

Canada: Anti-Terrorist Bill C-51 to Criminalize Thoughts of Indigenous Peoples

Testimony of Mi'kmaq activist Pam Palmater at committee studying Bill C-51

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Global Research, March 30, 2015

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Region: [Canada](#)

Theme: [Law and Justice](#), [Police State & Civil Rights](#)

Prof. Pam Palmater speaks at Toronto Day of Action against Bill C-51, March 14, 2015 | OFL

Pam Palmater is a Mi'kmaq lawyer, professor and Chair in Indigenous Governance at Ryerson University, a noted media commentator, activist and advocate for the rights of First Nations people, women and children. Ms. Palmater appeared before the House of Commons Standing Committee on Public Safety and National Security on the morning of March 24 as a witness to speak to her concerns about Bill C-51, the Anti-Terrorism Act, 2015. Her testimony reveals the extent to which people are already targeted by security forces for being political in Canada and how Bill C-51 aims to go further. Palmater also provides an example of the refusal to be intimidated by state forces and why it is necessary to stand up for rights.

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Thank you for inviting me here today to speak. I want to first acknowledge we are on the traditional territory of the Algonquin Nation. That's not just the polite acknowledgement, that's the very reason why all of you get to sit here today. Were it not for the cooperation, generosity, kindness and political alliances, Canada wouldn't be what it is. If it wasn't for the peace treaties between our nations that are now constitutionally protected and form part of the foundational aspects of Canada none of us would be sitting here today. I think that goes to the very heart of Bill C-51 and why I am opposed to it.

Canada has placed Bill C-51 before Indigenous peoples without any information, analysis, details on how it will impact our nations, any consultation or consent from our part. It is a gross violation of our nation-to-nation relationship. I don't have time to go through all of the technical legal details, and problems with this bill, except to say that I echo all of the concerns that have already been brought and will be brought by the thousands of lawyers in this country, security experts, former prime ministers, and former Supreme Court of Canada justices.

My main concern is how this bill will impact me, my family and Indigenous peoples all over Canada and our treaty partners, other Canadians. Canada has a long history of criminalizing every aspect of Indigenous identity. From the scalping bounties in 1749, which nearly wiped

out my Mi'kmaq nation, to the Indian Act which has outlawed our culture, our right to educate our own children, and even excluded Indigenous women from our communities. Every aspect of our identity has been criminalized both historically and continues in the present day. In every single instance, we've had to resist all of these laws, keeping in mind these were all validly enacted laws. It was legal to take Mi'kmaq scalps. It was legal to confine us to reserves. It was legal to deny us legal representation. All of these things were law in Canada.

We had to be criminal, as in we had to break the law in order to preserve our lives, our physical security, and our identity. We are being faced with this very problem again with Bill C-51.

Over the years, these laws have morphed into provincial and municipal regulations which deal with even our traditional means of providing subsistence, hunting, fishing, gathering, have all been so criminalized for Indigenous people that we end up skulking around in the forest just to be able to provide food for our families. Every single court case that has been won at the Supreme Court of Canada has been a battle between Indigenous peoples trying to live their lives and exercise their rights and identities facing some kind of criminal or regulatory charge.

In every single instance we have been labelled as criminals, treated as criminals, and one need only look at the current prison population to understand that this is still the case. Not just the case, but, as Howard Sapers from the Office of the Correctional Investigator has indicated, a national crisis and embarrassment. And why? Not because we're actually terrorists. Not because we're more culturally predisposed to being criminals, but as a direct result of Canada's discriminatory laws and policies. There have been endless justice inquiries which have pointed to the infection in our Canadian justice system of racism. The Donald Marshall wrongful prosecution inquiry, the Manitoba justice inquiry, the Ipperwash inquiry, say that every aspect of our justice system, from the arresting officers, to the lawyers, to the judges, to the prison system, overtly and systemically discriminate against Indigenous people. That's our current reality.



Bill C-51 proposes to take that to the last and final step. All we have left now as Indigenous people are our thoughts. And our thoughts, our private thoughts will now be criminalized. It will now be possible to be considered a terrorist for storing alleged terrorist propaganda on

our own personal computers. My declaration of sovereignty, and I'm going to say it before Bill C-51 passes: I am part of the Sovereign Mi'kmaq nation. That kind of material on my computer could be considered terrorism, a threat to national security because it's a threat to Canada's sovereignty.

Welcome to the new terrorist. My name is Pam Palmater. I'm a lawyer, I'm a professor, I'm a mom, and I'm a social justice activist. I've won numerous awards for my work in social justice, women's equality, children's rights. Depending on who's "radicalized" view you speak of, I have also been called a radical, a bad Indian, eco-terrorist, enemy of the people, top five to fear Canadian, dangerous militant, and whacko extremist.

My biggest concern isn't how I'm presented in the media or by government officials. I'm stronger than that. My biggest concern is how this impacts me right now: the level of government surveillance for a law-abiding, peaceful social justice activist who's never been arrested or convicted of any crime.

In my ATIP [Access to Information and Privacy request] to CSIS, they explained that they have a right to prevent hostile and subversive activities against the Canadian state, which is why they have a file on me. However, they don't offer any reason why I would be considered subversive and hostile. In fact, everything I do couldn't be more public. In my ATIP to Indian Affairs they would not confirm that they monitor me. However, they said they do conduct an analysis of me and my activities because I am an active voice. That "analysis" comprised 750 pages of documents which track all of my whereabouts, cities I was traveling to, where I was speaking and the dates and times. They could not provide my security file because it was destroyed, however.

