



## JOINT DECLARATION ON BILL C-31

1. We regret the “**get tough**” discourse used by the government in presenting the bill and accompanying policy announcements. The government’s approach unfairly stereotypes refugees and immigrants in highly negative terms. This is divisive and caters to the xenophobic and racist constituency within Canadian society.

We call on the government to refrain from using negative discourse in discussing immigration and refugee policy.

2. International **human rights** standards should guide the legislation. We welcome the references in the bill to the Convention against Torture and to the best interests of the child. However, the bill does not fully respect Canada’s obligations under these Conventions.

The Convention against Torture prohibits sending anyone back to torture (Article 3) whereas the bill provides for returning people to torture in some circumstances.

The Convention on the Rights of the Child requires governments to make the best interests of the child a *primary consideration* (Article 3). The bill, however, proposes only to “take into account the best interests” of the child.

The bill also falls short of meeting the standards set by the Convention relating to the Status of Refugees. This Convention prohibits returning refugees to persecution (Article 33). However, the bill denies some refugee claimants access to the refugee determination system, which means that some refugees will not be recognized as such and Canada may send them back to persecution. For example, the bill excludes people who have made a previous refugee claim, even if there have been dramatic changes in circumstances (for themselves or in the home country).

We call on the government to amend the bill to bring it up to international human rights standards.

3. We welcome the introduction of an **appeal on the merits** into the refugee determination system. The lack of an appeal is one of the fundamental flaws of the current system and has recently been criticized by the Inter-American Commission on Human Rights.

We note, however, that the proposed appeal offers very limited protections to refugee claimants, since it is on paper only, generally before a single member and with no guarantees that members of the Refugee Appeal Division will have any expertise in the field of refugee determination.

Nor does the bill address the system by which board members are appointed, a system which is frequently criticized as political patronage and leading to wide variation in the quality of board members.

We call on the government to strengthen the proposed appeal to ensure that refugees are protected and to introduce into the bill a transparent and accountable mechanism for appointing and re-appointing board members.

4. We are concerned at proposals in the bill to expand the powers of **detention**. Depriving anyone of their fundamental right to liberty is a very serious issue and detention under the Immigration Act needs to be kept as narrow as possible. Refugee claimants in particular should not normally be detained. We are concerned that the bill expands powers for detaining people on the basis of lack of identity documents: refugees are often forced to flee without ID, because it is their very identity that puts them at risk of persecution.

We call on the government to narrow the grounds for detention.

5. We welcome the government's commitment to facilitating **family reunification**. However, none of the proposed changes relating to family reunification are actually in the bill: they are left to regulations. We recommend that the government entrench the commitment to facilitating family reunification within the Immigration Act itself.

We object to the government's proposal to prevent people on social assistance from sponsoring even spouses and minor children. This represents a denial of the rights of family unity on the basis of economic status.

6. We welcome the government's announcement that refugees applying for **resettlement** will be evaluated more in terms of protection than ability to successfully establish and that they will not be subject to inadmissibility on the basis of excessive medical demand (these changes are to come in Regulations).

We recommend that the government go further by eliminating altogether the successful establishment requirement and putting the changes into the Act (rather than only in the Regulations).

7. We are disturbed at measures in the bill that would deny **due process rights** to people deemed to be serious criminals or security risks. We believe that all people deserve to be treated fairly, no matter what the suspicions are against them. Among the measures proposed in the bill would be a bar on refugee claims from people convicted of a serious crime abroad. This ignores the fact that people who are being persecuted may be convicted on trumped up charges for crimes that they have not in fact committed. The bill also denies an appeal to permanent residents convicted of a serious crime, even where the person has lived in Canada since they were a baby. Similarly, people who are suspected of being a security risk are left largely to the mercy of government officials' discretion.

We call on the government to make changes to ensure that everyone is treated fairly.

8. We are concerned that many crucial rules are being moved from the Act to the **Regulations**, meaning that the government is taking them away from parliamentary oversight. This opens the door to the government changing the rules based on their own convenience, public annoyance, displeasure at a court's decision on individual rights, etc.

We call on the government to allow ample time for Canadians to learn about the important changes proposed in the bill and to make known their comments.

In view of the importance of ensuring Canada's compliance with international human rights obligations, we urge the government to seek an opinion on the bill from relevant international human rights bodies, notably the UN Committee against Torture, the UN Human Rights Committee and the Inter-American Commission on Human Rights.