)** imprisonment for life with normal eligibility for parole, in any other case.

### Interprétation de *manifestement illégal*

**(2)** Pour l'application de l'alinéa (1)c), l'ordre de commettre un génocide ou un crime contre l'humanité est manifestement illégal.

### Limite : croyance de l'accusé

**(3)** Ne constitue pas un moyen de défense fondé sur le paragraphe (1) le fait que l'accusé croyait que l'ordre était légal en raison de renseignements qui portaient sur une population civile ou un groupe identifiable de personnes et qui incitaient ou étaient susceptibles d'inciter à la perpétration — ou tentaient de la justifier — d'omissions ou actes inhumains contre cette population ou ce groupe.

## Période d'inadmissibilité à la libération conditionnelle

### Période d'inadmissibilité

**15 (1)** Le bénéfice de la libération conditionnelle est subordonné, en cas de condamnation à l'emprisonnement à perpétuité en application des articles 4 ou 6 :

**a)** si le meurtre commis avec préméditation et de propos délibéré est à l'origine de l'infraction, à l'accomplissement d'au moins vingt-cinq ans de la peine;

**b)** si le meurtre intentionnel mais non commis avec préméditation et de propos délibéré est à l'origine de l'infraction, à l'accomplissement d'au moins vingt-cinq ans de la peine, lorsque la personne a déjà été reconnue coupable :

**(i)** soit d'une infraction visée aux articles 4 ou 6 qui a à son origine le meurtre intentionnel, commis ou non avec préméditation et de propos délibéré,

**(ii)** soit d'un homicide coupable constituant un meurtre, quelle que soit la description qu'en donne le *Code criminel*;

**c)** si le meurtre intentionnel mais non commis avec préméditation et de propos délibéré est à l'origine de l'infraction, à l'accomplissement d'au moins dix ans de la peine, sans dépasser vingt-cinq ans, conformément à l'article 745.4 du *Code criminel*;

**d)** dans tout autre cas, à l'application des conditions normalement prévues.

### Parole eligibility

**(1.1)** The sentence pronounced against a person who is to be sentenced to imprisonment for life for an offence under section 5 or 7 shall be imprisonment for life with normal eligibility for parole.

### Provisions of *Criminal Code* apply

**(2)** Sections 745.1 to 746.1 of the *Criminal Code* apply, with any modifications that the circumstances require, to a sentence of life imprisonment imposed under this Act, and, for the purpose of applying those provisions,

**(a)** a reference in sections 745.1, 745.3, 745.5 and 746.1 of the *Criminal Code* to first degree murder is deemed to be a reference to an offence under section 4 or 6 of this Act when a planned and deliberate killing forms the basis of the offence;

**(b)** a reference in sections 745.1 to 745.5 and 746.1 of the *Criminal Code* to second degree murder is deemed to be a reference to an offence under section 4 or 6 of this Act when an intentional killing that is not planned and deliberate forms the basis of the offence;

**(c)** a reference in sections 745.4 and 746 of the *Criminal Code* to section 745 of that Act is deemed to be a reference to subsection (1) or (1.1) of this section;

**(d)** a reference in section 745.6 of the *Criminal Code* to the province in which a conviction took place is deemed, in respect of a conviction that took place outside Canada, to be a reference to the province in which the offender is incarcerated when the offender makes an application under that section; and

**(e)** a reference in section 745.6 of the *Criminal Code* to murder is deemed to be a reference to an offence under section 4 or 6 of this Act when an intentional killing forms the basis of the offence.

### Minimum punishment

**(3)** For the purpose of Part XXIII of the *Criminal Code*, the sentence of imprisonment for life prescribed by sections 4 and 6 is a minimum punishment when an intentional killing forms the basis of the offence.

## Offences Against the Administration of Justice

### Obstructing justice

**16 (1)** Every person who wilfully attempts in any manner to obstruct, pervert or defeat the course of justice of the International Criminal Court is guilty of an indictable

### Période d'inadmissibilité

**(1.1)** Les conditions de libération conditionnelle normalement prévues s'appliquent en cas de condamnation à l'emprisonnement à perpétuité pour une infraction visée aux articles 5 ou 7.

### Application de dispositions du *Code criminel*

**(2)** Les articles 745.1 à 746.1 du *Code criminel* s'appliquent, avec les adaptations nécessaires, à la peine d'emprisonnement à perpétuité infligée sous le régime de la présente loi et, pour l'application de ces articles :

**a)** la mention, aux articles 745.1, 745.3, 745.5 et 746.1 du *Code criminel*, de meurtre au premier degré vaut mention d'une infraction visée aux articles 4 ou 6 de la présente loi, si le meurtre commis avec préméditation et de propos délibéré est à l'origine de l'infraction;

**b)** la mention, aux articles 745.1 à 745.5 et 746.1 du *Code criminel*, de meurtre au deuxième degré vaut mention d'une infraction visée aux articles 4 ou 6 de la présente loi, si le meurtre intentionnel mais non commis avec préméditation et de propos délibéré est à l'origine de l'infraction;

**c)** la mention, aux articles 745.4 et 746 du *Code criminel*, de l'article 745 de cette loi vaut mention des paragraphes (1) ou (1.1) du présent article;

**d)** la mention, à l'article 745.6 du *Code criminel*, de la province où a lieu la déclaration de culpabilité vaut mention, dans le cas où la déclaration de culpabilité a lieu à l'étranger, de la province dans laquelle la personne est incarcérée au moment où elle présente sa demande aux termes de cet article;

**e)** la mention, à l'article 745.6 du *Code criminel*, de meurtre vaut mention d'une infraction visée aux articles 4 ou 6 de la présente loi, si le meurtre intentionnel est à l'origine de l'infraction.

### Peine minimale

**(3)** Pour l'application de la partie XXIII du *Code criminel*, la peine d'emprisonnement à perpétuité prescrite par les articles 4 et 6 est, si le meurtre intentionnel est à l'origine de l'infraction, une peine minimale.

## Infractions portant atteinte à l'administration de la justice

### Entrave à la justice

**16 (1)** Est coupable d'un acte criminel et passible d'un emprisonnement maximal de dix ans quiconque tente volontairement de quelque manière d'entraver, de

offence and liable to imprisonment for a term of not more than 10 years.

