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Bill C-49 Punishes Victims, Including Women Escaping Violence

The Barbra Schlifer Commemorative Clinic provides legal representation to women who have experienced violence. We are appalled at the changes introduced in [Bill C-49](#), which, if passed into law, would have a devastating impact on the rights of refugees and migrants. While the purported intention of the proposed law is to target human smugglers, in fact, it punishes people who are desperately fleeing persecution, including women who have survived such horrors as partner assault, incest and rape.

Bill C-49 grants broad discretion to the Minister to designate certain migrants as ‘irregular’, based solely on the circumstances of their arrival in Canada. The rights of those designated migrants are then severely curtailed by the proposed changes contained in Bill C-49. Some of the changes manifestly violate Canada’s obligations under the Refugee Convention and infringe other national and international laws that are binding on Canada. Among the proposed changes are an increase in the government’s power to detain migrants without cause or timely review, the elimination of appeals for refused refugee claimants, and the imposition of severe restrictions on freedom of movement and family unity.

Many organizations such as the Canadian Council for Refugees, whose statement we endorse, have provided comprehensive analysis of Bill C-49. The Barbra Schlifer Clinic is further concerned that Bill C-49 will have disproportionate negative consequences for women who are attempting to flee from violence.

The unique circumstances surrounding women’s global migration are most often not accounted for by state policies. Women’s migration is frequently tied to experiences of violence at the hands of both state and non-state actors and often requires the use of ‘irregular’ migration routes. The impact of immigration policies on women requires careful consideration on the part of policy-makers to ensure compliance with national and international human rights norms. Unfortunately, the gender analysis that has informed some key Canadian immigration policies and jurisprudence in the past 20 years is



notably absent from Bill C-49 and surrounding debates. We are concerned that the lack of gender analysis in such a significant migration policy will contribute to the erosion of Canada's former position as a leader in the provision of protection to victims of gender-based violence.

The proposed measures in Bill C-49 that would harm these women most include:

- Designated refugees will be **automatically detained for one year** and denied the right to have their detention reviewed during that time. In what essentially amounts to arbitrary detention, women who are detained with their children will be disproportionately impacted.
- Designated refugees are not entitled to apply for permanent residence for at least five years. Accordingly, women who had no choice but to flee alone will remain separated from their children for a minimum of five years longer than the already lengthy immigration processing times. Many children will be left in the custody of an abusive parent during this time.
- Designated refugees will not be entitled to a travel document for at least five years. Consequently, women who are separated from their children will be further punished by not being entitled during this time to reunite even briefly with family members abroad.
- The detention of any detainee, whether or not she is designated as 'irregular', may be extended while the Minister investigates a 'reasonable suspicion' of criminality. This provision has the potential to place further power into the hands of abusers. An abuser must merely arouse suspicion of criminality in order to ensure that his partner is kept in detention.

In blatant contravention of fundamental rights enshrined in national and international law, Bill C-49 punishes victims for fleeing persecution and furthers the overwhelming disadvantages facing women who have been abused. If Bill C-49 becomes law, women from around the world who seek freedom from violence in Canada will be at risk.

- [LINK TO BILL C-49](#)