



The International Justice and Human Rights Clinic's submissions in advance of the consideration of the seventh Periodic Report of Canada, Human Rights Committee, 145th session, March 2026

Protection of Whistleblowers

February 2026

Endorsed by :  Whistleblowing Canada Research Society

Executive Summary

This shadow report identifies six key issues concerning Canada's whistleblower protection framework in response to **paragraph 22 of the List of Issues** prior to the submission of Canada's periodic report under the **International Covenant on Civil and Political Rights** (ICCPR). This report demonstrates that the federal **Public Servants Disclosure Protection Act** ("PSPDA") significantly fails to meet the minimal threshold required for effective whistleblower protection. Such systemic deficiencies in the federal **PSPDA** are also consistently replicated across provincial and territorial whistleblowers' protection legislation, resulting in a fragmented, ineffective, and unequal system of protection for individuals who disclose wrongdoing in the public interest across Canada. Collectively, these deficiencies undermine freedom of expression, impede access to an effective remedy, and result in unequal protection under the law, in breach of **Articles 19, 2(3), and 26 of the ICCPR**.

Key Issue 1: Narrow and Status-based Scope of Protection (p. 11-14)

The federal **PSDPA** confines whistleblower protection to a narrowly defined class of "public servants", excluding contractors, consultants, interns, volunteers, and others who routinely perform public functions or process information of public interest. Protection is thus conditioned on employment status rather than the nature of the disclosure or its public interest value, an approach that fails to reflect contemporary governance arrangements involving arms-length and private actors. Provincial and territorial whistleblower statutes largely replicate this model (with Quebec as an exception), resulting in materially different levels of protection and access to remedies for individuals who disclose comparable wrongdoing based solely on contractual status.

Key Issue 2: Good Faith Requirement (p. 15)

The **PSDPA** conditions whistleblower protection on a vague "**good faith**" requirement that permits retrospective scrutiny of a whistleblower's motives. Such a requirement has been recognised by

Parliamentary review as chilling disclosure, particularly in cases involving senior officials or systemic misconduct. Additionally, it is an intentional tactic to shift the focus from the content of the disclosure to the whistleblower themselves. **All** provincial whistleblower regimes replicate this requirement from the federal **PSDPA**, despite longstanding criticism of the standard, creating uncertainty and discouraging disclosures by allowing motive and credibility to be contested after retaliation has occurred.

Key Issue 3: Confidentiality and Gag-Orders (p. 15-16)

Although the **PSDPA** formally recognises confidentiality, it fails to protect identifying information in practice, does not extend protection to anonymous disclosures, and allows broad discretion that can expose whistleblowers to retaliation. The Act also does not invalidate confidentiality or non-disclosure agreements that suppress reporting, leaving whistleblowers vulnerable to legal and professional consequences. These weak confidentiality protections are also found in provincial statutes, with British Columbia as an exception.

Key Issue 4: Narrow Definitions of Reprisals and Onerous Burden of Proof (p. 17-19)

The **PSDPA** defines reprisal narrowly, **excluding common forms of retaliation** such as harassment, reputational harm, and spillover reprisals (reprisals affecting those who are mistakenly perceived to have blown the whistle, and those who facilitate, assist or are associated with the whistleblower). The Act also requires whistleblowers to prove causation despite employers' control over key evidence. Most provincial regimes replicate these narrow definitions and evidentiary burdens, making successful reprisal claims difficult in practice.

Key Issue 5: Procedural Gatekeeping (p. 19-21)

Under the **PSDPA**, whistleblowers cannot access the Public Servants Disclosure Protection Tribunal directly and must rely on discretionary referral by the Public Sector Integrity Commissioner, severely restricting access to adjudication in reprisal cases. Between 2007 and January 2026:

- **651** reprisal complaints were filed;
- only **11** were referred to the Tribunal;
- only **2** cases received decisions on the merits;
- none ruled in favour of the whistleblower.

The vast majority of complaints never received an adjudicative forum, a pattern largely seen in provincial regimes through similar discretionary administrative screening and limited appeal mechanisms. By conditioning access to an independent adjudicative body on the discretionary referral of the Public Sector Integrity Commissioner, the **PSDPA** creates a structural barrier to independent adjudication in reprisal cases. In practice, this has resulted in very few cases being heard on the merits.

Key Issue 6: Absence of Interim Protections and Ineffective Remedies (p. 21-23)

The **PSDPA** provides no interim protection during lengthy proceedings that routinely extend over many years. Available remedies are discretionary and limited in scope, do not address future loss of earnings or non-economic harm, and have never resulted in sanctions against retaliatory employers. Legal assistance is discretionary and capped at amounts insufficient to sustain complex, multi-year proceedings. Provincial statutes replicate the federal absence of interim relief, limited post-hoc remedies, and

discretionary legal assistance, leaving whistleblowers exposed to prolonged and irreparable professional and mental harm. Without legal aid, many whistleblowers cannot afford to act on their rights, and without interim relief, there is no incentive for employers to settle cases and every incentive to drag out proceedings as long as possible. By the time remedies are available, whistleblowers' employment, professional standing and career trajectories are often permanently damaged. Even if these whistleblowers prevail, their wins still impose losses due to the absence of any "make whole" remedies, which would restore them to their original position.

Recommended Questions

Additional recommendations and questions are provided in the detailed report below. We recommend that the questions listed here represent the highest priorities for the Committee, highlighting the most significant deficiencies in the current regime:

1. The *Public Servants Disclosure Protection Act (PSDPA)* excludes government contractors, volunteers, and other non-employee workers by defining them outside the scope of "public servants". Canada also currently has no federal legislation protecting private-sector whistleblowers. How does Canada ensure effective protection for individuals excluded from these frameworks, and what steps will it take to safeguard their freedom of expression and access to timely, effective and restorative remedies and legal assistance when disclosing wrongdoing? Additionally, what is the public policy rationale for excluding non-public servants?
2. Canadian whistleblower laws narrowly define reprisal and exclude common forms of harassment from statutory protection, while also requiring whistleblowers to prove that reprisals occurred. How will Canada ensure that its laws cover not only formal disciplinary actions but also indirect, subtle, or cumulative forms of retaliation, and take steps to reverse the burden of proof so that once a protected disclosure and an adverse action are established, the employer must demonstrate that no reprisal took place?
3. What steps will Canada take to repeal the "good-faith" requirement, ensuring that whistleblower protections are based on a reasonable belief in the disclosure, while also strengthening safeguards for whistleblowers' identities and preventing contractual non-disclosure clauses from blocking protected disclosures or reprisal complaints?

Recommendations

1. Take steps to review and adopt the 2017 recommendations from the Canadian House of Commons's Standing Committee on Government Operations and Estimates¹ to amend the ***Public Servants Disclosure Protection Act***.
2. Additionally, Canada should amend the ***Public Servants Disclosure Protection Act*** to extend whistleblower protection on a sector-blind basis to all individuals who acquire information through work-related activities and disclose wrongdoing in the public interest, regardless of sector, through targeted amendments to its scope without altering the Act's architecture.

In particular, the Act should be **amended to**:

- (a) extend protections to "any person" (in line with **Quebec**'s standard) or introduce a parallel category of "**protected person**" to include employees, contractors, consultants, agency workers, interns, volunteers, job applicants, and former workers in both public and private entities where the disclosure concerns wrongdoing affecting the public interest, as well as to individuals who assist whistleblowers, witnesses, and those perceived to be whistleblowers;
- (b) permit protected disclosures to be made in relation to wrongdoing occurring in private-sector entities where there is a sufficient public interest nexus, including through the use of public funds, delivery of public services, illegality, or impact on public health, safety, or integrity; and
- (c) ensure that protections against reprisal, access to remedies, and enforcement mechanisms apply equally to all protected persons, irrespective of sector.

3. The State party should ensure that the Office of the Public Sector Integrity Commissioner and the Public Servants Disclosure Protection Tribunal are provided with sufficient and sustained financial, technical, and logistical resources to enable timely investigation and adjudication of disclosures and reprisal complaints.
4. Canada should amend the ***Public Servants Disclosure Protection Act*** to grant whistleblowers a direct right of appeal to the Public Servants Disclosure Protection Tribunal in reprisal matters, without requiring prior referral or validation by the Public Sector Integrity Commissioner, and to ensure that refusals to investigate or refer a complaint are subject to independent review.
5. Canada should clarify and broaden the definition of "reprisal" to include all acts or omissions inconsistent with the duty to protect and support whistleblowers and related persons, including

¹ Canada, House of Commons, Standing Committee on Government Operations and Estimates, *Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act*, 42nd Parl, 1st Sess (June 2017) at pp. 95-99, online:

[<www.ourcommons.ca/Content/Committee/421/OGGO/Reports/RP9055222/oggorp09/oggorp09-e.pdf>](http://www.ourcommons.ca/Content/Committee/421/OGGO/Reports/RP9055222/oggorp09/oggorp09-e.pdf).

subtle or cumulative forms of retaliation such as ostracizing the whistleblower, blacklisting, bullying, reputational harm, and/or the strategic use of civil processes.