#### When deemed to have obstructed justice

**(2)** Without restricting the generality of subsection (1), every person is deemed wilfully to attempt to obstruct, pervert or defeat the course of justice who in an existing or proposed proceeding of the International Criminal Court

- (a)** dissuades or attempts to dissuade a person by threats, bribes or other corrupt means from giving evidence; or
- (b)** accepts, obtains, agrees to accept or attempts to obtain a bribe or other corrupt consideration to abstain from giving evidence.

#### Obstructing officials

**17** Every person who resists or wilfully obstructs an official of the International Criminal Court in the execution of their duty or any person lawfully acting in aid of such an official

- (a)** is guilty of an indictable offence and liable to imprisonment for a term of not more than two years; or
- (b)** is guilty of an offence punishable on summary conviction.

#### Bribery of judges and officials

**18** Every person is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years who

- (a)** being a judge or an official of the International Criminal Court, corruptly accepts, obtains, agrees to accept or attempts to obtain for themselves or any other person any money, valuable consideration, office, place or employment
  - (i)** in respect of anything done or omitted or to be done or omitted by them in their official capacity, or
  - (ii)** with intent to interfere in any other way with the administration of justice of the International Criminal Court; or
- (b)** gives or offers, corruptly, to a judge or an official of the International Criminal Court, any money, valuable consideration, office, place or employment

détourner ou de contrecarrer le cours de la justice de la Cour pénale internationale.

#### Entrave à la justice : présomption

**(2)** Sans que soit limitée la portée générale du paragraphe (1), est censé tenter volontairement d'entraver, de détourner ou de contrecarrer le cours de la justice quiconque, dans une procédure, existante ou projetée, devant la Cour pénale internationale, selon le cas :

- a)** dissuade ou tente de dissuader une personne, par des menaces, des pots-de-vin ou d'autres moyens de corruption, de témoigner;
- b)** accepte ou obtient, convient d'accepter ou tente d'obtenir un pot-de-vin ou une autre compensation vénale pour s'abstenir de témoigner.

#### Entrave aux fonctionnaires

**17** Quiconque entrave volontairement un fonctionnaire de la Cour pénale internationale dans l'exécution de ses fonctions ou toute personne prêtant légalement main-forte à un tel fonctionnaire, ou lui résiste en pareil cas, est coupable :

- a)** soit d'un acte criminel passible d'un emprisonnement maximal de deux ans;
- b)** soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

#### Corruption de juges et de fonctionnaires

**18** Est coupable d'un acte criminel et passible d'un emprisonnement maximal de quatorze ans, selon le cas :

- a)** le juge ou fonctionnaire de la Cour pénale internationale qui, par corruption, accepte ou obtient, convient d'accepter ou tente d'obtenir, pour lui-même ou pour une autre personne, de l'argent, une contrepartie valable, une charge, une place ou un emploi :
  - (i)** soit à l'égard d'une chose qu'il a faite ou omis de faire ou qu'il doit faire ou omettre de faire en sa qualité officielle,
  - (ii)** soit dans l'intention d'entraver de toute autre manière l'administration de la justice par la Cour pénale internationale;
- b)** quiconque, par corruption, donne ou offre à un juge ou fonctionnaire de la Cour pénale internationale, de l'argent, une contrepartie valable, une charge, une place ou un emploi :

(i) in respect of anything done or omitted or to be done or omitted by them in their official capacity, or

(ii) with intent to interfere in any other way with the administration of justice of the International Criminal Court.

### Perjury

**19 (1)** Subject to subsection (5), every person commits perjury who, with intent to mislead, makes a false statement under oath or solemn affirmation, by affidavit, solemn declaration or deposition or orally, knowing that the statement is false, before a judge of the International Criminal Court or an official of that Court who is authorized by the Court to permit statements to be made before them.

### Video links, etc.

**(2)** Subject to subsection (5), every person who gives evidence under subsection 46(2) of the *Canada Evidence Act*, or gives evidence or a statement under an order made under section 22.2 of the *Mutual Legal Assistance in Criminal Matters Act*, commits perjury who, with intent to mislead, makes a false statement knowing that it is false, whether or not the false statement was made under oath or solemn affirmation in accordance with subsection (1), so long as the false statement was made in accordance with any formalities required by the law of the place outside Canada in which the person is virtually present or heard.

### Punishment

**(3)** Every person who commits perjury is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.

### Application

**(4)** Subsection (1) applies whether or not a statement is made in a judicial proceeding of the International Criminal Court.

### Application

**(5)** Subsections (1) and (2) do not apply to a statement that is made by a person who is not specially permitted, authorized or required by law to make that statement.

### Witness giving contradictory evidence

**20 (1)** Every person who, being a witness in a proceeding of the International Criminal Court, gives evidence with respect to any matter of fact or knowledge and who later, in a proceeding of that Court, gives evidence that is

(i) soit à l'égard d'une chose qu'il a faite ou omis de faire ou qu'il doit faire ou omettre de faire en sa qualité officielle,

(ii) soit dans l'intention d'entraver de toute autre manière l'administration de la justice par la Cour pénale internationale.

### Parjure

**19 (1)** Sous réserve du paragraphe (5), commet un parjure quiconque fait, dans l'intention de tromper, une fausse déclaration après avoir prêté serment ou fait une affirmation solennelle, dans un affidavit, une déclaration solennelle ou un témoignage écrit ou verbal, devant un juge ou fonctionnaire de la Cour pénale internationale autorisé par cette cour à permettre que des déclarations soient faites devant lui, sachant que sa déclaration est fausse.

### Témoign virtuel

**(2)** Sous réserve du paragraphe (5), commet un parjure la personne visée au paragraphe 46(2) de la *Loi sur la preuve au Canada* ou à l'article 22.2 de la *Loi sur l'entraide juridique en matière criminelle* qui fait, dans l'intention de tromper, une fausse déclaration, la sachant fausse, que la déclaration ait été faite ou non en conformité avec le paragraphe (1), pour autant qu'elle ait été faite en conformité avec les formalités prescrites par le droit en vigueur dans le ressort étranger où le témoignage est retransmis.

### Peine

**(3)** Est coupable d'un acte criminel et passible d'un emprisonnement maximal de quatorze ans quiconque commet un parjure.

### Application

**(4)** Le paragraphe (1) s'applique, que la déclaration qui y est mentionnée soit faite ou non dans le cadre d'une procédure judiciaire de la Cour pénale internationale.

### Application

**(5)** Les paragraphes (1) et (2) ne s'appliquent pas à une déclaration visée dans ces paragraphes faite par une personne n'ayant pas la permission, l'autorisation ou l'obligation de la faire d'après la loi.

