**Canada’s Justice for Victims of Corrupt Foreign Officials Act (JVCFOA)**

**Civil Society Submission Template**

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This Template may be use in conjunction with the JVCFOA Civil Society Submission Guide to create your submission. See the Guide for legal information and guidance on what to include in each section.

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# Section 1. Perpetrator Information



Full Legal Name of Perpetrator:

Country:

Title or Position:

Date of Birth:

Other Known Personal Identifiers (passport number, address, etc.):

Full Legal Name of Perpetrator:

Country:

Title or Position:

Date of Birth:

Other Known Personal Identifiers (passport number, address, etc.):

List of Assets Associated with Perpetrator:

|  |  |  |  |
| --- | --- | --- | --- |
| Description of Asset | Nexus to Perpetrator | Location of Asset | Value of Asset |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

List of Facilitators Associated with Perpetrator:

|  |  |  |
| --- | --- | --- |
| Name of Facilitator | Bio identifiers | Relationship to Perpetrator |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

# Section 2. National Interest Argument & Summary of Impact

\*\*\*SAMPLE TEXT\*\*\*

The Generic Security Service (GSS) is organized under the Ministry of Security (MoS) of the People’s Republic of Generica, as reflected in the attached MoS Organizational Chart. Human Rights for Generica (HRG) has compiled the details of individual cases of torture by the GSS, which are attached as Annex A.

As demonstrated through these individual cases, the GSS has engaged in a pattern and regular practice of human rights abuses in Generica over an extended period of time, including routinely throughout the past five years.[[1]](#footnote-1) The pattern shows that individuals are arrested and brought to the GSS, where they are tortured for a number of hours or days, exceeding multiple months in some cases. The torture inflicted by the GSS has regularly included severe beatings, sleep deprivation, threats to family members, withholding food and water, forced standing and other stress positions, exposure to dangerously cold temperatures, sexual abuse and electric shock.[[2]](#footnote-2) HRG has confirmed that at least one of the tortured individuals died in GSS custody. Detainees are most often tortured for the purpose of coercing a confession (which many claim was false and only given to end the torture), which is used in the subsequent trial against them and results in their conviction. Charges generally relate to domestic offenses, including “participating in protests” and “illegal assembly,” as well as charges of “terrorist activity,” the validity of which has been called into question by credible UN experts and human rights organizations.[[3]](#footnote-3) Some of the detainees subjected to these abuses have been as young as 15. Life imprisonment and death sentences are often imposed as a result of these confessions coerced through torture.[[4]](#footnote-4)

The individuals recommended for sanction in this submission are each either currently a high-ranking officer within the MoS or GSS, or previously held a high-ranking position there. As required for designation under the Justice for Victims of Corrupt Foreign Officials Act (the JVCFOA), each of the individual perpetrators named in this submission is or has been a leader or official of a governmental entity that has engaged in and whose members have engaged in gross violations of human rights. Moreover, the evidence discussed in this submission confirms that there is a pattern and practice of human rights abuse by the GSS that could exist only if condoned by officials at all levels of authority. Due to the widespread and regular nature of these abuses, and the fact that these incidents of torture have been well known and documented and have occurred repeatedly for a period of many years, HRG submits that each of the individuals recommended for sanction were knowingly complicit in, and knows or should know that the government entities they have led, or their subordinates within those entities, have been engaged in ongoing human rights abuses. Furthermore, the named individuals failed to take necessary measures to halt the abuses or to investigate them in a genuine effort to impose punishment on the perpetrators. As such, HRG recommends these individuals be listed in the Justice for Victims of Corrupt Foreign Officials Regulations.

It is in the Canadian government’s interest to ensure that torture and other prohibited forms of ill treatment will not go unnoticed or unpunished. The GSS’s abuses are well known and well documented. The designation of one or more high ranking individuals within the GSS would demonstrate the commitment and leadership of Canada to holding human rights violators accountable and ensuring that criminal convictions against individuals are aligned with international standards of fair trial rights.

These designations are aligned with the aims set out in the preamble of the JVCFOA, in which Parliament articulated that “all violators of internationally recognized human rights should be treated and sanctioned equally throughout the world” and that doing so would “further Canada’s support for human rights and advance its responsibility to protect activists who fight for human rights.” While torture for any purpose is a gross violation of human rights, torture for the purpose of coercing confessions is particularly dangerous as it degrades confidence in the rule of law. Discarding the rule of law is a threat to global peace and security when practiced by our enemies but an even greater threat when openly tolerated by our allies. Notwithstanding Generica’s cooperation with Canada on regional security initiatives, the GSS is clearly engaged in systematic and widespread gross human rights abuses, which are undoubtedly the type of activity Parliament intended to target in passing the JVCFOA.