6. Canada should reverse the burden of proof in reprisal proceedings, so that once a protected disclosure and adverse action are *prima facie* established, the employer must demonstrate that no reprisal occurred.
7. Canada should repeal the “good faith” requirement under the existing whistleblowers’ protection laws, and ensure that protection depends on whether the whistleblower had a reasonable belief the information disclosed was true.
8. Canada should strengthen confidentiality safeguards, narrow information permitting disclosure of a whistleblower's identity, and extend protections to anonymous disclosures.
9. Canada should amend the ***Public Servants Disclosure Protection Act*** to expressly prohibit any policies, forms or agreements that conflict with rights and remedies articulated in the Act.
10. Canada should provide statutory authority for interim relief, including suspension of disciplinary measures, voluntary transfer, or preservation of employment conditions, while reprisal complaints are under investigation or adjudication.
11. Canada should ensure that all whistleblower protection legislation provides timely, effective and restorative remedies, including remedies that restore pre-disclosure employment status, compensating for losses, while ensuring that corrective measures and sanctions may still be ordered against wrongdoers.
12. Canada should work with provinces and territories to establish minimum standards for whistleblower protection, in order to reduce disparities in coverage and remedies across jurisdictions.

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Introduction

This shadow report is submitted for Canada's review before the Human Rights Committee under the International Covenant on Civil and Political Rights (ICCPR) in response to **paragraph 22 on the List of Issues prior to submission of Canada's periodic report**. It examines Canada's compliance with its Covenant obligations concerning the protection of reporting persons or "whistleblowers" who disclose wrongdoing in the public interest, and assesses the inadequacy of Canada's federal and provincial whistleblower protection frameworks, with a focus on their chilling effect on **freedom of expression under Article 19, obstacles to a right to an effective remedy under Article 2(3), and the lack of equal protection under the law in Article 26**.

Whistleblowing is a crucial governance mechanism that enables transparency and accountability for wrongdoing within public and private institutions. Protecting whistleblowers from recourse is vital to protecting Canadians from corruption and ensuring a truly fair and equal democratic society.² The Committee has emphasised that **Article 19 of the ICCPR** protects the disclosure of information on matters of public interest³ and has further stressed that States must ensure effective and enforceable remedies where individuals suffer reprisals for exercising protected expression.⁴

Despite the guidance from the ICCPR, Canada's whistleblower protection frameworks, both at the federal and provincial levels, are characterized by limited coverage, narrow definitions, weak safeguards against retaliation, and limited access to independent and effective remedies.⁵ International assessment conducted by the *Government Accountability Project* and the *International Bar Association* ranks Canadian legislation jointed last among 37 states, behind peers with comparable human rights commitments.⁶ A

² Conference of the States Parties to the United Nations Convention against Corruption, *Protection of reporting persons*, Resolution 10/8, 10th Sess, UN Doc CAC/COSP/WG.4/2025/CRP.1 (adopted 15 December 2023), online: <www.unodc.org/corruption/en/cosp/conference/session10-resolutions.html>; Canada's position in Transparency International's Corruption Perceptions Index has declined steadily falling out of the top ten for the first time since 2005 in 2020 (tied with Australia at twelfth) and dropping to fifteenth place by 2024. See: Transparency International, *Corruption Perceptions Index 2024*, online: <www.transparency.org/en/cpi/2024>.

³ Human Rights Committee, *General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service* (Article 25), UN Doc CCPR/C/21/Rev.1/Add.7 (12 July 1996), para 25; Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of Opinion and Expression*, UN Doc CCPR/C/GC/34 (12 September 2011), at para 23.

⁴ Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc CCPR/C/21/Rev.1/Add.13 (26 May 2004), paras 15–16; Human Rights Committee, *General Comment No. 34* at para 23.

⁵ Canada, House of Commons, Standing Committee on Government Operations and Estimates, *Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act*, 42nd Parl, 1st Sess (June 2017), online: <www.ourcommons.ca/Content/Committee/421/OGGO/Reports/RP9055222/oggorp09/oggorp09-e.pdf>.

⁶ This Government Accountability Project and International Bar Association report tied Canada for joint last with Lebanon for worst whistleblower protection laws among 37 countries. See: Samantha Feinstein & Tom Devine, *Are Whistleblowing Laws Working? A Global Study of Whistleblower Protection Litigation* (International Bar Association Legal Policy and Research Unit & Government Accountability Project, 2021), at p. 10, online: <www.ibanet.org/MediaHandler?id=49c9b08d-4328-4797-a2f7-1e0a71d0da55>.

parliamentary review of the federal **Public Servants Disclosure Protection Act (PSDPA)** has acknowledged the deficiencies of Canada's whistleblower protections,⁷ with similar structural deficiencies reproduced across provincial statutes. This report demonstrates that Canada's current approach relies on procedural mechanisms that rarely deliver tangible outcomes for whistleblowers, due to the absence of interim relief, the onerous burden of proof, and discretionary control over remedies. As a result, Canada has failed to comply with its obligation under **Articles 2(3), 19, and 26** of the **ICCPR**.

I. Mapping Canadian Whistleblower Protections: Law and Jurisprudence

A. The Criminal Code

Canadian whistleblower laws are fragmented across both federal and provincial statutory schemes. **S. 425.1** of the **Criminal Code** prohibits employers from retaliating against, disciplining, or “adversely affect[ing] the employment” of employees who have reported an employer, officer, or other employee to law enforcement for committing an offence contrary to a federal or provincial act or regulation.⁸ While contravening s. 425.1 is punishable by up to five years’ imprisonment or on summary conviction, there have been no prosecutions brought under this provision.⁹

Judicial interpretation has further constrained the scope of s. 425.1. In the case of *Anderson v. IMTT-Québec Inc*, the Court upheld a high threshold that an employee’s duty of fidelity to one’s employer requires exhaustion of internal whistleblowing mechanisms (“up the ladder approach” before turning outwards), and that the provision does not protect against “reckless” disclosures.¹⁰ Canadian courts’ restrictive interpretation, combined with the absence of any prosecutions under s. 425.1, renders the provision largely illusory as a source of protection for whistleblowers and ineffective as a deterrent for retaliatory employers.¹¹

B. Federal Legislation - Public Servants Disclosure Protection Act (“PSDPA”)

At the federal level, the **PSDPA** came into force in 2007, establishing a centralised administrative framework for the receipt and investigation of disclosures of wrongdoing within the federal public sector.¹² The Act requires each chief executive officer of a public sector entity to establish internal

⁷ Standing Committee on Government Operations and Estimates, *Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act*.

⁸ *Criminal Code*, RSC 1985, c C-46, s 425.1(1).

⁹ *Ibid*, s. 425.1(2); Peter Bowal, “Retaliation Against Whistleblowers is a Crime,” in *Feature: Older Laws: Valuable or Vintage?*, *Law Now* (November/December 2011) <ucalgary.scholaris.ca/server/api/core/bitstreams/fb58b6e3-cea2-499d-b828-b99332c3ac55/content>.

¹⁰ *Anderson v IMTT-Québec Inc*, 2013 FCA 90, 451 NR 177, [2013] FCJ No 346 at paras 40, 44 (FCA).

¹¹ Outside of the criminal context, in *Merk v. International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers*, the determination for whether a whistleblower is justified in bypassing internal remedies depends on the circumstances, leaving room for a more flexible standard where statute allows — even in penal employment contexts. See: *Merk v. International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local 771*, [2005] 3 S.C.R. 425, 2005 SCC 70.

¹² *Public Servants Disclosure Protection Act*, SC 2005, c 46, s 2.

disclosure procedures and designate a senior officer to receive disclosures.¹³ Public servants may disclose wrongdoing either to the designated officer, or directly to the Public Sector Integrity Commissioner (“Integrity Commissioner”), without being required to exhaust internal channels.¹⁴ The Integrity Commissioner is an independent officer of Parliament empowered to receive disclosures and reprisal complaints, conduct investigations, and report findings, and exercises powers equivalent to those of a commissioner under Part II of the *Inquiries Act*.¹⁵

Reprisal enforcement under the PSDPA operates through a two-step process: (1) the Integrity Commissioner investigates reprisal complaints and may attempt conciliation; (2) the Integrity Commissioner may apply to the Public Servants Disclosure Protection Tribunal (“Tribunal”) for adjudication and remedies.¹⁶ The Tribunal is composed of Federal Court or superior court judges and proceeds only on referral by the Integrity Commissioner, with no right of direct access for complainants.¹⁷ While the Act and the common law permits whistleblowers to make public disclosures in limited circumstances, such disclosures are tightly constrained to situations involving urgent and serious danger or serious offences.¹⁸ In all other cases, whistleblowers are required, under the common law duty of loyalty to their employer, to exhaust internal reporting channels before turning outward.¹⁹

Given the Integrity Commissioner’s central role as the gateway to investigation and adjudication, the effectiveness of reprisal protection under the **PSDPA** is highly sensitive to the capacity and resourcing of that office. In January 2026, the Integrity Commissioner publicly warned that the Office of the Public Sector Integrity Commissioner was facing an unprecedented volume of work and that resourcing has not kept pace. Resource constraints have caused significant delays and have threatened the Office’s ability to meet its legislated mandate. The current Integrity Commissioner has sought a one-time injection of \$6.7 million, in addition to the annual budget increase of \$14.5 million, warning that without additional resources the Office risks institutional “collapse”.²⁰

The **PSDPA** has been widely criticised both internationally and by civil society, as a “cardboard shield” because its design provides limited coverage, narrow definitions, lacks transparency, conditions

¹³ *Ibid*, s. 10(1)-(2).

¹⁴ *Ibid*, ss. 12-13

¹⁵ *Ibid*, ss. 29(1), 39(1); Under Part II of the *Inquiries Act*, Commissioners appointed to investigate a federal department have broad authority to access government premises and records, compel testimony and document production under oath, summon witnesses from anywhere in Canada, and delegate evidence-taking to authorized officers who exercise the same compulsory powers as the commissioners themselves. See: *Inquiries Act*, R.S.C., 1985, c. I-11, at ss. 6-10.

¹⁶ *Public Servants Disclosure Protection Act*, ss. 20, 20.4(1), 21(1).