### Témoignages contradictoires

**20 (1)** Quiconque, dans l'intention de tromper, en tant que témoin dans une procédure de la Cour pénale internationale, témoigne à l'égard d'une question de fait ou de connaissance et, subséquemment, dans une procédure de

contrary to their previous evidence, and who, in giving evidence in either proceeding, intends to mislead, is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years, whether or not the prior or later evidence is true.

### Evidence in specific cases

(2) Evidence given under section 714.1, 714.2 or 714.3 of the *Criminal Code* or subsection 46(2) of the *Canada Evidence Act* or evidence or a statement given under an order made under section 22.2 of the *Mutual Legal Assistance in Criminal Matters Act*, is deemed to be evidence given by a witness in a proceeding for the purpose of subsection (1).

### Meaning of evidence

(3) Despite the definition *evidence* in section 118 of the *Criminal Code*, for the purpose of this section, **evidence** does not include evidence that is not material.

### Proof of former trial

(4) If a person is charged with an offence under this section, a certificate that specifies with reasonable particularity the proceeding in which the person is alleged to have given the evidence in respect of which the offence is charged, is evidence that it was given in a proceeding of the International Criminal Court, without proof of the signature or official character of the person by whom the certificate purports to be signed, if it purports to be signed by the Registrar of that Court or another official having the custody of the record of that proceeding or by their lawful deputy.

2000, c. 24, s. 20; 2019, c. 25, s. 399.

### Fabricating evidence

21 Every person who, with intent to mislead, fabricates anything with intent that it be used as evidence in an existing or proposed proceeding of the International Criminal Court, by any means other than perjury or incitement to perjury, is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.

### Offences relating to affidavits

22 Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than two years who, in respect of an existing or proposed proceeding of the International Criminal Court,

(a) signs a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared before them when the writing was not so sworn

cette cour, rend un témoignage contraire à sa déposition antérieure, est coupable d'un acte criminel et passible d'un emprisonnement maximal de quatorze ans, que la déposition antérieure ou le témoignage postérieur soit véridique ou non.

### Preuve dans des cas particuliers

(2) Constitue un témoignage ou une déposition pour l'application du paragraphe (1) la déposition visée aux articles 714.1, 714.2 ou 714.3 du *Code criminel* ou le témoignage visé au paragraphe 46(2) de la *Loi sur la preuve au Canada*, ou la déposition faite conformément à une ordonnance rendue au titre de l'article 22.2 de la *Loi sur l'entraide juridique en matière criminelle*.

### Définition de témoignage ou déposition

(3) Par dérogation à la définition de *témoignage* ou *déposition* à l'article 118 du *Code criminel*, les témoignages et les dépositions non essentiels ne sont pas, pour l'application du présent article, des témoignages ou dépositions.

### Preuve de procès antérieur

(4) Lorsqu'une personne est inculpée d'une infraction visée au présent article, un certificat, précisant de façon raisonnable la procédure où cette personne aurait rendu le témoignage qui fait l'objet de l'infraction, fait preuve qu'il a été rendu dans une procédure devant la Cour pénale internationale, sans qu'il soit nécessaire de prouver l'authenticité de la signature ni la qualité officielle du signataire, si le certificat est apparemment signé par le greffier de cette cour ou autre fonctionnaire ayant la garde du procès-verbal de cette procédure ou par son substitut légitime.

2000, ch. 24, art. 20; 2019, ch. 25, art. 399.

### Fabrication de preuve

21 Est coupable d'un acte criminel et passible d'un emprisonnement maximal de quatorze ans quiconque, avec l'intention de tromper, fabrique quoi que ce soit à dessein de le faire servir comme preuve dans une procédure, existante ou projetée, devant la Cour pénale internationale par tout moyen autre que le parjure ou l'incitation au parjure.

### Infractions relatives aux affidavits

22 Est coupable d'un acte criminel et passible d'un emprisonnement maximal de deux ans quiconque, relativement à toute procédure, existante ou projetée, devant la Cour pénale internationale, selon le cas :

a) signe un écrit donné comme étant un affidavit ou une déclaration solennelle et comme ayant été fait sous serment ou déclaré devant lui, alors que cet écrit

or declared or when they know that they have no authority to administer the oath or declaration;

**(b)** uses or offers for use any writing purporting to be an affidavit or statutory declaration that they know was not sworn or declared, as the case may be, by the affiant or declarant or before a person authorized to administer the oath or declaration; or

**(c)** signs as affiant or declarant a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared by them, as the case may be, when the writing was not so sworn or declared.

### Intimidation

**23** Every person who, wrongfully and without lawful authority, for the purpose of compelling another person to abstain from doing anything that the person has a lawful right to do, or to do anything that the person has a lawful right to abstain from doing, in relation to a proceeding of the International Criminal Court, causes the person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them

**(a)** is guilty of an indictable offence and liable to imprisonment for a term of not more than five years; or

**(b)** is guilty of an offence punishable on summary conviction.

### Meaning of *internationally protected person*

**24** For greater certainty, the definition *internationally protected person* in section 2 of the *Criminal Code* includes judges and officials of the International Criminal Court.

### Offences against the International Criminal Court — outside Canada

**25 (1)** Every person who, being a Canadian citizen, commits outside Canada an act or omission in relation to the International Criminal Court that if committed in Canada would be an offence under any of sections 16 to 23, or would be contempt of court by virtue of section 9 of the *Criminal Code*, is deemed to have committed that act or omission in Canada.

### Offences against the International Criminal Court — outside Canada

**(2)** Every person who, being a Canadian citizen, commits outside Canada an act or omission that if committed in Canada would constitute conspiring or attempting to

n'a pas été ainsi fait sous serment ou déclaré ou qu'il sait qu'il n'est pas autorisé à faire prêter le serment ou à recevoir la déclaration;

**b)** emploie ou offre en usage tout écrit donné comme étant un affidavit ou une déclaration solennelle qu'il sait n'avoir pas été fait sous serment ou déclaré, selon le cas, par son auteur ou devant une personne autorisée à faire prêter le serment ou à recevoir la déclaration;

**c)** signe comme auteur un écrit donné comme étant un affidavit ou une déclaration solennelle et comme ayant été fait sous serment ou déclaré par lui, selon le cas, alors que l'écrit n'a pas été ainsi fait sous serment ou déclaré.

