

## LETTER IN SUPPORT OF IVAN APAOLAZA SANCHO

16 October 2008

Freedom for Ivan Committee  
1500 de Maisonneuve West, Suite 204  
Montreal, Quebec, H3G 1M8

**re: Ivan Apaolaza Sancho, detained in Montreal since June 2007 and facing deportation on 17 October 2008 to Spain**

To The Right Honourable Stephen Harper, Prime Minister of Canada:

We, representatives of the organizations listed below, call on Canadian authorities to act urgently to halt the deportation of Ivan Apaolaza Sancho and to immediately grant him asylum in Canada.

Mr. Apaolaza Sancho, a Basque man who has been living without status in Canada since April 2001, was arrested in June 2007 at the request of Spanish authorities, on suspicion of belonging to the ETA, a Basque nationalist organization which Canada qualifies as a “terrorist organization”. Mr. Apaolaza Sancho denies the allegations and sought refugee status in Canada. However, he was declared inadmissible to Canada on grounds of “security” in May 2008. He is scheduled to be deported tomorrow, Friday, 17 October.

We are deeply concerned for Mr. Apaolaza Sancho’s well-being and disturbed by several aspects of the treatment that he has received at the hands of Canadian authorities:

- **Denial of right to apply for asylum.** Under Canadian law and policy, people who are declared inadmissible on security grounds are not permitted to apply for asylum in Canada – their claims are judged “unreceivable”. As a signatory of the Geneva convention, Canada adheres to the obligation of “non refoulement”, which requires that Canada not deport or expel a person to a country where that person faces persecution or serious human rights violations. In the case of Mr. Apaolaza Sancho, there are serious grounds to fear that he will be subjected to torture or cruel and unusual punishment if he is deported to Spain. Notably, Mr. Apaolaza Sancho corresponds, according to his PRRA, to the profile of victims of ill-treatment, and that individuals in his situation are generally subject to incommunicado detention and systematically and continually transferred from one detention centre to another. It is widely recognized that torture and ill-treatment in Spain are not limited to isolated cases. It is shameful that Canada has refused to even hear Mr. Apaolaza Sancho’s refugee claim.
- **Lack of proof.** The Canadian government provided no evidence to make its case against Mr. Apaolaza Sancho. The only information brought to support the allegations against Mr. Apaolaza Sancho was in the form of Spanish police warrants, which are unproven. Given the very high consequences for Mr. Apaolaza Sancho – so far, 15 months imprisonment, deportation, probable torture or other brutal treatment – the standards applied in his case were clearly wholly inadequate.
- **Use of torture information.** Information in the Spanish police warrants against Mr. Apaolaza Sancho – including the only information which could link him to the ETA - is

clearly based on a confession by Ana Belen Egues Garruchagu. The Immigration and Refugee Board, the Canadian tribunal mandated with reviewing Mr. Apaolaza Sancho's file, concluded that there were reasonable grounds to believe that this confession – which Egues Garruchagu retracted as soon as she was brought before a judge - was obtained by torture at the hands of Spanish police. The IRB nevertheless declared Mr. Apaolaza Sancho inadmissible on the basis of the arrest warrants. The Federal Court subsequently refused to review this decision, contributing to a banalization of torture.

- **Detention without charge or trial.** Mr. Apaolaza Sancho has been imprisoned at a provincial detention centre in Montreal since June 2007. He has not been charged in Canada nor given a trial. His detention reviews, although frequent, essentially shifted the burden of proof, requiring that he should prove himself worthy of release, rather than requiring the state to demonstrate why he should be deprived of his liberty.
- **Denial of habeas corpus.** Mr. Apaolaza Sancho was denied his right to bring a motion of habeas corpus to challenge a detention he considers illegal. This is a right protected by Canada's Charter of Rights and Freedoms, which Canada's Supreme Court recognized applies to everyone in Canada, whatever their legal status.
- **Ill-treatment in prison.** In response to a hungerstrike undertaken by Mr. Apaolaza Sancho in October 2008, according to available information, prison authorities placed Mr. Apaolaza Sancho in a 1m by 3m solitary cell with no toilet and walls stained with blood and faeces. His clothes, glasses and books were removed. His telephone access was strictly limited, effectively cutting him off from his supporters and even his lawyers. By refusing to allow him to speak any language but English and French on the phone, the prison also prevented him from communicating with his parents (who do not speak those languages). Mr. Apaolaza Sancho considered that prison officials were essentially using a form of psychological torture which would break him down mentally in advance of what he expects to undergo in Spain.

We are thus compelled to express our deep concern at Canada's violations of human rights, otherwise recognized by Canada, in the case of Ivan Apaolaza Sancho.

We urge you, as the Prime Minister of Canada to act urgently to ensure Mr. Apaolaza Sancho's well-being by halting his deportation, granting him asylum and taking steps to remedy the injustices that have been inflicted on him.

Sincerely

Coalition contre la brutalité policière (COBP)  
Freedom for Ivan Committee  
Comité pour les droits humains en Amérique Latine (CDHAL)  
Comité Justice Sociale des Soeurs Auxiliatrices  
Immigrant Workers Centre (IWC)  
South Asian Women's Community Centre (SAWCC)  
La Ligue des droits et libertés  
Réseau de Résistance du Québécois (Patrick Bourgeois)  
Solidarity across Borders