¹⁷ *Ibid*, ss. 20.7, 21(1).

¹⁸ *Haydon v. Canada*, [2001] 2 F.C. 82

¹⁹ *Public Servants Disclosure Protection Act*, ss. 13(2); *Ibid*.

²⁰ Office of the Public Sector Integrity Commissioner of Canada, “Funding the Whistleblower Regime,” online: <psic-ispc.gc.ca/en/funding-whistleblower-regime>.

protection on discretionary gatekeeping, and fails to provide timely, effective remedies.²¹ According to a study conducted by the Government Accountability Project, the **PSPDA** meets only one of 20 International Best Practices for Whistleblowers (see Appendix).²² Even that sole criterion — the requirement of periodic review — is satisfied only on paper: despite s. 54 of the Act mandating a statutory review every five years, no independent review has ever been conducted.²³

Following a 2017 report issued by the Parliament's Standing Committee on Government Operations and Estimates (OGGO), the Parliament passed Bill C-290 in 2024, which ultimately failed to advance beyond second reading in the Senate. Had Bill C-290 been enacted, it would have substantially improved the **PSDPA**'s alignment with international whistleblower best practices, increasing Canada's score from 1 out of 20 to 8 out of 20.²⁴

C. Provincial Legislation

Provincially, whistleblower protection legislation exists in the majority of Canada's provincial and territorial jurisdictions (10 of 13), including **Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Quebec, Saskatchewan and the**

²¹Tom Devine, Government Accountability Project, *Brief to the Standing Committee on Government Operations and Estimates* (25 October 2023), online: <www.ourcommons.ca/Content/Committee/441/OGGO/Brief/BR12420054/br-external/GovernmentAccountabilityProject-e.pdf>.

²²The Government Accountability Project identifies twenty core International Best Practices for effective whistleblower protection, as identified in this report's Appendix. See: Tom Devine, "International Best Practices for Whistleblower Policies" (November 25, 2015) (Government Accountability Project), online: <www.ourcommons.ca/content/Committee/421/OGGO/WebDoc/WD8991016/421_OGGO_reldoc_PDF/DevineTo m-e.pdf>. See Also: Devine, Government Accountability Project, *Brief to the Standing Committee on Government Operations and Estimates*, *supra* note 21.

²³ Devine, Government Accountability Project, *Brief to the Standing Committee on Government Operations and Estimates*, *supra* note 21. The first statutory review of the PSDPA was not completed in 2011 as required, and the Act has been reviewed only once, in 2017. In 2022, the Treasury Board Secretariat, the body responsible for initiating statutory reviews, launched a second review through an expert task force mandated to recommend amendments and modernize the PSDPA. However, the task force has not released its anticipated 2024 report and has provided no update on a revised timeline. See: Treasury Board of Canada Secretariat, "Terms of Reference: Review of the Public Servants Disclosure Protection Act," online: <www.canada.ca/en/treasury-board-secretariat/topics/values-ethics/disclosure-protection/review-public-servants-disclosure-protection-act/terms-reference.html>; Pamela Forward, *Letter to the Prime Minister* (21 August 2025), Whistleblowing Canada, online: <assets.nationbuilder.com/whistleblowingcanada/pages/71/attachments/original/1758815603/Letter_to_PM_Aug_21_2025.docx_2.pdf?1758815603>.

²⁴ Proposed reforms in Bill C-290 would have improved alignment to approximately eight of twenty best practices, including by expanding coverage, removing the good-faith requirement, broadening the definition of reprisal, strengthening remedial and sanctioning powers, extending limitation periods, and enhancing investigative authority. However, Bill C-290 would still leave core deficiencies, such as sector-limited scope, reverse onus, lack of interim relief, and weak confidentiality protections, unaddressed. See: Canada, Senate, *Debates of the Senate*, 1st Sess, 44th Parl, Volume 153, Issue 234 (31 October 2024) (Hon. Hassan Yussuff), online: <sencanada.ca/en/content/sen/chamber/441/debates/234db_2024-10-31-e?language=e>; Devine, Government Accountability Project, *Brief to the Standing Committee on Government Operations and Estimates*, *supra* note 21.

Yukon.²⁵ For the remaining three provinces and territories, **Nunavut** and **Ontario** embedded whistleblower protections within their respective *Public Service Acts*, while the **Northwest Territories** have no specific whistleblower protection laws outside the federal **PSDPA**.²⁶

Similar to the federal **PSDPA**, provincial laws have attracted sustained criticism from civil society groups.²⁷ Many of these concerns recur across jurisdictions, reflecting structural deficiencies inherent in the design and operation of the **PSDPA** itself, which provincial schemes frequently mirror or replicate.

II. Scope of Coverage

A. Who is Protected? The Public Sector

Canadian whistleblower regimes condition protection on employment status rather than the nature of the disclosure, denying equal protection in violation of **Article 26** of the ICCPR. The exclusion of a large number of potential whistleblowers based on their employment status deters the disclosure of information of public interest, undermines the effective exercise of freedom of expression protected under **Article 19** and limits access to remedies under **Article 2(3)**.

Federal Legislation

Federally, the **PSDPA** centers protection on public servants and confines disclosures to prescribed institutional channels.²⁸ For the purposes of the Act, a “public servant” refers to every person employed in the public sector, but expressly excludes employees of the Canadian Forces, Canadian Security Intelligence Service and Communications Security Establishment.²⁹ This statutory definition narrows the scope of protection at the outset and leaves categories of individuals within certain federal public services,

²⁵ See: *Public Interest Disclosure (Whistleblower Protection) Act*, SA 2012, c P39.5 (Alberta); *Public Interest Disclosure Act*, SBC 2018, c 22 (British Columbia); *The Public Interest Disclosure (Whistleblower Protection) Act*, SM 2006, c 35 (Manitoba); *Public Interest Disclosure Act*, RSNB 2012, c 112 (New Brunswick); *Public Interest Disclosure and Whistleblower Protection Act*, SNL 2014, c P-37.2 (Newfoundland and Labrador); *Public Interest Disclosure of Wrongdoing Act*, SNS 2010, c 42 (Nova Scotia); *Public Interest Disclosure and Whistleblower Protection Act*, RSPEI 1988, c P-31.01 (Prince Edward Island); *Act to facilitate the disclosure of wrongdoings relating to public bodies*, CQLR, c D-11.1 (Quebec); *The Public Interest Disclosure Act*, S.S. 2011, c. P-38.1 (Saskatchewan); *Public Interest Disclosure Of Wrongdoing Act*, SY 2014, c 19 (Yukon).

²⁶ *Public Service of Ontario Act*, 2006, SO 2006, c 35, Sch A, ss 103–150, online: <www.ontario.ca/laws/statute/06p35>; *Public Service Act*, SNWT 2007, c 25 (Nunavut Public Service Act consolidation), ss 38–54, online: <www.nunavutlegislation.ca/en/consolidated-law/public-service-act-official-consolidation>.

²⁷ See: Daniel Kim, Transparency International Canada, *Report on Whistleblower Protections in Canada* (Toronto: Transparency International Canada, April 2015), online: <static1.squarespace.com/static/5df7c3de2e4d3d3fce16c185/t/5e1e38d92ee5903aac1dbae0/1579038938361/whistleblower_report.pdf>.

Ian Bron, *Assessment of Saskatchewan’s Whistleblower Protection Legislation* (Centre for Free Expression, 30 January 2023), online: <cfe.torontomu.ca/sites/default/files/2023-01/SK_PIDA_Assessment_FINAL.pdf>, International Bar Association – Legal Policy & Research Unit and Legal Practice Division, *Whistleblower Protections: A Guide* (April 2018), online: <www.ibanet.org/ErrorHandler?id=a8bac0a9-ea7e-472d-a48e-ee76cb3cdef8>.

²⁸ *Public Servants Disclosure Protection Act*, s. 2.

²⁹ *Ibid.*

and individuals working as contractors, consultants, temporary staff, interns, and volunteers, outside the whistleblower protection framework.

Parliamentary Committee review has acknowledged that the employment-based model fails to reflect the reality of contemporary governance, as public services are routinely delivered through arm's-length entities and private contractors, creating significant gaps in protection for those engaged in public functions outside narrowly defined "public servants".³⁰ Scholars similarly identify status-based exclusion as a weakness of Canadian whistleblower law, contributing to underreporting and chilled disclosure.³¹ Contrastingly, international best practices, recommended by *Transparency International Canada*, extend whistleblower protection to the public interest function performed, rather than formal employment status, by providing protection to any person who acquired information through work-related activities where retaliation could create a chilling effect on public accountability.³²

Provincial Legislation

Provincial legislation reproduces this employment-based approach. In **British Columbia, Prince Edward Island, Newfoundland and Labrador, and New Brunswick**, protection is limited to current or former public servants, excluding contractors and non-employees who perform public work or have access to relevant information.³³ **Nova Scotia** and **Saskatchewan** similarly restrict coverage to employees, notwithstanding extensive reliance on contracted service delivery in sectors such as healthcare, infrastructure, and social services.³⁴

Some provinces have taken limited steps toward broader coverage, but these measures remain inconsistent. **Manitoba** and **Alberta** extend protection to certain service providers; however, coverage is tightly defined by formal contractual relationships, which excludes many workers from protection in

³⁰ Standing Committee on Government Operations and Estimates, *Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act*, *supra* note 5 at pp. 59–61; Kim, *Report on Whistleblower Protections in Canada*, *supra* note 27 at pp. 8-9.