### Intimidation

**23** Quiconque, injustement et sans autorisation légitime, à dessein de forcer une autre personne à s'abstenir de faire une chose qu'elle a légalement le droit de faire, ou à faire une chose qu'elle peut légalement s'abstenir de faire, relativement à une procédure de la Cour pénale internationale, fait en sorte que cette personne, raisonnablement et dans toute circonstance, craigne pour sa sécurité et celle des personnes qu'elle connaît, est coupable :

**a)** soit d'un acte criminel passible d'un emprisonnement maximal de cinq ans;

**b)** soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.

### Sens de *personne jouissant d'une protection internationale*

**24** Il est entendu que *personne jouissant d'une protection internationale*, à l'article 2 du *Code criminel*, s'entend également des juges et fonctionnaires de la Cour pénale internationale.

### Infractions contre la Cour pénale internationale — à l'étranger

**25 (1)** Le citoyen canadien qui commet, à l'étranger, un fait — acte ou omission — relevant de la compétence de la Cour pénale internationale qui, s'il était commis au Canada, constituerait un outrage au tribunal par l'application de l'article 9 du *Code criminel* ou une infraction visée à l'un des articles 16 à 23 est réputé avoir commis ce fait au Canada.

### Infractions contre la Cour pénale internationale — à l'étranger

**(2)** Le citoyen canadien qui commet, à l'étranger, un acte ou une omission relevant de la compétence de la Cour pénale internationale qui, s'il était commis au Canada,

commit, being an accessory after the fact in relation to, or counselling in relation to, an act or omission that is an offence or a contempt of court under subsection (1) is deemed to have committed that act or omission in Canada.

#### Retaliation against witnesses — outside Canada

**26 (1)** Every person who, being a Canadian citizen, commits outside Canada an act or omission against a person or a member of the person's family in retaliation for the person having given testimony before the International Criminal Court, that if committed in Canada would be an offence under any of sections 235, 236, 264.1, 266 to 269, 271 to 273, 279 to 283, 430, 433 and 434 of the *Criminal Code*, is deemed to have committed that act or omission in Canada.

#### Retaliation against witnesses — outside Canada

**(2)** Every person who, being a Canadian citizen, commits outside Canada an act or omission that if committed in Canada would constitute conspiring or attempting to commit, being an accessory after the fact in relation to, or counselling in relation to, an act or omission that is an offence under subsection (1) is deemed to have committed that act or omission in Canada.

**27 to 29** [Repealed, 2001, c. 32, s. 60]

## Crimes Against Humanity Fund

#### Fund established

**30 (1)** There is hereby established a fund, to be known as the Crimes Against Humanity Fund, into which shall be paid

- (a)** all money obtained through enforcement in Canada of orders of the International Criminal Court for reparation or forfeiture or orders of that Court imposing a fine;
- (b)** all money obtained in accordance with section 31; and
- (c)** any money otherwise received as a donation to the Crimes Against Humanity Fund.

#### Payment out of Fund

**(2)** The Attorney General of Canada may make payments out of the Crimes Against Humanity Fund, with or without a deduction for costs, to the International Criminal Court, the Trust Fund established under article 79 of the Rome Statute, victims of offences under this Act or of offences within the jurisdiction of the International

constituerait le complot ou la tentative de commettre un outrage au tribunal ou une infraction visés au paragraphe (1), la complicité après le fait à son égard ou le fait de conseiller de la commettre, est réputé avoir commis ce fait au Canada.

#### Infractions à l'égard d'un témoin — à l'étranger

**26 (1)** Le citoyen canadien qui, en guise de représailles, commet à l'étranger à l'égard d'un témoin de la Cour pénale internationale ou d'un membre de sa famille un fait — acte ou omission — qui, s'il était commis au Canada, constituerait une infraction visée à l'un des articles 235, 236, 264.1, 266 à 269, 271 à 273, 279 à 283, 430, 433 et 434 du *Code criminel*, est réputé avoir commis ce fait au Canada.

#### Infractions à l'égard d'un témoin — à l'étranger

**(2)** Le citoyen canadien qui commet, à l'étranger, un acte ou une omission qui, s'il était commis au Canada, constituerait le complot ou la tentative de commettre une infraction visée au paragraphe (1), la complicité après le fait à son égard ou le fait de conseiller de la commettre, est réputé avoir commis ce fait au Canada.

**27 à 29** [Abrogés, 2001, ch. 32, art. 60]

## Fonds pour les crimes contre l'humanité

#### Institution d'un fonds

**30 (1)** Est institué le Fonds pour les crimes contre l'humanité où sont versées :

- a)** les sommes recueillies par suite de l'exécution des ordonnances de la Cour pénale internationale au Canada à des fins de réparation ou de confiscation ou des ordonnances de cette cour qui imposent une amende;
- b)** les sommes recueillies au titre de l'article 31;
- c)** les sommes reçues autrement à titre de dons au Fonds.

#### Paievements sur le Fonds

**(2)** Le procureur général du Canada peut verser ces sommes, après en avoir défalqué ou non les frais, à la Cour pénale internationale, au fonds institué en vertu de l'article 79 du Statut de Rome, aux victimes d'infractions visées à la présente loi ou relevant de la compétence de la

Criminal Court, and to the families of those victims, or otherwise as the Attorney General of Canada sees fit.

### Regulations

**(3)** The Governor in Council may make regulations respecting the administration and management of the Crimes Against Humanity Fund.

### Credits to Fund

**31** The Minister of Public Works and Government Services shall pay into the Crimes Against Humanity Fund

**(a)** the net amount received from the disposition of any property referred to in subsections 4(1) to (3) of the *Seized Property Management Act* that is

**(i)** proceeds of crime within the meaning of subsection 462.3(1) of the *Criminal Code*, obtained or derived directly or indirectly as a result of the commission of an offence under this Act, and

**(ii)** forfeited to Her Majesty and disposed of by that Minister; and

**(b)** any amount paid or recovered as a fine imposed under subsection 462.37(3) of the *Criminal Code* in substitution for the property referred to in paragraph (a).

2000, c. 24, s. 31; 2001, c. 32, s. 61; 2019, c. 29, s. 122(F).

### Partial exclusion of *Seized Property Management Act*

**32** Paragraphs 9(d), (e) and (f) and sections 10, 11 and 13 to 16 of the *Seized Property Management Act* do not apply in respect of any property, proceeds of property or amounts referred to in section 31.

2000, c. 24, s. 32; 2019, c. 29, s. 123(F).

## Consequential Amendments

**33 to 75** [Amendments]

## Conditional Amendment

**76 and 76.1** [Amendments]

## Coming into Force

### Coming into force

**'77** The provisions of this Act and the provisions of any Act enacted or amended by this Act come

Cour pénale internationale et à leurs familles, ou en disposer autrement.