Furthermore, as described in multiple analyses conducted by credible analysts, Generica’s domestic counterterrorism policies, including instances of torture perpetrated by members of the GSS, are having the effect of alienating, and in some cases radicalizing, members of Generica’s minority population.[[5]](#footnote-5) Debriefs of Generica fighters returning from the Middle East have shown that roughly 80% of radicalized militants elected to take up arms due to a sense of personal and communal grievance driven by the Government of Generica’s repressive policies.[[6]](#footnote-6) Sanctioning members of the GSS shown to have engaged in or directed torture would send a powerful signal that the Canadian government finds the Government of Generica’s actions not only illegal, but also strategically counterproductive. Given Generica’s key role in the fight against regional violent extremism and security partnership with Canada, the Canadian government could consider combining sanctions designations with diplomatic outreach and security sector assistance aimed at strengthening elements of Generica’s security services known not to have engaged in torture.

# Section 3. Case Type & Interpretation of the Law

\*\*\*SAMPLE TEXT\*\*\*

HRG submits that these perpetrators are subject to sanction under the Justice for Victims of Corrupt Foreign Officials Act, section 4(2)(b) by acting as “agents of or on behalf of a foreign state” in activity that amounts to gross human rights abuse against those who seek to promote human rights abroad.

# Section 4. Summary of Evidence

\*\*\*SAMPLE TEXT\*\*\*

The GSS has previously been identified in the human rights community as responsible for frequent instances of torture and ill treatment in Generica.[[7]](#footnote-7) HRG has documented individual cases in Annex A, with the most recent reported instance of torture taking place earlier this year. Many of the individuals were arrested without a warrant, with multiple individuals reporting that the arresting forces wore civilian clothing or were otherwise unidentifiable. These officers would then transport the individuals to the custody of the GSS for interrogations, during which they would subject the individuals to torture. The methods of torture most frequently employed are beatings, electric shock, sexual assault or threats of rape, forced standing, stress positions, forced nudity, and sleep deprivation.

In addition to HRG’s documentation of individual cases, several other leading human rights organizations have identified the GSS as part of a pattern of human rights abuses. Human Rights International published a report in July 2016, detailing a number of human rights abuses in Generica, including torture by the GSS.[[8]](#footnote-8) HR International noted that “[m]any detainees and former detainees allege they were tortured while under interrogation by the GSS at their facility in Metropolis.”[[9]](#footnote-9) HR International’s report specifically corroborates some of HRG’s individual cases, including those of Jane Doe (¶2 in Annex A)[[10]](#footnote-10) and John Doe (¶3 in Annex A).[[11]](#footnote-11) Additionally, Human Rights Today published a report in 2018 which documented several cases of torture by the GSS in 2016 and 2017.[[12]](#footnote-12) Both the Human Rights International and Human Rights Today reports detail similar instances of torture, including beatings, electric shock, sexual assault, and threats of rape, accompanied by demands from the interrogators to confess to criminal acts. Other instances of individual acts of torture have been reported by the Center for Human Rights,[[13]](#footnote-13) among others.

The United Nations has also addressed cases of torture by the GSS, through various communications from the Human Rights Council Special Procedures Offices on individual complaints submitted to the Special Procedures Offices (“SPOs”). As early as 2012, the SPOs were sending communications to Generica concerning reports of torture by the GSS — that year, two Special Procedures mandate holders sent an Urgent Appeal concerning the torture of John Doe by the GSS.[[14]](#footnote-14) Following his torture, Mr. Doe was charged with “unlawful assembly,”[[15]](#footnote-15) a blatant violation of the right of freedom of expression. In a communication to the Generica government earlier this year, the Special Procedures office noted reports of the torture and ill treatment of Jane Doe (¶2 in Annex A).[[16]](#footnote-16) In another communication in 2017, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment detailed reports of abuse and torture committed by GSS officers in the case of James Smith (¶5in Annex A).[[17]](#footnote-17)

Finally, investigative reporting undertaken by credible press outlets, including the New York World and German news weekly Heute Zeitung has independently corroborated instances of torture by the GSS, including in facilities known to have held Jane Doe and John Doe.[[18]](#footnote-18)

# Section 5. Application of Canada’s JVCFOA

\*\*\*SAMPLE TEXT\*\*\*

1. Serious Human Rights Abuses

The Justice for Victims of Corrupt Foreign Officials Act may be used against those acting as agents “of or on behalf of a foreign state” where the state entity at issue or its members have engaged in “gross violations of internationally recognized human rights” and command responsibility can be established. It is clear that the egregious and widespread abuses, including torture, observed to have been committed by the GSS meet this standard.