³¹ David Hutton, *What's Wrong with Canada's Federal Whistleblower Legislation* (Centre for Free Expression, Toronto Metropolitan University, 14 June 2017) at p. 11, online: <cfe.torontomu.ca/publications/whats-wrong-canadas-federal-whistleblower-legislation>.

³² Kim, *Transparency International Canada, Report on Whistleblower Protections in Canada*, *supra* note 27 at p. 4.

³³ Ian Bron, *Assessment of Prince Edward Island's Whistleblower Protection Legislation* (Centre for Free Expression, 30 January 2023), at p. 4, online: <cfe.torontomu.ca/sites/default/files/2023-01/PE_PIPA_Assessment_FINAL.pdf>; Ian Bron, *Assessment of Newfoundland and Labrador's Whistleblower Protection Legislation* (Centre for Free Expression, 30 January 2023), at p. 4, online: <https://cfe.torontomu.ca/sites/default/files/2023-01/NL_PIPA_Assessment_FINAL.pdf>; Ian Bron, *Assessment of New Brunswick's Whistleblower Protection Legislation* (Centre for Free Expression, 30 January 2023) at p. 4, online: <https://cfe.torontomu.ca/sites/default/files/2023-01/NB_PIPA_Assessment_FINAL.pdf>.

³⁴ Ian Bron, *Assessment of Nova Scotia's Whistleblower Protection Legislation* (Centre for Free Expression, 30 January 2023), at p. 4, online: <https://cfe.torontomu.ca/sites/default/files/2023-01/NS_PIPA_Assessment_FINAL.pdf>; Bron, *Assessment of Saskatchewan's Whistleblower Protection Legislation*, *supra* note 27 at p. 4.

practice.³⁵ Quebec's Act exceptionally extends protection to "any person" who makes a disclosure, making it the only province that offers a wider scope of protection.³⁶

B. Who is Not Protected? The Private Sector

Canada has no federal statutory scheme designated to protect private sector whistleblowers.³⁷ Provincially, the **Saskatchewan Employment Act** prohibits reprisals against employees for making a disclosure against their employer.³⁸ The New Brunswick **Employment Standards Act** only protects whistleblowers reporting illegal activity, preventing disclosures outside of that scope. Other provincial acts offer no such protection.

Securities Commissions in provinces such as **British Columbia, Ontario, and Alberta** actively incentivise whistleblowing in the securities context by offering monetary rewards to whistleblowers for information that meaningfully contributes to an investigation.³⁹ Securities-related whistleblowers also benefit from greater confidentiality protections under these provinces' **Securities Acts** than those granted for whistleblowers under any other federal or provincial scheme.⁴⁰ The incentives scheme demonstrates that when whistleblowing reveals the "right" type of information, such as stock market corruption, the government is an active and willing participant in offering further protection.

³⁵Ian Bron, *Assessment of Manitoba's Whistleblower Protection Legislation* (Centre for Free Expression, 30 January 2023), at p. 4, online: <cfe.torontomu.ca/sites/default/files/2023-01/MB_PIPA_Assessment_FINAL.pdf>; Ian Bron, *Assessment of Alberta's Whistleblower Protection Legislation* (Centre for Free Expression, 30 January 2023), at p. 4, online: <cfe.torontomu.ca/sites/default/files/2023-01/AB_PIPA_Assessment_FINAL.pdf>.

³⁶ *Act to facilitate the disclosure of wrongdoings relating to public bodies*, s. 6. (Quebec)

³⁷ Hutton, *What's Wrong with Canada's Federal Whistleblower Legislation*, *supra* note 31 at p. 12.

³⁸ *The Saskatchewan Employment Act*, SS 2013, c S-15.1, s. 6-6, online: <www.canlii.org/en/sk/laws/stat/ss-2013-c-s-15.1/latest/ss-2013-c-s-15.1.html?docType=pdf>; *Employment Standards Act*, SNB 1982, c E-7.2, s. 28, <canlii.ca/t/56bjc>. (New Brunswick)

³⁹ British Columbia Securities Commission, "About the Whistleblower Program," *Report to Us*, online: <www.bcsc.bc.ca/report-to-us/about-the-whistleblower-program>; Ontario Securities Commission, "OSC Whistleblower Program," online: <www.osc.ca/en/enforcement/osc-whistleblower-program>; Alberta Securities Commission, "Office of the Whistleblower," online: <www.asc.ca/en/enforcement/office-of-the-whistleblower>.

⁴⁰ Examples include: the reverse onus burden of proof under s. 121.5(5) of the Ontario *Securities Act* as opposed to the *PSDPA* where the whistleblower must prove that their disclosure was the reason for retaliation and the absence of a Good Faith requirement, and British Columbia and Alberta's *Securities Acts* also contain stronger confidentiality provisions than the *PSDPA*'s nominal confidentiality protections. See: *Securities Act*, RSO 1990, c S.5, s 121.5(5), online: <www.ontario.ca/laws/statute/90s05>; *Securities Act*, RSBC 1996, c 418, s 168.05, online: <www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/00_96418_01>; *Securities Act*, RSA 2000, c S-4, ss. 198(6)-(8), online: <www.canlii.org/en/ab/laws/stat/rsa-2000-c-s-4/latest/rsa-2000-c-s-4.html>.

Recommended Questions

1. What steps will Canada take to ensure that the Office of the Public Sector Integrity Commissioner and the Public Servants Disclosure Protection Tribunal have adequate and sustained resources to investigate disclosures and adjudicate reprisal complaints in a timely manner?
2. The **Public Servants Disclosure Protection Act (PSDPA)** excludes government contractors, volunteers, and other non-employee workers by defining them outside the scope of “public servants”. Canada also currently has no federal legislation protecting private-sector whistleblowers. How does Canada ensure effective protection for individuals excluded from these frameworks, and what steps will it take to safeguard their freedom of expression and access to timely, effective and restorative remedies and legal assistance when disclosing wrongdoing? Additionally, what is the public policy rationale for excluding non-public servants?

Recommendation

1. The State party should ensure that the Office of the Public Sector Integrity Commissioner and the Public Servants Disclosure Protection Tribunal are provided with sufficient and sustained financial, technical, and logistical resources to enable timely investigation and adjudication of disclosures and reprisal complaints.
2. Additionally, Canada should amend the **Public Servants Disclosure Protection Act** to extend whistleblower protection on a sector-blind basis to all individuals who acquire information through work-related activities and disclose wrongdoing in the public interest, regardless of sector, through targeted amendments to its scope without altering the Act’s architecture.

In particular, the Act should be **amended to**:

- (a) extend protections to “any person” (in line with **Quebec**’s standard) or introduce a parallel category of “**protected person**” to include employees, contractors, consultants, agency workers, interns, volunteers, job applicants, and former workers in both public and private entities where the disclosure concerns wrongdoing affecting the public interest, as well as to individuals who assist whistleblowers, witnesses, and those perceived to be whistleblowers;
- (b) permit protected disclosures to be made in relation to wrongdoing occurring in private-sector entities where there is a sufficient public interest nexus, including through the use of public funds, delivery of public services, illegality, or impact on public health, safety, or integrity; and
- (c) ensure that protections against reprisal, access to remedies, and enforcement mechanisms apply equally to all protected persons, irrespective of sector.

III. Making a Disclosure

A. Good Faith Requirement

The **PSDPA** conditions protection on a requirement that protected disclosures be made “in good faith”.⁴¹ Canada’s 2017 Parliamentary review of the **PSDPA** recommended removing this provision,⁴² as the requirement deters disclosure by allowing credibility and motive to be challenged after the fact without defining the term, particularly where disclosures implicate senior officials, systemic misconduct, or where the whistleblower has a strained relationship with the employer.⁴³ Additionally, this requirement is an intentional tactic to shift the focus from the disclosure’s content to the whistleblower themselves.

The “good faith” standard is mirrored across every provincial whistleblower regime, despite long critique.⁴⁴ Notably, some international jurisdictions have mitigated this standard by interpreting “good faith” as a reasonable belief that the information was true at the time of reporting or by eliminating the nebulous condition altogether; Canada has not followed suit.⁴⁵ The International Bar Association’s best practices also caution against conditioning whistleblower protection on assessments of the whistleblower’s motive, emphasising that protection should turn on the public-interest value of the information disclosed rather than the subjective intent of the discloser.⁴⁶

B. Confidentiality

Confidentiality is foundational to an effective whistleblower protection regime, as the risk of identification is a primary driver of retaliation and underreporting.⁴⁷ Canadian whistleblower legislation formally recognises confidentiality but provides ineffective protection in practice. While confidential disclosures are protected under **s. 11** and **s. 12** of the **PSDPA**, the Act does not protect the disclosure of “identifying information” that would allow a source to be identified in practice.⁴⁸ Moreover, anonymous disclosures are not considered protected disclosures under the Act. Essentially, a whistleblower must risk

⁴¹ *Public Servants Disclosure Protection Act*, s. 2.

⁴² Standing Committee on Government Operations and Estimates, *Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act*, *supra* note 5 at p. 30.

⁴³ *Ibid.*

⁴⁴ *Public Interest Disclosure (Whistleblower Protection) Act* (Alberta) 1(f), 24(1); *Public Interest Disclosure Act*, ss.12, 31(1) (British Columbia); *The Public Interest Disclosure (Whistleblower Protection) Act*, ss. 2, 27 (Manitoba); *Public Interest Disclosure Act*, ss. 3(1), 9(1) (New Brunswick); *Public Interest Disclosure and Whistleblower Protection Act*, ss. 3(1), 19(1) (Newfoundland and Labrador); *Public Interest Disclosure of Wrongdoing Act*, ss. 3(1), 9(1) (Nova Scotia); *The Public Service of Ontario Act* (Ontario); *Public Interest Disclosure and Whistleblower Protection Act*, ss. 3(1), 15(1) (Prince Edward Island); *The Public Interest Disclosure Act* (Saskatchewan); *Act to facilitate the disclosure of wrongdoings relating to public bodies*, ss. 6, 34 (Quebec); *Public Interest Disclosure Of Wrongdoing Act*, ss. 2, 25 (Yukon).