### Règlements

**(3)** Le gouverneur en conseil peut prendre des règlements pour prévoir la manière d'administrer et de gérer le Fonds.

### Crédit

**31** Le ministre des Travaux publics et des Services gouvernementaux verse au Fonds pour les crimes contre l'humanité :

**a)** le montant net provenant de la disposition des biens visés aux paragraphes 4(1) à (3) de la *Loi sur l'administration des biens saisis* qui :

**(i)** sont des produits de la criminalité, au sens du paragraphe 462.3(1) du *Code criminel*, obtenus par la perpétration d'une infraction visée à la présente loi, ou qui en proviennent directement ou indirectement,

**(ii)** ont été confisqués au profit de Sa Majesté et dont il a disposé;

**b)** les amendes versées ou perçues en application du paragraphe 462.37(3) du *Code criminel* en remplacement des biens visés à l'alinéa a).

2000, ch. 24, art. 31; 2001, ch. 32, art. 61; 2019, ch. 29, art. 122(F).

### Application : *Loi sur l'administration des biens saisis*

**32** Les alinéas 9d), e) et f) et les articles 10, 11 et 13 à 16 de la *Loi sur l'administration des biens saisis* ne s'appliquent pas aux biens, au produit de leur disposition et aux amendes visés à l'article 31.

2000, ch. 24, art. 32; 2019, ch. 29, art. 123(F).

## Modifications corrélatives

**33 à 75** [Modifications]

## Modification conditionnelle

**76 et 76.1** [Modifications]

## Entrée en vigueur

### Entrée en vigueur

**'77** Les dispositions de la présente loi ou de toute autre loi édictées par elle entrent en vigueur à la date ou aux dates fixées par décret.

\* [Note : Loi en vigueur le 23 octobre 2000, voir TR/2000-95.]



**into force on a day or days to be fixed by order of the Governor in Council.**

\* [Note: Act in force October 23, 2000, see SI/2000-95.]

## SCHEDULE

(Subsection 2(1))

# Provisions of Rome Statute

## ARTICLE 6

### Genocide

For the purpose of this Statute, **genocide** means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

## ARTICLE 7

### Crimes against humanity

1 For the purpose of this Statute, **crime against humanity** means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation or forcible transfer of population;
- (e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) torture;
- (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) enforced disappearance of persons;
- (j) the crime of apartheid;

## ANNEXE

(paragraphe 2(1))

# Dispositions du Statut de Rome

## ARTICLE 6

### Crime de génocide

Aux fins du présent Statut, on entend par **crime de génocide** l'un quelconque des actes ci-après commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux, comme tel :

- a) meurtre de membres du groupe;
- b) atteinte grave à l'intégrité physique ou mentale de membres du groupe;
- c) soumission intentionnelle du groupe à des conditions d'existence devant entraîner sa destruction physique totale ou partielle;
- d) mesures visant à entraver les naissances au sein du groupe;
- e) transfert forcé d'enfants du groupe à un autre groupe.

## ARTICLE 7

### Crimes contre l'humanité

1 Aux fins du présent Statut, on entend par **crime contre l'humanité** l'un quelconque des actes ci-après lorsqu'il est commis dans le cadre d'une attaque généralisée ou systématique lancée contre toute population civile et en connaissance de cette attaque :

- a) meurtre;
- b) extermination;
- c) réduction en esclavage;
- d) déportation ou transfert forcé de population;
- e) emprisonnement ou autre forme de privation grave de liberté physique en violation des dispositions fondamentales du droit international;
- f) torture;
- g) viol, esclavage sexuel, prostitution forcée, grossesse forcée, stérilisation forcée ou toute autre forme de violence sexuelle de gravité comparable;
- h) persécution de tout groupe ou de toute collectivité identifiable pour des motifs d'ordre politique, racial, national, ethnique, culturel, religieux ou sexiste au sens du paragraphe 3, ou en fonction d'autres critères universellement reconnus comme inadmissibles en droit international, en corrélation avec tout acte visé dans le présent paragraphe ou tout crime relevant de la compétence de la Cour;
- i) disparitions forcées de personnes;

(k) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2 For the purpose of paragraph 1:

(a) **attack directed against any civilian population** means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;

(b) **extermination** includes the intentional infliction of conditions of life, *inter alia* the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;

(c) **enslavement** means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;

(d) **deportation or forcible transfer of population** means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;

(e) **torture** means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;

(f) **forced pregnancy** means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

(g) **persecution** means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;

(h) **the crime of apartheid** means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;

(i) **enforced disappearance of persons** means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

j) crime d'apartheid;

k) autres actes inhumains de caractère analogue causant intentionnellement de grandes souffrances ou des atteintes graves à l'intégrité physique ou à la santé physique ou mentale.

2 Aux fins du paragraphe 1 :

a) par **attaque lancée contre une population civile**, on entend le comportement qui consiste en la commission multiple d'actes visés au paragraphe 1 à l'encontre d'une population civile quelconque, en application ou dans la poursuite de la politique d'un État ou d'une organisation ayant pour but une telle attaque;

b) par **extermination**, on entend notamment le fait d'imposer intentionnellement des conditions de vie, telles que la privation d'accès à la nourriture et aux médicaments, calculées pour entraîner la destruction d'une partie de la population;

c) par **réduction en esclavage**, on entend le fait d'exercer sur une personne l'un quelconque ou l'ensemble des pouvoirs liés au droit de propriété, y compris dans le cadre de la traite des êtres humains, en particulier des femmes et des enfants;

d) par **déportation ou transfert forcé de population**, on entend le fait de déplacer de force des personnes, en les expulsant ou par d'autres moyens coercitifs, de la région où elles se trouvent légalement, sans motifs admis en droit international;

e) par **torture**, on entend le fait d'infliger intentionnellement une douleur ou des souffrances aiguës, physiques ou mentales, à une personne se trouvant sous sa garde ou sous son contrôle; l'acceptation de ce terme ne s'étend pas à la douleur ou aux souffrances résultant uniquement de sanctions légales, inhérentes à ces sanctions ou occasionnées par elles;

f) par **grossesse forcée**, on entend la détention illégale d'une femme mise enceinte de force, dans l'intention de modifier la composition ethnique d'une population ou de commettre d'autres violations graves du droit international. Cette définition ne peut en aucune manière s'interpréter comme ayant une incidence sur les lois nationales relatives à la grossesse;

g) par **persécution**, on entend le déni intentionnel et grave de droits fondamentaux en violation du droit international, pour des motifs liés à l'identité du groupe ou de la collectivité qui en fait l'objet;

h) par **crime d'apartheid**, on entend des actes inhumains analogues à ceux que vise le paragraphe 1, commis dans le cadre d'un régime institutionnalisé d'oppression systématique et de domination d'un groupe racial sur tout autre groupe racial ou tous autres groupes raciaux et dans l'intention de maintenir ce régime;

i) par **disparitions forcées de personnes**, on entend les cas où des personnes sont arrêtées, détenues ou enlevées par un État ou une organisation politique ou avec l'autorisation, l'appui ou l'assentiment de cet État ou de cette organisation, qui refuse ensuite d'admettre que ces personnes sont privées de liberté ou de révéler le sort qui leur est réservé ou l'endroit où elles se trouvent, dans

