

Canada: New federal law expands national security agencies' repressive powers

By Laurent Lafrance
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As one of its last legislative acts before this fall's federal election, Canada's Liberal government has pushed through passage of its anti-democratic Bill C-59, "An Act Respecting National Security Matters."

Bill C-59 expands the state's power to spy on the population and further entrenches the new, repressive powers that the previous, Stephen Harper-led Conservative government gave the national-security agencies in 2015 on the phony claim Canada was under siege from jihadi terrorists.

Providing yet further proof that they are a right-wing capitalist party, Elizabeth May and her Green Party voted for Bill C-59 and are echoing the Liberals' claims that it "balances" Canadians' democratic rights with the need for "security."

The social-democratic New Democratic Party (NDP) opposed the new law, citing criticisms from civil liberties and privacy groups. But they mounted no campaign to alert the population as to its reactionary provisions; just as they have remained almost entirely silent on the Trudeau Liberal government's integration of Canada into Washington's military-strategic offensives around the world, its plans to hike the military budget by more than 70 percent by 2026 and its complicity in Trump's vicious anti-immigrant campaign.

Thanks in large part to the revelations of US National Security Agency (NSA) whistleblower Edward Snowden, it is public knowledge that Canada's premier domestic spy agency, the Canadian Security Intelligence Service (CSIS), and the Communications Security Establishment (CSE), the country's signals intelligence agency, are carrying out mass surveillance operations that violate the constitutional rights of millions of Canadians and others around the world. Canada's national-security agencies are implicated in espionage activities against foreign countries, their leaders, and the corporate rivals of Canadian big business, but also against opposition movements both abroad and at home.

Well aware of the strong popular hostility to such anti-democratic intrigues, the Liberals have sought to justify the handing of more powers to the intelligence agencies by portraying Canada as a country under threat from hostile actors. They justified their push to enact Bill C-59 in late June by touting the totally unsubstantiated claims of Canada's intelligence agencies that Russia or other powers might "interfere" in the coming federal election campaign.

In this, the Trudeau government was drawing on the reactionary efforts of the US political and military-security establishments to use bogus allegations that Russia massively meddled in the 2016 US elections to push for a more aggressive policy against Moscow, increased powers for the intelligence apparatuses, and censorship of the internet.

What is contained in Bill C-59?

Introduced to parliament in June 2017, Bill C-59 is the Liberals' supposed "reform" of the law Harper and his Conservatives passed in 2015 to strengthen the powers and reach of the national security agencies. So reactionary was Harper's Bill C-51 that even the pro-Conservative *Globe and Mail* decried it as a "police state" measure.

Trudeau and his Liberals voted for Bill C-51, but conscious of the strong popular opposition to it, pledged that they would repeal parts of it if they came to power after the October 2015 election.

In fact, Bill C-59 retains all of Bill C-51's core anti-democratic provisions. Trudeau has sought to camouflage this by touting his legislation's creation of new oversight or "watchdog" mechanisms, including an Intelligence Commissioner and a National Security and Intelligence Review Agency (NSIRA).

As the *World Socialist Web Site* noted in its initial analysis of Bill C-59, "These mechanisms are nothing more than a fig leaf, aimed at providing the intelligence agencies with a legal-constitutional cover to spy on opponents of the government and big business—environmentalists, native organizations, leftist and antiwar groups, and above all the working class." For all the talk of ensuring the national-security agencies respect Canadians' constitutionally-protected democratic rights, the NSIRA's mandate is not to inform the population of the spy agencies' violations of the law, but to prepare confidential reports for the government and the spy agencies themselves. Its members are bound to secrecy even when they uncover illegal acts and the government has wide powers to withhold information from the NSIRA, including on all ongoing security-intelligence operations.

Underlining the NDP's firm support for and full integration into the criminal activities of Canadian imperialism, retiring New Democrat MP Murray Rankin has accepted the Liberal government's offer to serve as the first NSIRA chair.

Bill C-59 enshrines the new power Bill C-51 granted CSIS to actively "disrupt" what the Canadian state deems are threats to "national security" and to violate virtually any law when doing so. The legislation's only restrictions on CSIS's right to "disrupt" are that a judge must approve the target through the issuing of a "disruption" warrant, and that the agency's actions must not cause bodily harm or violate the target's "sexual integrity." "Disruption" techniques could include breaking into homes, interfering with bank accounts and other personal data, intercepting mail and other packages, destroying property, illegally detaining persons, and running "false flag" and other "dirty tricks" operations.