⁴⁵ International Bar Association, *Whistleblower Protections: A Guide*, *supra* note 27 at pp. 22-23. See also: *Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law*, art 32, 2019 OJ (L 305) 17, para 32, online: <<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32019L1937>>.

⁴⁶ International Bar Association, *Whistleblower Protections: A Guide*, *supra* note 27 at p. 22.

⁴⁷ Devine, “International Best Practices for Whistleblower Policies”, *supra* note 22 at p. 5.

⁴⁸ *Public Servants Disclosure Protection Act*, s. 11-12.

exposing their identity and facing reprisals to make a disclosure. Similar deficiencies appear across provincial statutes, where confidentiality is subject to wide discretion.⁴⁹

A further confidentiality limitation concerns contractual non-disclosure provisions, or “gag orders”. With the exception of **British Columbia**, Canadian whistleblower statutes cannot invalidate confidentiality clauses, non-disclosure agreements, and other contractual restrictions that deter disclosure. The absence of protection leaves the whistleblower potentially vulnerable to legal and professional consequences for speaking out. By contrast, **s. 45 of British Columbia's *Public Interest Disclosure Act*** expressly renders contractual provisions unenforceable to the extent that they prevent a disclosure or reprisal complaint under the Act.⁵⁰ In the absence of similar protections elsewhere in Canada, whistleblowers face heightened legal and professional risk, which reduces the likelihood that information relevant to protecting the public interest will be shared.

Recommended Questions

1. What steps will Canada take to repeal the “good-faith” requirement, ensuring that whistleblower protections are based on a reasonable belief in the disclosure, while also strengthening safeguards for whistleblowers’ identities and preventing contractual non-disclosure clauses from blocking protected disclosures or reprisal complaints?
2. What steps will Canada take to ensure that workplaces, both public and private, foster an environment in which whistleblowers can come forward without fear of retaliation, including through training, oversight, and enforcement mechanisms that reinforce legal protections?⁵¹

Recommendation

1. Repeal the “good faith” requirement, and ensure that protection depends on whether the whistleblower had a reasonable belief the information disclosed was true.
2. Amend the PSDPA to expressly prohibit any policies, forms or agreements that conflict with rights and remedies articulated in the Act.
3. Canada should strengthen confidentiality safeguards, narrow information permitting disclosure of a whistleblower's identity, and extend protections to anonymous disclosures.
4. Impose a clear statutory duty on managers and supervisors to protect and support whistleblowers, witnesses, and related persons throughout and following disclosure processes.

⁴⁹ *Public Interest Disclosure (Whistleblower Protection) Act* (Alberta); *The Public Interest Disclosure (Whistleblower Protection) Act* (Manitoba); *Public Interest Disclosure Act* (New Brunswick); *Public Interest Disclosure and Whistleblower Protection Act* (Newfoundland and Labrador); *Public Interest Disclosure of Wrongdoing Act* (Nova Scotia); *The Public Service of Ontario Act* (Ontario); *Public Interest Disclosure and Whistleblower Protection Act* (Prince Edward Island); *The Public Interest Disclosure Act* (Saskatchewan); *Public Interest Disclosure Of Wrongdoing Act* (Yukon).

⁵⁰ *Public Interest Disclosure Act*, s. 45. (British Columbia)

⁵¹ Canadian and British caselaw has long established that disclosing illegal acts is an exception to the duty of loyalty and confidentiality to one’s employer. See: *Gartside v. Outram* (1857) 26 L.J. Ch. 113; *Fraser v. Public Service Staff Relations Board*, [1985] 2 S.C.R. 455; *Merk v. International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers*, Local 771 2005 SCC 70.

IV. Reprisals and Burden of Proof

A. Narrow Definition of Reprisals

Federal Legislation

Reprisals against whistleblowers often take informal and indirect forms, including ostracism, blacklisting, bullying, reputational harm, and/or the strategic use of civil processes.⁵² Canadian whistleblower laws narrowly define reprisal and leave common forms of harassment outside of statutory protection. A reprisal under the **PSDPA** includes a disciplinary measure, demotion, termination of employment, any measure that adversely affects the whistleblower's working conditions, or threatening any of the former measures.⁵³ Any reported retaliation outside of these enumerated categories will not be investigated by the Public Sector Integrity Commissioner's ("Integrity Commissioner") office, the relevant investigative body for the **PSDPA**.

In addition, under the **PSDPA**, only reprisals connected to *protected disclosures* are subject to investigation; those who assist whistleblowers, are mistakenly believed to be whistleblowers, or are targeted preemptively before a disclosure is made ("spillover reprisals"), are left unprotected.⁵⁴ As a result, employers may act on suspicion alone and neutralise potential disclosures before the statutory regime is engaged.

According to a 2017 Parliamentary committee review, 55% of reprisal complaints were not investigated by the Integrity Commissioner, either because the allegations did not meet the statutory definition of reprisals, the complainant was not deemed to have made a protected disclosure under the Act, or the complaint was inadmissible because it did not pertain to the public sector as defined in the Act.⁵⁵

The investigation process under the **PSDPA** also lacks transparency as the process and criteria for linking a reprisal complaint to a protected disclosure are unknown.⁵⁶ The Integrity Commissioner may reject an reprisal investigation on technicalities, or on a procedural ground for failing to report within the limited 60-day reporting period.⁵⁷ In conjunction with uncertainty surrounding the "good faith" requirement and the scope of reported conduct under **PSDPA S.8**, this fragmented statutory scheme fosters fear of retaliation and ultimately disincentivizes whistleblowing, violating **Article 19** of the **ICCPR**.

⁵² Standing Committee on Government Operations and Estimates, *Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act*, *supra* note 5 at p. 44.

⁵³ *Public Servants Disclosure Protection Act*, s. 19.

⁵⁴ *Ibid.*

⁵⁵ Standing Committee on Government Operations and Estimates, *Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act*, *supra* note 5 at p. 45.

⁵⁶ *Ibid* at p. 44.

⁵⁷ Hutton, *What's Wrong with Canada's Federal Whistleblower Legislation*, *supra* note 31 at pp. 18-19; *Public Servants Disclosure Protection Act*, s.19.3(1).

Provincial Legislation

Most provincial regimes in Canada replicate the narrow definitions of “reprisals” and limited protection found under the federal **PSPDA**.⁵⁸ **Quebec**’s statute further restricts reprisals to formal disciplinary action within the workplace, excluding informal forms of retaliation entirely.⁵⁹

B. Reprisal Complaints: Burden of Proof

Federal Legislation

Under the Canadian federal regimes, whistleblowers must establish, on a balance of probabilities, a causal link between their disclosure and subsequent reprisal.⁶⁰ Parliament’s review of the **PSPDA** has acknowledged that the evidentiary standard under the Act is difficult to meet in practice, especially in cases where reprisals take the form of incremental measures or legitimate managerial decisions that can later be justified as legitimate.⁶¹ The challenge is compounded when key evidence, such as performance assessments and informal discipline, remains almost entirely under the employer’s control.⁶²

Provincial Legislation

Most provincial statutes replicate this fundamental statutory deficiency by similarly requiring the whistleblower to establish causation between their disclosure and their employer’s retaliatory actions.⁶³ Distinctively, **Quebec** adopted a “reverse-onus” approach, under which the employer must demonstrate that adverse treatment was unrelated to the disclosure once the whistleblower establishes a *prima facie* case.⁶⁴ While most provinces adopt an approach contrary to International Best Practices (see Appendix),⁶⁵ Quebec’s approach has remained unique, leaving most Canadian whistleblowers with a quasi-impossible evidentiary standard and a lack of effective remedy.

⁵⁸ See: *Public Interest Disclosure (Whistleblower Protection) Act* (Alberta); *Public Interest Disclosure Act*, s. 54(2) (British Columbia); *The Public Interest Disclosure (Whistleblower Protection) Act* (Manitoba); *Public Interest Disclosure Act*, s. 32(2) (New Brunswick); *Public Interest Disclosure and Whistleblower Protection Act*, ss. 19-24 (Newfoundland and Labrador); *Public Interest Disclosure of Wrongdoing Act*, ss. 3, 9, 12 (Nova Scotia); *Public Interest Disclosure and Whistleblower Protection Act*, ss. 14-18 (Prince Edward Island); *The Public Interest Disclosure Act*, ss. 18-23 (Saskatchewan); *Public Interest Disclosure Of Wrongdoing Act*, ss. 35-38 (Yukon).

⁵⁹ Ian Bron, *Assessment of Quebec’s Whistleblower Protection Legislation* (Centre for Free Expression, 30 January 2023), at p. 4, online: <cfe.torontomu.ca/sites/default/files/2023-01/QC_PIPA_Assessment_FINAL.pdf>.

⁶⁰ *Public Servants Disclosure Protection Act*, s. 19.1.

⁶¹ *Ibid.*

⁶² Standing Committee on Government Operations and Estimates, *Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act*, *supra* note 5 at p. 47.