**3** For the purpose of this Statute, it is understood that the term “gender” refers to the two sexes, male and female, within the context of society. The term “gender” does not indicate any meaning different from the above.

## PARAGRAPH 2 OF ARTICLE 8

### War crimes

**2** For the purpose of this Statute, *war crimes* means:

**(a)** grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (i)** wilful killing;
- (ii)** torture or inhuman treatment, including biological experiments;
- (iii)** wilfully causing great suffering, or serious injury to body or health;
- (iv)** extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (v)** compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
- (vi)** wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
- (vii)** unlawful deportation or transfer or unlawful confinement;
- (viii)** taking of hostages.

**(b)** other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

- (i)** intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- (ii)** intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- (iii)** intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (iv)** intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

l'intention de les soustraire à la protection de la loi pendant une période prolongée.

**3** Aux fins du présent Statut, le terme *sexe* s'entend de l'un et l'autre sexes, masculin et féminin, suivant le contexte de la société. Il n'implique aucun autre sens.

## PARAGRAPHE 2 DE L'ARTICLE 8

### Crimes de guerre

**2** Aux fins du Statut, on entend par *crimes de guerre* :

**a)** les infractions graves aux Conventions de Genève du 12 août 1949, à savoir l'un quelconque des actes ci-après lorsqu'ils visent des personnes ou des biens protégés par les dispositions des Conventions de Genève :

- (i)** l'homicide intentionnel,
- (ii)** la torture ou les traitements inhumains, y compris les expériences biologiques,
- (iii)** le fait de causer intentionnellement de grandes souffrances ou de porter gravement atteinte à l'intégrité physique ou à la santé,
- (iv)** la destruction et l'appropriation de biens, non justifiées par des nécessités militaires et exécutées sur une grande échelle de façon illicite et arbitraire,
- (v)** le fait de contraindre un prisonnier de guerre ou une personne protégée à servir dans les forces d'une puissance ennemie,
- (vi)** le fait de priver intentionnellement un prisonnier de guerre ou toute autre personne protégée de son droit d'être jugé régulièrement et impartialement,
- (vii)** la déportation ou le transfert illégal ou la détention illégale,
- (viii)** la prise d'otages;

**b)** les autres violations graves des lois et coutumes applicables aux conflits armés internationaux dans le cadre établi du droit international, à savoir, l'un quelconque des actes ci-après :

- (i)** le fait de diriger intentionnellement des attaques contre la population civile en tant que telle ou contre des civils qui ne participent pas directement aux hostilités,
- (ii)** le fait de diriger intentionnellement des attaques contre des biens de caractère civil qui ne sont pas des objectifs militaires,
- (iii)** le fait de diriger intentionnellement des attaques contre le personnel, les installations, le matériel, les unités ou les véhicules employés dans le cadre d'une mission d'aide humanitaire ou de maintien de la paix conformément à la Charte des Nations Unies, pour autant qu'ils aient droit à la protection que le droit international des conflits armés garantit aux civils et aux biens de caractère civil,
- (iv)** le fait de lancer intentionnellement une attaque en sachant qu'elle causera incidemment des pertes en vies

- (v)** attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- (vi)** killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;
- (vii)** making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
- (viii)** the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
- (ix)** intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (x)** subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- (xi)** killing or wounding treacherously individuals belonging to the hostile nation or army;
- (xii)** declaring that no quarter will be given;
- (xiii)** destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
- (xiv)** declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
- (xv)** compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
- (xvi)** pillaging a town or place, even when taken by assault;
- (xvii)** employing poison or poisoned weapons;
- (xviii)** employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- (xix)** employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- (xx)** employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of

humaines dans la population civile, des blessures aux personnes civiles, des dommages aux biens de caractère civil ou des dommages étendus, durables et graves à l'environnement naturel qui seraient manifestement excessifs par rapport à l'ensemble de l'avantage militaire concret et direct attendu,

- (v)** le fait d'attaquer ou de bombarder, par quelque moyen que ce soit, des villes, villages, habitations ou bâtiments qui ne sont pas défendus et qui ne sont pas des objectifs militaires,
- (vi)** le fait de tuer ou de blesser un combattant qui, ayant déposé les armes ou n'ayant plus de moyens de se défendre, s'est rendu à discrétion,
- (vii)** le fait d'utiliser indûment le pavillon parlementaire, le drapeau ou les insignes militaires et l'uniforme de l'ennemi ou de l'Organisation des Nations Unies, ainsi que les signes distinctifs prévus par les Conventions de Genève, et, ce faisant, de causer la perte de vies humaines ou des blessures graves,
- (viii)** le transfert, direct ou indirect, par une puissance occupante d'une partie de sa population civile, dans le territoire qu'elle occupe, ou la déportation ou le transfert à l'intérieur ou hors du territoire occupé de la totalité ou d'une partie de la population de ce territoire,
- (ix)** le fait de diriger intentionnellement des attaques contre des bâtiments consacrés à la religion, à l'enseignement, à l'art, à la science ou à l'action caritative, des monuments historiques, des hôpitaux et des lieux où des malades ou des blessés sont rassemblés, à condition qu'ils ne soient pas des objectifs militaires,
- (x)** le fait de soumettre des personnes d'une partie adverse tombées en son pouvoir à des mutilations ou à des expériences médicales ou scientifiques quelles qu'elles soient qui ne sont ni motivées par un traitement médical, dentaire ou hospitalier, ni effectuées dans l'intérêt de ces personnes, et qui entraînent la mort de celles-ci ou mettent sérieusement en danger leur santé,
- (xi)** le fait de tuer ou de blesser par trahison des individus appartenant à la nation ou à l'armée ennemie,
- (xii)** le fait de déclarer qu'il ne sera pas fait de quartier,
- (xiii)** le fait de détruire ou de saisir les biens de l'ennemi, sauf dans les cas où ces destructions ou saisies seraient impérieusement commandées par les nécessités de la guerre,
- (xiv)** le fait de déclarer éteints, suspendus ou non recevables en justice les droits et actions des nationaux de la partie adverse,
- (xv)** le fait pour un belligérant de contraindre les nationaux de la partie adverse à prendre part aux opérations de guerre dirigées contre leur pays, même s'ils étaient au service de ce belligérant avant le commencement de la guerre,
- (xvi)** le pillage d'une ville ou d'une localité, même prise d'assaut,
- (xvii)** le fait d'employer du poison ou des armes empoisonnées,

warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;