The Liberals have gone even further than the Conservatives by

granting CSE an explicit mandate to mount cyber-war attacks against foreign targets, including states' computer infrastructure and communication networks. This was in response to criticism from the political establishment and military-security apparatus that the spy agencies were previously limited, at least officially, only to "defensive" operations.

Bill C-59 also upholds the additional powers of "preventive arrest" that the Conservatives' Bill C-51 gave the Royal Canadian Mounted Police (RCMP). Under this provision, persons whom the authorities contend "may" commit a terrorist act can be detained for up to seven days without charge. Police are also able to arrest individuals for a new offence of "promoting or advocating" terrorism. This catch-all formulation could potentially be used to target political opponents of Canada and its allies' aggressive actions in the Middle East, or even those who use strong language in denouncing the ruling elite's austerity measures.

Spying on the Canadian population

Trudeau's claims that the intelligence agencies exist to protect the population and that the new oversight mechanisms will ensure the privacy rights of Canadians are flat out lies. These are organizations that have been caught numerous times lying to the courts and arrogating new powers through unconstitutional interpretations of the law. Their agents are virtually immune from prosecution when they break the law.

As popular anger grows to decades of austerity and war, the Canadian ruling elite is determined to expand the vast spying apparatus at the disposal of the capitalist state precisely to suppress opposition, above all from the working-class. This goes hand in hand with the criminalization of workers' struggles. Federal and provincial governments of all stripes, from those headed by the Liberals and Conservatives to the Parti Quebecois and NDP, routinely legalize strikes.

In 2013, it was exposed that CSE has been systematically spying on Canadians since at least 2005 through the mining of metadata generated by their electronic communications. In 2016, a Federal Court judge found that CSIS had for ten years illegally retained and analyzed data on people who posed no threat to national security.

With government support, CSIS has sought to expand its powers by manipulating the law. Thus it claims that metadata is only an "envelope," not constitutionally protected communication. But the reality is the state can draw a detailed profile of an individual or an organization through the analysis of metadata. This includes identifying daily patterns of behaviour, friends and associates, workplaces, and political opinions.

Moreover, as a member of the "Five Eyes" partnership, which in addition to the NSA includes the signals intelligence agencies of the UK, Australia, and New Zealand, CSE can use information gathered by its partners, who are under no legal obligation to disregard information that they obtain on Canadians.

Opposition to Bill C-59

Various privacy experts and activists have raised their voices against the threat Bill C-59 poses to democratic rights. The Ottawa-based International Civil Liberties Monitoring Group (ICLMG) produced a detailed analysis of the bill, including the accompanying "CSE Act." According to the organization, both the sections on CSIS's collection of "datasets" and the section stipulating that CSE "can acquire, use, analyze, retain or disclose publicly

available information" are written in such a vague and broad manner that it opens the door to mass surveillance. It also notes that the wording contained in the CSE Act would allow the agency to acquire "publicly available information via problematic means, such as leaked information from a hack."

ICLMG underlines that the language in the section concerning the disclosing of Canadians' private information from one governmental department to another is such that it "still covers environmental and Indigenous acts of dissent." In fact, the definition of activities undermining the "security of Canada" as constituting "significant and widespread interference with critical infrastructure" could easily be applied to many forms of protest, especially workers' strikes.

ICLMG also pointed to the fact that the new regulations "allow, under certain circumstances, for Canadian agencies to use information obtained through mistreatment or torture."

Last year, researchers from the University of Toronto's Citizen Lab and the Canadian Internet Policy & Public Interest Clinic (CIPPIC) also produced a detailed critique of Bill C-59. They noted that CSE's cyber-attacks and espionage campaigns have "the potential to seriously interfere with Charter-protected rights and freedoms." They also warned that the disruptive and cyber-war capabilities of CSIS and the CSE are "limited only by the imagination."

Citizen Lab pointed to a "loophole" contained in the CSE Act that would allow the agency in its overseas operations to "cause death or bodily harm," and to interfere with the "course of justice or democracy."

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