⁶³ See *Public Interest Disclosure (Whistleblower Protection) Act*, s. 52 (Alberta); *Public Interest Disclosure Act*, s. 31 (British Columbia); *The Public Interest Disclosure (Whistleblower Protection) Act*, s. 60 (Manitoba); *Public Interest Disclosure Act*, s. 54 (New Brunswick); *Public Interest Disclosure and Whistleblower Protection Act*, s. 15 (Newfoundland and Labrador); *Public Interest Disclosure of Wrongdoing Act*, s. 10 (Nova Scotia); *Public Interest Disclosure and Whistleblower Protection Act*, s.6 (Prince Edward Island); *The Public Interest Disclosure Act*, s. 43 (Saskatchewan); *Public Interest Disclosure Of Wrongdoing Act*, s. 46 (Yukon).

⁶⁴ *An Act to facilitate the disclosure of wrongdoing and to protect persons who disclose wrongdoing*, CQLR c P-33.01, s 15, online: <www.legisquebec.gouv.qc.ca/en/document/lc/P-33.01>.

⁶⁵ International Bar Association, *Whistleblower Protections: A Guide*, *supra* note 27 at p. 26.

Recommended Questions

1. Canadian whistleblower laws narrowly define reprisal and exclude common forms of harassment from statutory protection, while also requiring whistleblowers to prove that reprisals occurred. How will Canada ensure that its laws cover not only formal disciplinary actions but also indirect, subtle, or cumulative forms of retaliation, and take steps to reverse the burden of proof so that once a protected disclosure and an adverse action are established, the employer must demonstrate that no reprisal took place?

Recommendations

1. Clarify and broaden the definition of “reprisal” to include all acts or omissions inconsistent with the duty to protect and support whistleblowers and related persons, including subtle or cumulative forms of retaliation such as ostracizing the whistleblower, blacklisting, bullying, reputational harm, and/or the strategic use of civil processes.
2. Canada should reverse the burden of proof in reprisal proceedings, so that once a protected disclosure and adverse action are *prima facie* established, the employer must demonstrate that no reprisal occurred.

V. Access to Forum and Remedy

A. Procedural Gatekeeping

Federal Legislation

The *PSPDA* requires that a whistleblower seek consent from an Integrity Commissioner before they can bring a reprisal complaint directly before the Public Servants Disclosure Protection Tribunal for adjudication.⁶⁶ Upon receipt of the request for consent, the Integrity Commissioner conducts an investigation, considering the statutory basis for dismissal of the claim and the totality of the circumstances.⁶⁷ Between 2007, when the *PSPDA* came into force, and January 2026, 651 reprisal complaints were submitted to the Office of the Federal Sector Integrity Commissioner,⁶⁸ and only 11 whistleblowers were permitted to bring their cases before the Tribunal. Of those 11 cases, seven were settled, one was suspended indefinitely pending parallel litigation, one is still in progress, and only two

⁶⁶ *Public Servants Disclosure Protection Act*, ss. 19.1, 19.4, 20.4.

⁶⁷ *Ibid.* s. 20.4(3).

⁶⁸ Office of the Public Sector Integrity Commissioner of Canada, *Annual Report 2024–25* (2025), online: <psic-ispc.gc.ca/en/resources/corporate-publications/2024-25/annual-report>; Office of the Public Sector Integrity Commissioner of Canada, *Annual Report 2023–24* (2024), online: <assets.psic-ispc.gc.ca/sites/default/files/2024-06/2023-24_annual_report_en.pdf>; Office of the Public Sector Integrity Commissioner of Canada, *Annual Report 2022–23* (2023), online: <www.psic-ispc.gc.ca/en/resources/corporate-publications/2022-23/annual-report#:~:text=The%20Office%20received%20184%20disclosures,also%20received%2049%20reprisal%20complaints>; Office of the Public Sector Integrity Commissioner of Canada, *Annual Report 2021–22* (2022), online: <www.psic-ispc.gc.ca/en/resources/corporate-publications/2021-22/annual-report>; Office of the Public Sector Integrity Commissioner of Canada, *Annual Report 2020–21* (2021), online: <www.psic-ispc.gc.ca/en/resources/corporate-publications/2020-21/annual-report>; Feinstein & Devine, *Are Whistleblowing Laws Working?*, *supra* note 6 at p. 37.

resulted in decisions on their merits.⁶⁹ In the two decided cases, the Tribunal ruled against the whistleblower. The remaining 600 cases did not proceed to adjudication despite serious allegations of retaliation.

Even where cases reached the Tribunal for adjudication, delays were unreasonable and extreme. In one decided case, 580 days elapsed from the filing of the Tribunal complaint to the decision, and 2,398 days from the initial reprisal complaint to the final resolution.⁷⁰ In the other case, the Tribunal process alone took 833 days, with a total delay of 2,501 days from the first complaint to the outcome.⁷¹ Such a remedial scheme that relies on the Integrity Commissioner's discretionary referral and prolonged hearings fails to function as an effective remedy under Article 2(3).

Furthermore, under s. 236 of the ***Federal Public Sector Labour Relations Act***, public servants are barred from pursuing civil actions related to the terms of their employment. They are instead confined to a compulsory grievance process, whether or not they actually file a grievance.⁷² Together with the ***PSDPA***, this framework effectively restricts access to both the courts and the Tribunal, which remains selective and largely inactive.

Provincial Legislation

Several provincial whistleblower regimes include mechanisms intended to reduce institutional conflict by separating the investigation of wrongdoing from the adjudication of reprisals. For example, in **Manitoba**, reprisal complaints are adjudicated by the Labour Board after investigation by the Ombudsman.⁷³ **British Columbia's *Public Interest Disclosure Act*** permits employees to disclose wrongdoings either to a designated officer or directly to the Ombudsperson. However, there is no right of direct access to adjudication following a refusal.⁷⁴ **Ontario's *Public Service of Ontario Act*** offers the broadest available fora, including adjudication by the Labour Relations Board, access to binding arbitration mechanism and the Public Service Grievance Board. However, these mechanisms are only limited to public sector employment rather than a standalone whistleblower protection regime.⁷⁵

On the other hand, provinces like **Saskatchewan** and **Alberta** essentially replicate the federal model, giving integrity commissioners broad discretion to decide whether to proceed with reprisal complaints.⁷⁶ **New Brunswick** and **Newfoundland and Labrador** rely on discretionary administrative

⁶⁹ Public Sector Digital and Data Protection Tribunal, "Case Details," online: <www.psdpt-tpfd.gc.ca/Files/CaseDetails-en.html>.

⁷⁰ *Dunn v. Indigenous and Northern Affairs Canada and Lecompte*, 2017 PSDPT 3; Feinstein & Devine, *Are Whistleblowing Laws Working?*, *supra* note 6 at p. 37.

⁷¹ *Agnaou v. Public Prosecution Service of Canada et al.*, 2019 PSDPT 3; Feinstein & Devine, *Are Whistleblowing Laws Working?*, *supra* note 6 at p. 37.

⁷² ***Federal Public Sector Labour Relations Act***, SC 2003, c 22, s 336.

⁷³ *The Public Interest Disclosure (Whistleblower Protection) Act*, ss. 24-27 (Manitoba).

⁷⁴ *Public Interest Disclosure Act*, ss. 17-24, 31-34. (British Columbia)

⁷⁵ *The Public Service of Ontario Act*, ss. 122-125.

⁷⁶ *The Public Interest Disclosure Act*, ss. 22-27 (Saskatchewan); *Public Interest Disclosure (Whistleblower Protection) Act*, ss. 24-29 (Alberta).

processes without a clear right of appeal from refusals to investigate.⁷⁷ Overall, while provincial regimes vary and sometimes improve on the federal approach, they continue to rely primarily on administrative gatekeeping to control access to remedies.

Recommended Question

1. PSPDA requires that a whistleblower seek consent from an Integrity Commissioner before bringing a reprisal complaint to the Tribunal for adjudication. How does Canada ensure that discretionary decisions by commissioners or provincial ombuds offices do not impede timely, effective, and transparent access to adjudicative remedies for whistleblowers?

Recommendation

1. Canada should reform whistleblower protection regimes to reduce discretionary screening and a direct right of appeal to the Public Servants Disclosure Protection Tribunal in reprisal matters, ensure that whistleblowers have timely access to independent adjudication of reprisal complaints, with clear criteria and review mechanisms for refusal decisions.
2. Canada should remove statutory barriers to concurrent investigations, and authorize the initiation of wrongdoing investigations based on evidence uncovered during reprisal proceedings, empowering the Commissioner to request corrective actions.
3. Canada should expand the mandate of the Auditor General of Canada, to receive disclosures of wrongdoing from the public and reprisal complaints concerning the Office of the Public Sector Integrity Commissioner, with corresponding investigative powers.

B. Remedies & Legal Assistance

Federal Legislation

Even when a whistleblower succeeds in having the Tribunal find that a reprisal occurred, the **PSDPA** fails to provide effective remedies. The Act does not include mechanisms to suspend disciplinary action, preserve employment conditions, or otherwise protect whistleblowers during investigations and proceedings, which often extend over several years.⁷⁸ Under s. 21, the Tribunal may order reinstatement or compensation, but these remedies are discretionary and narrow in scope.⁷⁹ The **PSDPA** does not provide compensation for future loss of earnings, career derailment, or non-economic harm, nor does it require sanctions against those responsible for the reprisals.

⁷⁷ *Public Interest Disclosure Act*, ss.19-23 (New Brunswick); *Public Interest Disclosure and Whistleblower Protection Act*, ss. 21-25 (Newfoundland and Labrador).

⁷⁸ *Public Servants Disclosure Protection Act*, ss. 19, s. 21.

⁷⁹ *Ibid*, s. 21.