**(xxi)** committing outrages upon personal dignity, in particular humiliating and degrading treatment;

**(xxii)** committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2(f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;

**(xxiii)** utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

**(xxiv)** intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

**(xxv)** intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;

**(xxvi)** conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

**(c)** in the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause:

**(i)** violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

**(ii)** committing outrages upon personal dignity, in particular humiliating and degrading treatment;

**(iii)** taking of hostages;

**(iv)** the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

**(d)** paragraph 2(c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

**(e)** other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

**(i)** intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

**(xviii)** le fait d'utiliser des gaz asphyxiants, toxiques ou similaires ainsi que tous liquides, matières ou procédés analogues,

**(xix)** le fait d'utiliser des balles qui s'épanouissent ou s'aplatissent facilement dans le corps humain, telles que des balles dont l'enveloppe dure ne recouvre pas entièrement le centre ou est percée d'entailles,

**(xx)** le fait d'employer les armes, projectiles, matières et méthodes de guerre de nature à causer des maux superflus ou des souffrances inutiles ou à frapper sans discrimination en violation du droit international des conflits armés, à condition que ces armes, projectiles, matières et méthodes de guerre fassent l'objet d'une interdiction générale et qu'ils soient inscrits dans une annexe au présent Statut, par voie d'amendement adopté selon les dispositions des articles 121 et 123,

**(xxi)** les atteintes à la dignité de la personne, notamment les traitements humiliants et dégradants,

**(xxii)** le viol, l'esclavage sexuel, la prostitution forcée, la grossesse forcée, telle que définie à l'article 7, paragraphe 2, alinéa f), la stérilisation forcée ou toute autre forme de violence sexuelle constituant une infraction grave aux Conventions de Genève,

**(xxiii)** le fait d'utiliser la présence d'un civil ou d'une autre personne protégée pour éviter que certains points, zones ou forces militaires ne soient la cible d'opérations militaires,

**(xxiv)** le fait de diriger intentionnellement des attaques contre les bâtiments, le matériel, les unités et les moyens de transport sanitaires, et le personnel utilisant, conformément au droit international, les signes distinctifs prévus par les Conventions de Genève,

**(xxv)** le fait d'affamer délibérément des civils comme méthode de guerre, en les privant de biens indispensables à leur survie, y compris en empêchant intentionnellement l'envoi des secours prévus par les Conventions de Genève,

**(xxvi)** le fait de procéder à la conscription ou à l'enrôlement d'enfants de moins de 15 ans dans les forces armées nationales ou de les faire participer activement à des hostilités;

**(c)** en cas de conflit armé ne présentant pas un caractère international, les violations graves de l'article 3 commun aux quatre Conventions de Genève du 12 août 1949, à savoir l'un quelconque des actes ci-après commis à l'encontre de personnes qui ne participent pas directement aux hostilités, y compris les membres de forces armées qui ont déposé les armes et les personnes qui ont été mises hors de combat par maladie, blessure, détention ou par toute autre cause :

**(i)** les atteintes à la vie et à l'intégrité corporelle, notamment le meurtre sous toutes ses formes, les mutilations, les traitements cruels et la torture,

**(ii)** les atteintes à la dignité de la personne, notamment les traitements humiliants et dégradants,

**(iii)** les prises d'otages,

- (ii)** intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- (iii)** intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (iv)** intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (v)** pillaging a town or place, even when taken by assault;
- (vi)** committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2(f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
- (vii)** conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
- (viii)** ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
- (ix)** killing or wounding treacherously a combatant adversary;
- (x)** declaring that no quarter will be given;
- (xi)** subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- (xii)** destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
- (f)** paragraph 2(e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.
- (iv)** les condamnations prononcées et les exécutions effectuées sans un jugement préalable, rendu par un tribunal régulièrement constitué, assorti des garanties judiciaires généralement reconnues comme indispensables;
- d)** l'alinéa c) du paragraphe 2 s'applique aux conflits armés ne présentant pas un caractère international et ne s'applique donc pas aux situations de troubles et tensions internes telles que les émeutes, les actes isolés et sporadiques de violence ou les actes de nature similaire;
- e)** les autres violations graves des lois et coutumes applicables aux conflits armés ne présentant pas un caractère international, dans le cadre établi du droit international, à savoir l'un quelconque des actes ci-après :
- (i)** le fait de diriger intentionnellement des attaques contre la population civile en tant que telle ou contre des personnes civiles qui ne participent pas directement aux hostilités,
- (ii)** le fait de diriger intentionnellement des attaques contre les bâtiments, le matériel, les unités et les moyens de transport sanitaires, et le personnel utilisant, conformément au droit international, les signes distinctifs des Conventions de Genève,
- (iii)** le fait de lancer des attaques délibérées contre le personnel, les installations, le matériel, les unités ou les véhicules employés dans le cadre d'une mission d'aide humanitaire ou de maintien de la paix conformément à la Charte des Nations Unies, pour autant qu'ils aient droit à la protection que le droit international des conflits armés garantit aux civils et aux biens de caractère civil,
- (iv)** le fait de lancer des attaques délibérées contre des bâtiments consacrés à la religion, à l'enseignement, à l'art, à la science ou à l'action caritative, des monuments historiques, des hôpitaux et des lieux où des malades et des blessés sont rassemblés, pour autant que ces bâtiments ne soient pas des objectifs militaires,
- (v)** le pillage d'une ville ou d'une localité, même prise d'assaut,
- (vi)** le viol, l'esclavage sexuel, la prostitution forcée, la grossesse forcée, telle que définie à l'article 7, paragraphe 2, alinéa f), la stérilisation forcée, ou toute autre forme de violence sexuelle constituant une violation grave de l'article 3 commun aux quatre Conventions de Genève,
- (vii)** le fait de procéder à la conscription ou à l'enrôlement d'enfants de moins de 15 ans dans les forces armées ou dans des groupes armés ou de les faire participer activement à des hostilités,
- (viii)** le fait d'ordonner le déplacement de la population civile pour des raisons ayant trait au conflit, sauf dans les cas où la sécurité des civils ou des impératifs militaires l'exigent,
- (ix)** le fait de tuer ou de blesser par trahison un adversaire combattant,
- (x)** le fait de déclarer qu'il ne sera pas fait de quartier,

