



Canadian Federation of University Women  
Fédération Canadienne des Femmes Diplômées des Universités

251 Bank Street, Suite 305, Ottawa, Ontario, K2P 1X3  
Tel: 613 234 8252; Fax: 613 234 8221

The Right Honourable Stephen Harper  
Prime Minister of Canada  
House of Commons  
Ottawa, ON, K1A 0A6

November 17, 2011

Dear Prime Minister Stephen Harper,

**Re: Bill C-4 *Preventing Human Smugglers from Abusing Canada's Immigration System Act***

The Canadian Federation of University Women (CFUW) questions the constitutionality of Bill C-4: *An Act to Prevent Human Smugglers from Abusing Canada's Immigration System Act*<sup>1</sup> and asks the Government of Canada to either withdraw or amend this act by removing the provisions that are unconstitutional or that violate international conventions to which Canada is a signatory.

If enacted, this bill will place the Government of Canada in contravention of many of its international human rights and refugee protection obligations.

While CFUW welcomes measures to crack down on smugglers, the measures proposed in Bill C-4 that penalize refugees and migrants do not address the real problem.

Article 31(1) of the Refugee Convention states that "The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened." Bill C-4 violates this convention by allowing for the mandatory detention of refugees who arrive in Canada by irregular means<sup>2</sup> for up to one year without review. Detention irrespective of the level of threat a person presents further violates section 9 of the Canadian Charter of Rights and Freedoms (protection against arbitrary detention)<sup>3</sup>; these fundamental rights are also guaranteed in the *International Covenant on Civil and Political Rights*.

---

<sup>1</sup> *An Act to Amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act and the Marine Transportation Security Act*, 1st Sess., 41st Parl., 2011.

<sup>2</sup> The Bill authorizes the Minister to designate any group (of undefined number) of people arriving in Canada (excluding citizens or permanent residents) into the "designated" class, in circumstances including the following: if the Minister believes that these people cannot be examined and dealt with "in a timely manner," or that their arrival into Canada was facilitated in violation of the immigration laws by someone who earned a profit.

<sup>3</sup> *Charkaoui v. Canada* (2007) SCC 9 where the Supreme Court invalidated detention without reviews for 120 days.

Provisions of Bill C-4 would further restrict the ability of designated Convention refugees' to apply for temporary or permanent residence, travel outside of Canada, apply for family reunification, and appeal a negative decision on their refugee application. These restrictions violate the Refugee Convention, the International Covenant on Civil and Political Rights articles 17, 23(1)(2), and 24(1), the International Covenant on Economic, Social and Cultural Rights articles 10(1), the Convention on the Rights of the Child and the Canadian Charter of Rights and Freedoms.

*CFUW looks forward to hearing what measures your government plans to take to protect the rights of Convention Refugees and migrants in keeping with Canada's international obligations under the Refugee Convention. CFUW asks that the Government of Canada at least defer the question of the bill's constitutionality to the Supreme Court of Canada.*

CFUW is a non-partisan, voluntary, self-funded organization of close to 10,000 women university graduates, students and Associate Members in 112 Clubs across Canada that works to improve the status of women and human rights, education, social justice, and peace. CFUW holds special consultative status with the United Nations (ECOSOC) and belongs to the Education committee of the Canadian Sub-Commission to UNESCO. CFUW is the largest of the 61 affiliates of the International Federation of University Women (IFUW).

Sincerely,

A handwritten signature in cursive script that reads "Brenda Wallace".

Brenda Wallace, CFUW National President

Cc:

Hon. Vic Toews, Minister of Public Safety

Hon. Jason Kenney, Minister of Citizenship, Immigration and Multiculturalism

Ms. Nycole Turmel, Interim Leader of the Official Opposition

Hon. Bob Rae, Interim Leader of the Liberal Party of Canada

Mr. Louis Plamondon, Interim Leader of the Bloc Quebecois

Ms. Elizabeth May, Leader of the Green Party of Canada

Mr. Don Davies, NDP Critic for Citizenship, Immigration and Multiculturalism

Hon. Kevin Lamoureux, Liberal Critic for Citizenship and Immigration

Mr. Jasbir Sandhu, NDP Critic for Public Safety

Hon. Francis Scarpaleggia, Liberal Critic for Public Safety