The actions taken by individuals within the GSS (including those individuals listed as perpetrators) have shown a pattern of abuse, torture, and ill-treatment that has continued from at least 2010 until the present. These actions constitute torture under the Canadian Criminal Code, as they were acts inflicting severe physical and mental pain and suffering for the purpose of intimidation and coercion in hopes of obtaining a statement from an individual in custody.[[19]](#footnote-19) However, the Canadian definition applies only to perpetrators and acts under the territorial or personal jurisdiction of Canada. As such, the international definition must also be considered, notably that found in the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (CAT). These actions also meet the definition of torture under the CAT, as they were intentionally inflicted by public officials for the purpose of obtaining confessions, intimidation, or punishment.[[20]](#footnote-20) As such, these cases meet the threshold of a “gross violation of internationally recognized human rights” and HRG hereby submits these individuals to be considered for sanctions under the JVCFOA for their roles within a government entity that has perpetrated these abuses.

1. Roles of the Individual Perpetrators

The JVCFOA may be used to sanction those individuals who are acting as agents “of or on behalf of a foreign state in a matter relating to . . . gross violations of internationally recognized human rights” where command responsibility can be established. As explained previously, the GSS is organized under the Ministry of Security of Generica, as reflected in the attached Ministry of Security Organizational Chart. Each of the perpetrators named in this submission held an officer level or otherwise leadership position within the Ministry of Security or the GSS specifically during the period in which the human rights abuses detailed above and in the accompanying evidence were perpetrated. They each qualify for criminal sanction under the definition of command responsibility as provided by the ICTY.

At the time of the commission of the offences in question, a superior-subordinate relationship existed between the listed officials and those involved in the direct commission of the crimes described. Moreover, the evidence discussed in this submission confirms that there is a pattern and practice of human rights abuse by the GSS that could exist only if condoned by officials at all levels of authority. Due to the widespread and regular nature of these abuses, and the fact that these incidents of torture have been well known, documented, and occurred repeatedly for a period of more than several years, HRG submits that each of the named individuals were knowingly complicit in, and knew or should have known that the government entities they have led, or their subordinates within those entities, engaged in ongoing human rights abuses. Furthermore, the named individuals failed to take necessary measures to halt the abuses or to investigate them in a genuine effort to impose punishment on the perpetrators.

# Section 6. Discussion of Contrary Evidence/Arguments

\*\*\*SAMPLE TEXT\*\*\*

HRG is not aware of any contradictory, countervailing, or exculpatory evidence concerning the alleged responsibility of Col John Smith and Col Edward Doe for acts of torture committed by GSS members under their command. While the Government of Generica has routinely denied that members of the GSS commit torture, HRG finds these claims lack credibility given the extensive documentation of such acts by credible bodies, as referenced throughout this submission.

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1. *Citation with link to online availability, if possible.* Sample text: For a general overview of the GSS’s pattern of torture and other forms of human rights abuses, see NGO Report A, NGO Report B, UN Report C, and UN Report D. [↑](#footnote-ref-1)
2. For details, see NGO Report B, p. 4. [↑](#footnote-ref-2)
3. UN and NGO reporting here. [↑](#footnote-ref-3)
4. See NGO Report D, pp. 15-16. [↑](#footnote-ref-4)
5. See, for example, Think Tank Report A. [↑](#footnote-ref-5)
6. See Think Tank Report B, pp 6-7. [↑](#footnote-ref-6)
7. See NGO Reports A, B, C, and D. [↑](#footnote-ref-7)
8. Citation with link to online availability, if possible. [↑](#footnote-ref-8)
9. *Cite.* [↑](#footnote-ref-9)
10. *Cite.* [↑](#footnote-ref-10)
11. *Cite.* [↑](#footnote-ref-11)
12. *Cite.* [↑](#footnote-ref-12)
13. *Cite.* [↑](#footnote-ref-13)
14. *Cite.* [↑](#footnote-ref-14)
15. *Cite.* [↑](#footnote-ref-15)
16. *Cite.* [↑](#footnote-ref-16)
17. *Cite.* [↑](#footnote-ref-17)
18. *Cite.* [↑](#footnote-ref-18)
19. *Criminal Code*, s. 269.1(1). [↑](#footnote-ref-19)
20. *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Dec. 10, 1984, U.N. Doc. A/RES/39/46, 1465 U.N.T.S. 85. [↑](#footnote-ref-20)