**(xi)** le fait de soumettre des personnes d'une autre partie au conflit tombées en son pouvoir à des mutilations ou à des expériences médicales ou scientifiques quelles qu'elles soient qui ne sont ni motivées par un traitement médical, dentaire ou hospitalier, ni effectuées dans l'intérêt de ces personnes, et qui entraînent la mort de celles-ci ou mettent sérieusement en danger leur santé,

**(xii)** le fait de détruire ou de saisir les biens d'un adversaire, sauf si ces destructions ou saisies sont impérieusement commandées par les nécessités du conflit;

**f)** l'alinéa e) du paragraphe 2 s'applique aux conflits armés ne présentant pas un caractère international et ne s'applique donc pas aux situations de troubles et tensions internes telles que les émeutes, les actes isolés et sporadiques de violence ou les actes de nature similaire. Il s'applique aux conflits armés qui opposent de manière prolongée sur le territoire d'un État les autorités du gouvernement de cet État et des groupes armés organisés ou des groupes armés organisés entre eux.



## **§241. Conspiracy against rights**

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured-

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

## **§242. Deprivation of rights under color of law**

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

## **Title 18 U.S.C. § 3771**

(a) Rights of Crime Victims. - A crime victim has the following rights:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- (5) The reasonable right to confer with the attorney for the Government in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(b) Rights Afforded. -

(1) In general. - In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

(2) Habeas corpus proceedings. -

(A) In general. - In a Federal habeas corpus proceeding arising out of a State conviction, the court shall ensure that a crime victim is afforded the rights described in paragraphs (3), (4), (7), and (8) of subsection (a).

(B) Enforcement. -

(i) In general. - These rights may be enforced by the crime victim or the crime victim's lawful representative in the manner described in paragraphs (1) and (3) of subsection (d).

(ii) Multiple victims. - In a case involving multiple victims, subsection (d)(2) shall also apply.

(C) Limitation. - This paragraph relates to the duties of a court in relation to the rights of a crime victim in Federal habeas corpus proceedings arising out of a State conviction, and does not give rise to any obligation or requirement applicable to personnel of any agency of the Executive Branch of the Federal Government.

(D) Definition. - For purposes of this paragraph, the term "crime victim" means the person against whom the State offense is committed or, if that person is killed or incapacitated, that person's family member or other lawful representative.

(c) Best Efforts To Accord Rights. -

(1) Government. - Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

(2) Advice of attorney. - The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).

(3) Notice. - Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

(d) Enforcement and Limitations. –

(1) Rights. - The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.

(2) Multiple crime victims. - In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

(3) Motion for relief and writ of mandamus. - The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide any motion asserting a victim's right forthwith. If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge pursuant to circuit rule or the Federal Rules of Appellate Procedure. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed. In no event shall proceedings be stayed or subject to a continuance of more than five days for purposes of enforcing this chapter. If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.

(4) Error. - In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

(5) Limitation on relief. - In no case shall a failure to afford a right under this chapter provide grounds for a new trial. A victim may make a motion to re-open a plea or sentence only if -

(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;

(B) the victim petitions the court of appeals for a writ of mandamus within 14 days; and

(C) in the case of a plea, the accused has not pled to the highest offense charged. [This paragraph does not affect the victim's right to restitution as provided in title 18, United States Code.]

(6) No cause of action. - Nothing in this chapter shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the United States or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.

(e) Definitions. - For the purposes of this chapter, the term "crime victim" means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.

(f) Procedures To Promote Compliance.

(1) Regulations. - Not later than 1 year after the date of enactment of this chapter, the Attorney General of

the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

(2) Contents. - The regulations promulgated under paragraph (1) shall -

(A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.

## Constitution of the United States

### Article III

Article III Explained

#### Section 1

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

#### Section 2

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State,—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury, and the Trial shall be held in the State where the said Crimes shall have been

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when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

### **Section 3**

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

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# **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

**Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984  
entry into force 26 June 1987, in accordance with article 27 (1)**

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

## **PART I**

### ***Article 1***

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.



2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

### ***Article 2***

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

### ***Article 3***

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

### ***Article 4***

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

### ***Article 5***

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the victim is a national of that State if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory

under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph I of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

### ***Article 6***

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts.

3. Any person in custody pursuant to paragraph I of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

### ***Article 7***

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

### ***Article 8***

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

### ***Article 9***

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph I of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

### ***Article 10***

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

### ***Article 11***

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

### ***Article 12***

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

### ***Article 13***

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

### ***Article 14***

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

### ***Article 15***

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

### ***Article 16***

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

## **PART II**

### ***Article 17***

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.
3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.
6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.
7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

### ***Article 18***

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:

(a) Six members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present.

3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.

4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

#### ***Article 19***

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.

3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.

4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

#### ***Article 20***

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.

3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.

4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

### ***Article 21***

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure;

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;

(d) The Committee shall hold closed meetings when examining communications under this article; (e) Subject to the provisions of subparagraph

(e), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

(f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

## ***Article 22***



1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph I and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned. 5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:

(a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.

6. The Committee shall hold closed meetings when examining communications under this article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

### *Article 23*

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph I (e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

#### ***Article 24***

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

### **PART III**

#### ***Article 25***

1. This Convention is open for signature by all States. 2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### ***Article 26***

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

#### ***Article 27***

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

#### ***Article 28***

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph I of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

#### ***Article 29***

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a

conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.

2. An amendment adopted in accordance with paragraph I of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.

3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

### ***Article 30***

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph I of this article. The other States Parties shall not be bound by paragraph I of this article with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

### ***Article 31***

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

***Article 32***

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

- (a) Signatures, ratifications and accessions under articles 25 and 26;
- (b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;
- (c) Denunciations under article 31.

***Article 33***

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

## APPENDIX A