



Canadian Council for Refugees Conseil canadien pour les réfugiés

Myths and Facts

On February 16, 2012, the government introduced Bill C-31, an *Act to Protect Canada's Refugee Determination System*. Fierce rhetoric accompanied the launch of a bill that protects systems, not refugees. Here is what you need to know.

Myth 1: Bill C-31 strengthens the fairness and integrity of Canada's immigration and refugee programs.

False.

- > **It creates a discriminatory two-tier refugee determination system**, making it difficult for “irregular arrivals” and refugees from “designated countries of origin” to receive a full and fair hearing of their claim’s merits and denying an appeal.
- > **It places broad discretionary powers in the hands of the Minister of Immigration and the Minister of Public Safety**, rendering decisions about irregular arrivals and designated countries of origin vulnerable to political, trade or military considerations, and to individual bias.
- > **It imposes strict, unrealistic new timelines**, denying time for refugees to understand the process and to prepare cases. Women victims of sexual violence and LGBTQ refugees who find it difficult to relay their experiences will be especially vulnerable.
- > **It provides for minimum 1-year detention**, or until claims are decided, for irregular arrivals who will now face triple punishment – by their countries, their smugglers, and Canada.
- > **It separates children under 16 years of age from their parents**, placing children among irregular arrivals in foster care or detaining them, thereby hurting families.
- > **It imposes a 5-year bar on applying for permanent residence** for “irregular arrivals”, prolonging uncertainty and separating spouses and children until applications are processed (thus, more than 5 years).

- > **It renders humanitarian and compassionate consideration ineffective**, imposing a 1-year delay (after an unsuccessful claim) on applications for permanent residence on humanitarian and compassionate grounds – refused claimants will be deported in the meantime.
- > **It contains new measures to revoke a person's permanent resident status**, allowing Canada to deport refugees years after they were granted protection.

Myth 2: Canada's refugee system is broken and refugees are to blame

False. The high number of vacancies at the IRB had a significant impact on its capacity to process cases on a timely basis. The inventory of unresolved cases reached an exceptionally high level - the IRB vacancy rate in March 2008 was 35%.¹ Under-resourcing the system has created backlogs.

Myth 3: Bill C-31 meets Canada's Charter and international obligations

False. As a party to both the *Convention Relating to the Status of Refugees* and the *Convention Against Torture*, Canada must protect refugees from persecution and torture and every case must be examined on its merits. Applying accelerated timelines to groups of people and denying them an appeal will thwart fair decisions and prevent the correction of mistakes.

The Supreme Court of Canada decided in 2007 that unreviewed, lengthy detention violates the *Charter of Rights and Freedoms*.² Bill C-31 provides mandatory, unreviewed detention of “irregular arrivals” for a minimum of 1 year, or until claims are decided.

The *International Covenant on Civil and Political Rights* (art. 9.1) prohibits arbitrary detention (i.e. without judicial review). Canada also has obligations to protect the family under the *Universal Declaration of Human Rights* (art. 12), the *International Convention on Economic, Social and Cultural Rights* (art. 10) and the *Convention on the Rights of the Child* (art. 9). Bill C-31 will separate families.

¹Office of the Auditor General of Canada, <http://bit.ly/xkAnmg>, 2009.

²*Charkaoui v. Canada*, <http://bit.ly/GDD5Ef>, 2007.

Myths and Facts

Myth 4: Europe doesn't produce refugees.

False. UN experts say, "Roma people are still widely excluded from the public and political life of many countries. Access to justice is hampered for Roma people who are also vulnerable to the rise of extremism in Europe. Racist violence by private and public actors, including the police is also of concern."³

Human Rights Watch has "documented racist and xenophobic violence directed particularly against Roma and migrants – and inadequate police protection – in a number of EU member states, including Italy, Greece, and Hungary."⁴

France has deported thousands of Roma to their home countries. Italy has, as well, and demolished their encampments.

The acceptance rate in 2008 for Roma refugee claimants in Canada was 43%;⁵ today they are afraid they won't get a fair hearing from a government that loudly insists they are "bogus."

Myth 5: Provisions in Bill C-31 will save tax dollars.

False. Provisions in Bill C-31 will be very costly. Mandatory detention of "irregular arrivals" for a minimum of one year could cost \$70,000 per claimant.⁶ Refugee claimants from "designated countries" won't be able to apply for work permits for at least 6 months, forcing them onto social assistance. And, mandatory detention will incur long-term mental health costs.

Myth 6: Harsh policies will stop smugglers and asylum seekers arriving by boat.

False. It is unfair and immoral to punish refugees to deter smugglers - and it won't work. Refugees fleeing desperate situations do what is needed to save their lives and their families. They rarely know the policies at their destination.

Australia tried "Temporary Protection Visas" to stop unauthorized arrivals, requiring refugees to reapply for protection years later, limiting services, and barring family reunification. In 2008, they were abolished. "TPVs did not have any deterrent effect. Indeed, there was an increase in the number of women and children making dangerous journeys to Australia."⁷ TPVs are almost exactly what Bill C-31 proposes.

Myth 7: Reform is necessary.

False. Bill C-31 overturns a positive consensus among all parties reached in 2010 in Bill C-11, which the Minister of Immigration described as 'a remarkable spirit of cooperation.'⁸

Arrivals of refugees by boat - like the MV Sun Sea and Ocean Lady - attract sensational media attention and create logistical challenges, but don't constitute a crisis. They represent a small percentage of claims made in Canada (just 2% in 2010). Laws are already in place to deal with such situations.

Protecting refugees from Bill C-31 requires action by you.

To find out what you can do, visit

ccrweb.ca/en/refugee-reform

³Office of the High Commissioner for Human Rights, <http://bit.ly/lbukFE>, June 2011.

⁴Human Rights Watch, <http://bit.ly/AsFWtW>, March 2012.

⁵Lives in the Balance, <http://ccrweb.ca/files/refugeeclaimsfaq.pdf>, June 2009.

⁶Office of the Auditor General of Canada, <http://bit.ly/wvECWT>, May 2008.

⁷Government of Australia, Department of Immigration and Citizenship, <http://bit.ly/yqjWYS>, August 2008.

⁸Min. Jason Kenney on the *Balanced Refugee Reform Act*, <http://bit.ly/FWzFoF>, June 2010.