In practice, disciplinary action against the offending employer under **s. 21.8**,⁸⁰ such as dismissal, has rarely been sought. No whistleblower has succeeded on the merits before the Tribunal, meaning that no sanctions have ever been levied against employers.⁸¹ While confidential settlements have occurred in several cases, they provide little in terms of public accountability or deterrence.⁸²

During investigation and tribunal proceedings, the Integrity Commissioner may, on a discretionary basis, authorise legal assistance for whistleblowers under the **PSDPA**, with the amount of assistance capped at CAD\$1500 or \$3000 in “exceptional circumstances”.⁸³ Even if legal assistance is granted, these amounts are insufficient to cover the costs of the complex reprisal complaint process, which can involve investigations and tribunal proceedings lasting several years. As a result, whistleblowers must either fund litigation themselves despite its workplace-related nature or abandon their claims entirely.

Provincial Legislation

In **Alberta, Manitoba, Saskatchewan, New Brunswick, Newfoundland and Labrador, and British Columbia**, whistleblower legislation authorizes reinstatement or compensation only after a reprisal has been formally established by the adjudicating body. None of these regimes provides interim relief to protect whistleblowers from ongoing retaliation during investigations and proceedings.⁸⁴ While **New Brunswick** permits a temporary transfer during an investigation, it offers no accompanying income replacement during that period.⁸⁵

Several provinces provide for legal support or cost recovery for whistleblowers during the reprisal process but do so on a discretionary basis or only in limited circumstances. **Alberta** allows the Labour Relations Board to order an employer to pay a whistleblower's legal costs after a successful complaint.⁸⁶ **British Columbia**, by contrast, provides indemnification only for legal costs in civil actions before the Supreme Court, not as a dedicated whistleblower support mechanism.⁸⁷ **Manitoba**'s legislation authorizes the designated officer or Ombudsman to arrange legal advice where they consider it necessary to further the Act's purposes.⁸⁸ **Newfoundland and Labrador**'s Act similarly permits legal advice, but the maximum

⁸⁰ The PSPDA provides limited explanation regarding what form “all necessary disciplinary action[s]” take beyond termination of employment or revocation of appointment. This lack of clarity regarding scope of sanctions may contribute to its disuse as a remedial measure. See: *Public Servants Disclosure Protection Act*, s.21.8.

⁸¹ Feinstein & Devine, *Are Whistleblowing Laws Working?*, *supra* note 6 at p. 37.

⁸² *Public Servants Disclosure Protection Act*, SC 2005, c 33.3, s. 236, online: <laws-lois.justice.gc.ca/eng/acts/P-33.3/section-236.html>.

⁸³ *Public Servants Disclosure Protection Act*, s 25.1.

⁸⁴ *Public Interest Disclosure (Whistleblower Protection) Act*, s. 26 (Alberta); *The Public Interest Disclosure (Whistleblower Protection)*, s. 27 (Manitoba); *The Public Interest Disclosure Act*, s. 25-27 (Saskatchewan); *Public Interest Disclosure Act*, s. 21-23 (New Brunswick); *Public Interest Disclosure and Whistleblower Protection Act*, s. 22-24 (Newfoundland and Labrador); *Public Interest Disclosure Act*, s. 42-44 (British Columbia).

⁸⁵ *Public Interest Disclosure Act*, s. 70-71. (New Brunswick)

⁸⁶ *Public Interest Disclosure (Whistleblower Protection) Act*, s. 27.2(3)(f)(iv). (Alberta)

⁸⁷ *Public Interest Disclosure Act*, s. 26. (British Columbia)

⁸⁸ *The Public Interest Disclosure (Whistleblower Protection)*, s. 34. (Manitoba)

assistance is fixed at \$3,000.⁸⁹ **Quebec** provides access to legal advice only where, in the Public Protector's opinion, the person is in a "special situation warranting legal assistance", thus adding additional burdens to whistleblowers.⁹⁰ Under these provincial laws, legal support is not a guaranteed right and is, rather, dependent on discretionary judgement, limiting meaningful access to justice for whistleblowers pursuing reprisal complaints. Additionally, jurisdictions like **Saskatchewan**, **Nova Scotia**, and the **Yukon** do not provide explicit legal assistance or cost-recovery in their Act's provisions.⁹¹

The absence of interim protection, coupled with limited post hoc remedies, allows reprisals to continue unchecked. By the time a complaint is resolved, a whistleblower's employment, professional reputation, and career trajectory are often irreparably damaged. Remedies that become available only after prolonged harm, if they are granted at all, do little to alter outcomes or deter future retaliation. For the purposes of **Article 2(3)** of the **ICCPR**, a remedial framework that fails to prevent ongoing harm and offers only limited, discretionary relief at the conclusion of a lengthy process does not constitute an effective remedy.

Recommended Questions

1. What measures are in place to protect whistleblowers from ongoing retaliation during lengthy investigative and adjudicative processes?
2. What steps will Canada take to ensure timely, effective and restorative remedies and sufficient legal assistance are available to whistleblowers, including by providing interim relief during investigation or adjudication of the reprisal complaints?

Recommendations

1. Canada should provide statutory authority for interim relief, including suspension of disciplinary measures, voluntary transfer, or preservation of employment conditions, while reprisal complaints are under investigation or adjudication.
2. Canada should ensure that all whistleblower protection legislation provides timely, effective and restorative remedies, including remedies that restore pre-disclosure employment status, compensating for losses, while ensuring that corrective measures and sanctions may still be ordered against wrongdoers.
3. Canada should work with provinces and territories to establish minimum standards for whistleblower protection, in order to reduce disparities in coverage and remedies across jurisdictions.

⁸⁹ *Public Interest Disclosure and Protection Act Regulations*, NLR 61/14, s. 3, online: <<https://www.assembly.nl.ca/legislation/sr/annualregs/2014/nr140061.htm>>.

⁹⁰ *Act to facilitate the disclosure of wrongdoings relating to public bodies*, s. 26.

⁹¹ *The Public Interest Disclosure Act (Saskatchewan); Public Interest Disclosure of Wrongdoing Act (Nova Scotia); Public Interest Disclosure Of Wrongdoing Act (Yukon)*.

Appendix

Canada's Compliance with International Best Practices for Whistleblower Policies

The chart below assesses Canadian federal and provincial whistleblower protection statutes against the checklist of 20 international best-practice (IBP) standards for any whistleblower protection law identified by the *Government Accountability Project* (GAP).⁹² Each minimum standard developed by GAP is illustrated with examples of best practices drawn from national statute and intergovernmental organisational policies, with detailed explanation provided in their [publication](#).

The chart highlights legislative gaps and structural weaknesses that undermine whistleblower protection across Canadian jurisdictions, showing the Canadian laws that provide real protection to whistleblowers and those that offer only symbolic or insubstantial safeguards.⁹³ Each statute is evaluated based on legislative wording, as well as their practical effectiveness in offering protection to whistleblowers.

Scoring Methodology

- **MET (green)** indicates that the statutory framework meets the IBP standard in both design and operation, providing reliable and enforceable protection.
- **PARTIAL (yellow)** indicates that the standard is only partially satisfied, either because:
 - There is no clear statutory basis for the protection, but it sometimes occurs in practice; or
 - There is a statutory basis, but the protection is applied unevenly, subject to broad discretion, or rarely realised in practice.
- **FAIL (red)** indicates insufficient protection. A FAIL rating is assigned where the statute omits the standard entirely, or where the statutory provision is so narrow, discretionary, or ineffective that it does not provide meaningful protection in practice.

If a section of the legislation is cited, it either meets the IBP standard or indicates where the standard is intended to apply. If no section is cited, the law does not include that protection.

⁹²Devine, "International Best Practices for Whistleblower Policies", *supra* note 22.

⁹³*Ibid.*

Canada's Compliance with International Best Practices for Whistleblower Policies

#	International Best Practice	Federal Act (PSPDA)	AB / BC / SK / PEI Provincial Statute ⁹⁴	MB / NB / NS / NL Provincial Statute ⁹⁵	QC / YT / NU / ON Provincial Statute ⁹⁶
1	Broad Disclosure Rights Cover "any" disclosure that would be accepted as evidence of significant misconduct or would assist in carrying out legitimate compliance functions. ⁹⁷	FAIL (s. 2)	FAIL (AB s. 1; BC s. 12; SK s. 2; PEI s. 1)	FAIL (MB s. 2; NB s. 1; NS s. 3; NL s. 2)	FAIL (QC s. 10; YT s. 2; NU s. 38; ON s. 139)
2	Wide Subject Matter Scope Cover disclosures of a wide subject, including any illegality, gross waste, mismanagement, abuse of authority, substantial and specific danger to public health. ⁹⁸	FAIL (s. 8)	FAIL (AB s. 3; BC s. 7; SK s. 3; PEI s. 1)	FAIL (MB s. 3; NB s. 3; NS s. 3; NL s. 4)	FAIL (QC s. 4; YT s. 3; NU s. 38; ON s. 141)
3	Right to Refuse Illegal Acts Protects individuals from having to follow orders they reasonably believe are illegal. ⁹⁹	FAIL (Not addressed in statute)	MET (AB s. 24(1)(d); BC s. 31(1); SK s. 36(1)(d))	FAIL (MB, NB, NS, NL)	MET (YT s. 25(d))
			FAIL (PEI)		FAIL (QC; NU; ON)
4	Protection Against Spillover Retaliation Spillover retaliation extends to anyone perceived as a whistleblower, assisting a whistleblower, or about to make a disclosure. ¹⁰⁰	FAIL (s. 19)	FAIL (AB s. 24; BC s. 31; SK s. 36; PEI s. 1)	FAIL (MB s. 27; NB s. 31; NS s. 31; NL s. 21)	FAIL (QC s. 30; YT s. 25; NU s. 46; ON s. 139)
5	"No Loopholes" Protection for All Citizens With Disclosures Relevant to the Public Service Mission Coverage should extend to all whistleblowers, regardless of status. ¹⁰¹	FAIL (s. 2)	FAIL (AB s. 1; BC s. 1; SK s. 2; PEI s. 1)	FAIL (MB s. 2; NB s. 1; NS s. 3; NL s. 2)	FAIL (QC s. 2; YT s. 2; NU s. 1; ON s. 1)

⁹⁴ *Public Interest Disclosure (Whistleblower Protection) Act* (Alberta); *Public Interest Disclosure Act*; (British Columbia); *The Public Interest Disclosure Act* (Saskatchewan); *Public Interest Disclosure and Whistleblower Protection Act*, (Prince Edward Island).

