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WOMEN'S LEGAL
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JURIDIQUE POUR LES FEMMES

**Submission to the Standing Committee on Citizenship and Immigration on Bill C-12,
*Strengthening Canada's Immigration System and Borders Act***

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Summary

LEAF strongly urges this Committee to recommend the withdrawal of Bill C-12 in its entirety. The government should instead consult with organizations working to protect refugees and immigration law experts to arrive at a rights-respecting immigration bill.

At an absolute minimum, proposed section 101(1)(b.1) of the *Immigration and Refugee Protection Act* must be withdrawn. Barring individuals from claiming refugee protection after one year of entry will put survivors of gender-based violence at risk of further violence and femicide. It will send SOGIESC¹ people to be beaten, imprisoned, and killed in the countries they are fleeing.

If Bill C-12 is not withdrawn, we support the Barbara Schlifer Commemorative Clinic's proposed amendments.

About LEAF

Since 1985, LEAF has worked to advance gender equality through litigation, law reform, and public education. LEAF has intervened in over 130 cases advancing substantive gender equality in Canada.

Recommendations

1. Withdraw Bill C-12 in its entirety

LEAF endorses the Migrant Justice Clinic brief and strongly urges the Committee to recommend withdrawing Bill C-12 in its entirety. Bill C-12 represents an unprecedented assault on the right to asylum. Canada is required by international law to respect the principle of non-refoulement – Bill C-12 repeatedly and irreparably contravenes this principle. It must be withdrawn.

2. Withdraw proposed section 101(1)(b.1) of the *Immigration and Refugee Protection Act*

Proposed section 101(1)(b.1) would render a claim for refugee protection ineligible for referral to the Refugee Protection Division if “the claimant entered Canada after June 24, 2020 and made the claim more than one year after the day of their entry.”

¹ SOGIESC refers to individuals with, or who are perceived to have, sexual orientations, gender identities and expressions and sex characteristics (SOGIESC) that do not conform to socially accepted norms in a particular cultural environment. See [“Guideline 9: Proceedings Before the IRB Involving Sexual Orientation, Gender Identity and Expression, and Sex Characteristics”](#) (December 17, 2021) [“Guideline 9”].

The one-year bar on claiming refugee protection does not account for the complexity of traumatic experiences of sexual violence, nor of accepting one's sexual or gender identity. It will severely harm women and gender and sexual minorities at risk of persecution in their countries of origin.

a. Survivors of sexual violence will be sent back to abusive environments

The proposed one-year bar on rights protections claims will affect many women fleeing sexual and intimate partner violence. In 2023-2024, sixteen percent of claims were from women who claimed asylum due to domestic violence.²

Sexual violence survivors have tremendous difficulty talking about the violence they have experienced, much less providing a detailed account of it. Experiences of sexual violence are “intensely personal and private”³, often surfacing feelings of shame and humiliation. They require survivors to discuss private body parts and stigmatized sexual behaviours.⁴

Courts have recognized the phenomenon of delayed disclosure of sexual violence, well-documented in the literature on asylum claims,⁵ as has the Chairperson and Chief Executive Officer of the Immigration and Refugee Board of Canada (IRB).⁶ The Chairperson's Guideline 4 advises IRB members to avoid the following as myths, stereotypes, and incorrect assumptions:

- “‘Genuine’ victims of sexual assault report the incident at the earliest opportunity and a person's credibility is negatively affected by their delay in disclosure, whether in Canada or in the country of origin.”
- “Once in Canada, a person who has experienced gender-based violence will automatically seek out counselling or assistance in overcoming trauma.”

The proposed one-year bar relies on both of these myths. Denying sexual violence survivors refugee protection because of delayed disclosure runs counter to evidence and directly contradicts Canada's longstanding commitments to protect survivors of sexual violence.

² Government of Canada, “[Gender-based analysis plus](#)” (2024).

³ Lori Haskell & Melanie Randall, “[The Impact of Trauma on Adult Sexual Assault Victims](#)” (2019) at 33.

⁴ *Ibid.*

⁵ *Gyarchie v Canada (Citizenship and Immigration)*, 2013 FC 1221 at para. 50.

⁶ “[Chairperson's Guideline 4: Gender Considerations in Proceedings Before the Immigration and Refugee Board](#)” (Oct 31, 2023).

b. SOGIESC individuals will be subject to harsh penalties in their countries of origin

The one-year bar is also incongruent with how sexuality and gender identity develop. Taking more than a year to come to terms with one's sexuality or gender identity does not, however, make a SOGIESC person any less vulnerable to persecution in their country of origin.

"Coming out" as SOGIESC is an "elaborate multi-step process."⁷ When individuals are in societies that stigmatize homosexuality, coming out, even to oneself, can be nearly impossible.⁸ Conversely, the ability to positively interact with other gay people increases the likelihood of coming out.⁹ It will, more often than not, take more than a year to be able to articulate a change in one's sexuality to authorities.

The UNHCR recognizes that SOGIESC individuals "may be deeply affected by feelings of shame, internalized homophobia and trauma, and their capacity to present their case may be greatly diminished as a consequence."¹⁰ "Due to their often complex nature," the Guidelines advise, "claims based on sexual orientation and/or gender identity are generally unsuited to accelerated processing or the application of 'safe country of origin' concepts."¹¹

Likewise, the Chairperson's Guideline 9 notes that a SOGIESC individual "may reasonably delay making a claim for refugee protection... out of a fear of reprisal for themselves or family members[, or]... an individual's reluctance to reveal their SOGIESC to a spouse or other family member, or in their realizing or accepting their SOGIESC."¹²

⁷ Swapnajeet Sahoo, Velprashanth Venkatesan & Rahul Chakravarty, 'Coming out'/self-disclosure in LGBTQ+ adolescents and youth: International and Indian scenario - A narrative review of published studies in the last decade (2012-2022). *Indian J Psychiatry*. 2023 Oct;65 (10):1012-1024.

⁸ Rusi Jaspal, "Social psychological aspects of gay identity development" 2022 *Current Opinion in Psychology* 48 at 2.

⁹ Christopher Osterhaus & Salvatore Ioverno, "Theory of mind and coming-out milestones: a study of sexual and gender minority adolescents in Germany" 2025 *International Journal of LGBTQ+ Youth Studies* 1 at 1-2.

¹⁰ UNHCR, "[Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#)" at para 59 (23 October 2012).

¹¹ *Ibid.*

¹² Guideline 9.