When I attend gatherings, rallies, protests or public or private events, I often cannot make cell phone calls, send texts or access my social media, my bank cards or my credit cards. I can be at an Idle No More rally or protest and text my children but I cannot communicate with the very chiefs who are at the same protest. This causes me great concern for my safety. How am I supposed to help ensure the comfort and safety of the people at rallies and myself if I can't communicate with anyone. And I don't have to remind this committee the staggering statistics of vulnerability of Indigenous women in this country.

I contacted the RCMP as well. They never responded to my ATIP. However, individual RCMP officers at various events have confirmed that they were there to monitor me. At numerous protests I have been informed by RCMP and provincial police that I had to keep my protest peaceful. Sometimes they didn't identify themselves, and at speaking engagements the host First Nation would demand that any undercover RCMP or Ontario or other police officers identify themselves. And in many cases they did.



What's more concerning is the number of government officials that follow me around from speaking engagement to speaking engagement and often identify themselves when called upon to do so. Probably the most shocking is when I travel internationally in countries like Samoa, Peru, England and Switzerland, only to be informed by local law authorities that Canadian officials are there to monitor me. That's very frightening in a country where I have committed no crime but to advocate peacefully on behalf of my people.

In the prairie provinces, the RCMP are very active. They will often call ahead to the university or First Nation where I'm speaking and ask them to identify what my "target" will be or where I plan my protests. This isn't just a problem for me; we've all heard about Cindy Blackstock and others.

Skipping to what my recommendations are, because I can see that I am out of time: Bill C-51 must be withdrawn. There is no way to fix it. There must be proper public information consultation, specific consultation for Indigenous peoples, and a proper parliamentary study. Directing Justice Canada to rubber-stamp the bill as compliant, even if it has a 95 per cent chance of being overturned in court is not democratic.

We need an independent review body to report on the ongoing surveillance of Indigenous peoples that will take complaints, do proper investigations and offer redress. And finally, we are in desperate need of a special First Nation advocate to be appointed for any and all court processes in all provinces and territories whenever applications are made in secret for court warrants. This person would be an amicus, a friend of the court who would be independent and could speak to all of the various constitutional and Indigenous rights at stake.

This is absolutely essential, especially if Bill C-51 is to be passed.

Response to MPs' Questions

It doesn't just impact Indigenous peoples, it impacts the rest of Canada: environmentalists, unions, women's groups, children's advocates. We have to get real about what is the clear and present danger here. How many Canadians on Canadian soil have died from acts of terrorism? Compare that with how many thousands of murdered and missing Indigenous women and girls there are. Where is the Bill C-51 to protect them? How many thousands have killed their wives? How many serial killers have we had? Yet we're focusing on C-51.

The problem is this bill isn't really about terrorism. If you do an analysis of this omnibus bill the focus is just as you said, less about being anti-terrorism, and more about protecting the status quo - the status quo in terms of power relations, in terms of economic relations. This "new" national security law focuses on threats to sovereignty, territorial integrity, diplomatic

relations of all things, economic stability, critical infrastructure. All of these things are an essential part of the daily lives of Canadians and First Nations.



Passing this bill for any activity, any person, any purpose that threatens national security so defined as financial stability, and territorial integrity, makes us all suspects. Canada won't even have to pass the bill - the terrorists will have won. What is terrorism? Fundamentally, it is the denial of life, liberty and security of the person. If Canada goes ahead and takes those rights away, terrorists just have to sit back. Job done. And we worked far too hard in our treaty negotiations, far too hard in the development of the Charter and the Constitution, and all of the international laws that protect core fundamental human rights to allow that to happen because we wanted to protect some corporate economic interests.

Bill C-51 as currently written would capture everything under Idle No More. Imagine, Grand Chief Matthew Coon Come of the Grand Council of the Cree offered a quote for my submission as well, which said that had their activities been done today as opposed to back then, there wouldn't be the negotiation of the James Bay Agreement. They would all be in jail.

The Idle No More movement, which was a historic coming together of First Nations and Canadians peacefully, dancing, singing and drumming, would now all be monitored, if not already, as the media has indicated, maybe arbitrarily detained. All of these things are very frightening for this country, and keeping in mind the UN Declaration on the Rights of Indigenous Peoples protects us, grants us, recognizes as international customary law that we can act autonomously, we can occupy our land.

In the Department of National Defence's manual, occupying our land, advocating for our autonomy, advocating for political rights, is described as insurgency alongside "Jihadists." It is no comfort that there is a proviso saying that "lawful" activity, "lawful" dissent, "lawful" protest "lawful," art, whatever that is, won't be captured by this bill, because the second you do a round dance in the street without a permit, it very quickly becomes unlawful.

And we have to remember, I already went over all of the very validly-enacted laws that Canada has had that have killed, ended up in killing, murders, rapes, sterilization, scalping of our people. Those were valid laws. The only way to protect ourselves was to act unlawful

in resistance. What we're saying now is that the clear and present danger to First Nations and Canadians is the environmental destruction and contamination of our water, and we have a right to defend our life, liberty and security to protect our future generations. Under this bill, that will all be captured as a threat to national security and/or terrorism.

(Photos: OFL, TML)

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"[Harper government irrationalism at Bill C-51 committee](#)", March 27, 2015. Report and comment on the response of the Harper government to Dr Palmateer's testimony

[Pam Palmater tells committee to withdraw anti-terrorism bill](#), APTN News

To stay up to date with unfolding developments on Bill C-51, see [Renewal Update](#), online bulletin of the Marxist-Leninist Party of Canada. Subscription is free.

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