⁹⁵ *The Public Interest Disclosure (Whistleblower Protection) Act* (Manitoba); *Public Interest Disclosure Act*, (New Brunswick); *Public Interest Disclosure of Wrongdoing Act* (Nova Scotia); *Public Interest Disclosure and Whistleblower Protection Act* (Newfoundland and Labrador).

⁹⁶ *Act to facilitate the disclosure of wrongdoings relating to public bodies* (Quebec); *Public Service of Ontario Act*, Sch A, ss 103–150; *Public Service Act*, ss 38–54; *Public Interest Disclosure Of Wrongdoing Act* (Yukon).

⁹⁷ Devine, "International Best Practices for Whistleblower Policies", *supra* note 22 at 2.

⁹⁸ *Ibid* at 3.

⁹⁹ *Ibid* at 3.

¹⁰⁰ *Ibid* at 4.

¹⁰¹ *Ibid* at 4.

6	Reliable Confidentiality Protection	FAIL (s. 11)	PARTIAL (AB s. 5; BC s. 6; SK s. 6; PEI s. 9)	PARTIAL (MB s. 5; NB s. 26; NS s. 3; NL s. 7)	PARTIAL (QC s. 10; YT s. 5; NU s. 43; ON s. 140)
7	Protection Against Unconventional Harassment Protection against all forms of retaliation, including subtle or indirect measures such as denial of promotion, training, or career advancement. ¹⁰²	FAIL (s. 2)	FAIL (AB s. 24; BC s. 31; SK s. 36; PEI s. 1)	FAIL (MB s. 2; NB s. 1; NS s. 3; NL s. 2)	FAIL (QC s. 30; YT s. 2; NU s. 38; ON s. 118(2), s.140(2))
8	Shielding Whistleblower Rights From Gag Orders	FAIL (Not addressed in the statute)	PARTIAL (BC s. 45)	FAIL (MB; NB; NS; NL)	FAIL (QC; YT; NU; ON)
9	Providing Essential Support Services for Paper Rights Accessible legal and support services, including clear workplace notice of rights and legal assistance for workers who are unemployed or blacklisted. ¹⁰³	FAIL (s. 25)	FAIL (AB s. 8; BC s. 11; SK s. 9; PEI s. 8)	FAIL (MB s. 34; NB s. 10; NS s. 5; NL s. 6)	FAIL (QC s. 26; YT s. 8; NU s. 39; ON s. 140)
10	Genuine Day in Court A genuine day in court requires full judicial due process, including timely decisions, the right to present and confront witnesses, and fair, objective procedural rules. ¹⁰⁴	FAIL (s. 20)	FAIL (AB s. 27; BC s. 33; SK s. 36; PEI s. 19)	FAIL (MB s. 28; NB s. 32; NS s. 32; NL s. 22)	FAIL (QC s. 32; YT s. 26; NU s. 47; ON s. 118(2))
11	Option for Alternative Dispute Resolution with an Independent Party of Mutual Consent	FAIL (s. 20)	FAIL (AB; BC; SK; PEI)	PARTIAL (NB s. 64)	MET (YT s. 35)
				FAIL (MB; NS; NL)	FAIL (QC; NU; ON)
12	Realistic Standards to Prove Violation of Rights A violation is recognized if the protected disclosure contributed to the adverse action. Shifts the burden to the employer to prove that the disclosure was not a factor. ¹⁰⁵	FAIL (s. 42)	FAIL (AB s. 52; BC s. 31; SK s. 43; PEI s. 6)	FAIL (MB s. 60; NB s. 54; NS s. 10; NL s. 14)	MET (QC s. 15) ¹⁰⁶
					FAIL (YT s. 46; NU s. 52, ON)

¹⁰² *Ibid* at 6.

¹⁰³ *Ibid* at 7.

¹⁰⁴ *Ibid* at 7.

¹⁰⁵ Devine, “International Best Practices for Whistleblower Policies”, *supra* note 22 at 8-9.

¹⁰⁶ *An Act to facilitate the disclosure of wrongdoing and to protect persons who disclose wrongdoing*, s. 15.

13	Realistic Time Frame to Act on Rights A six-month minimum is necessary for whistleblowers to act on their rights, with a one-year limitation period preferable and consistent with common law rights. ¹⁰⁷	FAIL (s. 19)	FAIL (AB s. 19; BC s. 22; SK s. 16; PEI s. 14)	FAIL (MB s. 21; NB s. 32; NS s. 9; NL s. 15)	FAIL (QC s. 10; YT s. 26; NU s. 42; ON 112, 118)
14	Compensation with “No Loopholes” Relief provided to whistleblowers must be comprehensive to cover all the direct, indirect and future consequences of the reprisal. ¹⁰⁸	FAIL (s. 21)	FAIL (AB s. 27; BC s. 36; SK s. 44; PEI s. 20)	FAIL (MB s. 28; NB s. 39; NS s. 32; NL s. 22)	FAIL (QC s. 32; YT s. 38; NU s. 47)
15	Interim Relief Award of interim relief to whistleblowers during proceedings ¹⁰⁹	FAIL	FAIL (AB; BC; SK; PEI)	PARTIAL (NB s. 70-71)	MET (YT s. 35(1), 38)
				FAIL (MB; NS; NL)	FAIL (QC; NU; ON)
16	Coverage for Attorney Fees Guaranteed legal assistance for whistleblowers. ¹¹⁰	FAIL (s. 25(4-7))	PARTIAL (AB s. 27 allows it, but rarely in practice)	PARTIAL (NL s. 3 Public Interest Disclosure and Protection Act Regulations)	FAIL (QC; YT; NU; ON)
			FAIL (BC; SK; PEI)	FAIL (MB; NB; NS)	
17	Transfer Option Guaranteed right to transfer is necessary for whistleblowers to ensure a safe and viable return to work. ¹¹¹	FAIL (s. 51.1(1))	FAIL (AB 27.1(3)(f); BC s. 35(3); SK s. 36(4); PEI s. 20(2))	PARTIAL (NB s. 70-71, temporary transfer during investigation)	FAIL (QC; YT s. 38(3)(g); NU s. 47(4); ON 51.1 (following the federal statute))
				FAIL (MB 28(3)(g); NS s. 32(2); NL s. 22(2)(g))	
18	Personal Accountability for Reprisals Hold accountable those responsible for whistleblower reprisal ¹¹²	FAIL	FAIL (AB s. 49; BC s. 41; SK s. 40; PEI s. 26)	FAIL (MB s. 33; NB s. 50; NS s. 35; NL s. 24)	FAIL (QC s. 33; YT s. 51; NU s. 54; ON s. 147)

¹⁰⁷ *Ibid* at 9.

¹⁰⁸ *Ibid* at 10.

¹⁰⁹ *Ibid* at 10.

¹¹⁰ *Ibid* at 11.

¹¹¹ *Ibid* at 11.

¹¹² *Ibid* at 12.

19	Credible Corrective Action Process Whistleblowers are afforded a meaningful opportunity to publicly comment on draft findings and final reports, unless anonymity is requested. ¹¹³	FAIL (s. 26)	FAIL (AB s. 22; BC s. 27; SK s. 21; PEI s. 15)	FAIL (MB s. 24; NB s. 27; NS s. 26; NL s. 18)	FAIL (QC s. 15; YT s. 23; NU s. 45; ON s. 144)
20	Periodic Review A formal review process on whether the whistleblower protections have proven effective empirically ¹¹⁴	PARTIAL (s. 54)	MET (AB s. 37, BC s. 50) PARTIAL (SK, PEI s. 17)	PARTIAL (MB s. 37; NB s. 30; NS s. 28; NL s. 20)	PARTIAL (QC s. 54; YT s. 55; ON s. 149)

¹¹³ *Ibid* at 13.

¹¹⁴ *Ibid* at 14.

Acknowledgements

Institutional information of the organizations submitting this report

International Justice & Human Rights Clinic Peter A. Allard School of Law, University of British Columbia

The International Justice & Human Rights Clinic is a legal clinic for upper-level law students at the Peter A. Allard School of Law, University of British Columbia, Canada. The clinic addresses pressing human rights and global justice issues through hands-on work on international cases and projects.

Contact information

Vannie Lau

International Justice and Human Rights Clinic

Peter A. Allard School of Law, University of British Columbia

Email: vlau@allard.ubc.ca / ijhrcclinic@allard.ubc.ca

Credits and acknowledgements

Allison Keogh, clinician at the International Justice & Human Rights Clinic, Peter A. Allard School of Law, University of British Columbia, contributed to the research, drafting, and review of this submission to the UN Human Rights Committee. The submission was reviewed and edited by IJHRC Research Associate Vannie Lau and is endorsed by the Whistleblowing Canada Research Society.

This report reflects the views of the individual authors and should not be attributed to other parties. The report does not represent the official position of the Peter A. Allard School of Law or the University of British Columbia.