

The Right Honourable Justin Trudeau
Prime Minister of Canada
80 Wellington Street
Ottawa, Ontario K1A 0A2

August 8, 2018

Dear Prime Minister,

We are writing to you, as organizations with demonstrated experience and expertise with respect to law, policy and practice regarding refugee protection in Canada, extending back several decades, to share our concerns and pose a number of questions regarding your decision last month to establish a new and unprecedented Minister of Border Security and Organized Crime Reduction.

We have preoccupations about this unanticipated development for a number of reasons, including the risk that it fuels unfounded alarm among Canadians of there being a crisis related to refugee claimants crossing the US/Canada border; the negative impact of conflating migration and crime in the name of the new Ministry; and the uncertainty about the new Minister's powers and the associated risk that there will be inevitable confusion in the division of responsibilities with two existing Ministries, namely the Minister of Public Safety and the Minister of Immigration, Refugees and Citizenship.

We consider these to be urgent concerns currently, given the heightened politicization and misconceptions in the country with respect to the numbers and circumstances of refugee claimants crossing into Canada from the United States. We therefore urge you to move quickly to provide much greater clarity and rationale as to the need for and role of the Minister of Border Security and Organized Crime Reduction. We would welcome an opportunity to meet with you or your officials to discuss this further. We are making a request to meet with Minister Blair for that same reason.

Allow us to expand briefly on our concerns.

- Creating a Minister of Border Security fuels an unfounded sense of crisis

You are of course aware that there has been considerable debate about the increased numbers of refugee claimants who have crossed irregularly into Canada since Donald Trump assumed the presidency in the United States. The increase in fact predates the election of President Trump, and in part reflects a return to numbers more usual for Canada, after particularly low refugee claimant numbers from 2013 to 2015. However, the increase also reflects understandable fear that with a rapid deterioration in respect for the rights of refugees and migrants in the country, the United States is not a safe country in which to seek refugee protection. Because of the Safe Third Country Agreement between our countries, outside of a limited number of exceptions, the only way for individuals to be able to access refugee determination in Canada is to cross irregularly, instead of at an official border post.

This context has provoked media coverage and political debate focusing on “illegal” border crossers, “illegal migrants”, queue jumpers, “security threats” and other pejorative, inflammatory and inaccurate terms. There have also been exaggerated suggestions that the numbers of refugee claimants crossing the border have reached crisis proportions.

Our organizations have sought to diminish the hysteria, bigotry and errors at the heart of much of this discourse. One concrete means of doing so has been our call that Canada suspend the STCA at this time, so that refugee claimants will be able to make their claims in a safe, orderly and regular fashion at border posts. Regrettably, your government has refused to take that step, and that matter is now instead the subject of a Federal Court challenge. At the same time, we have appreciated the many ways that you and other members of your government have sought to diffuse the “crisis” language. Some of us heard Ministers Goodale and Hussen repeatedly reject the assertion that this is a crisis in their appearances before the House of Commons Standing Committee on Citizenship and Immigration on July 24th. In fact Minister Blair, also appearing before the Committee, similarly discouraged the view that this is a crisis.

Prime Minister, if the government’s position is that there is no crisis but rather challenges which the Ministries and agencies in place are seized with responding to, you can surely appreciate why this decision to suddenly appoint a new Minister of Border Security, and the specific indication that he “will be the minister responsible for irregular migration” sends a completely contrary signal. We seek clarification as to the government’s intentions and look to you to provide greater public assurance on an ongoing basis that this development does not in any way mean that Canada faces a border crisis.

- Conflating border security and organized crime is a toxic combination

Our concern that this development stands to deepen public fears, misunderstandings and stereotypes about irregular migration and border security are all the greater given the nature of the responsibilities that have been entrusted to Minister Blair: border security, reducing gun violence, tackling organized crime, legalization and strict regulation of cannabis and irregular migration. In Canada and around the world refugee claimants, refugees and migrants are consistently tarred with bigoted and hateful slurs associating them with criminality and security threats. It erodes support for refugee protection and puts refugee claimants, refugees and migrants at risk of racist attacks. The resulting xenophobia goes so far as to frequently present seeking refuge and crossing borders as criminal acts (reflected in the recent assertions of many politicians, journalists and public figures in Canada that it is illegal to cross the border from the US in order to seek refugee status).

As you are well aware, refugees frequently are forced to cross borders using irregular channels in their search for safety. This fact is reflected in the Refugee Convention and in Canada’s Immigration and Refugee Protection Act, which both exempt refugees from penalties for irregular entry.

Prime Minister, to have created a new Ministry that combines border security/irregular migration responsibilities with a range of other responsibilities related to crime reduction and criminal law enforcement, inescapably risks feeding the very dangerous narrative that people who are fleeing for their lives are breaking the law and even threatening our security.

The move undermines the positive message you sent by including “refugees” in the name of the Immigration Minister’s portfolio and the name of the department -- now Immigration, Refugees and Citizenship Canada -- a move that we warmly welcomed. We urge you to clarify the reasons for combining these disparate mandates and to endeavour to assure the public that the government does not in any way consider irregular migration in and of itself to be a criminal matter or a security threat.

- A third Ministry adds further confusion regarding roles and responsibilities

From our experience we can assure you, Prime Minister, that there is already ample uncertainty and overlap with respect to the roles and responsibilities of the Ministry of Public Safety (especially the Canada Border Services Agency) and the Ministry of Immigration, Refugees and Citizenship, particularly when it comes to questions related to enforcement of the Immigration and Refugee Protection Act. Adding a third Ministry into that mix with an unspecified “border security” mandate will almost certainly add to the confusion.

This was apparent when Minister Blair appeared before the Committee on July 24th and was asked about his powers and responsibilities, including to what extent key agencies such as the CBSA and RCMP would report to him. His answer was that they would not. However he was not able to provide any illumination as to his powers and what his particular relationship would be with the other relevant Ministries and agencies.

Prime Minister, this is not just a matter of mere policy interest from a public administration perspective. Important human rights obligations, protected under both international law and the Charter of Rights, are at stake when questions around irregular migration and border security arise. There is a need for precision with respect to powers and accountability. We urge you to move rapidly to provide that precision.

We are, as noted, urgently concerned about the potential for this development, with a lack of rationale and uncertainty as to responsibilities and powers, to have a detrimental impact on refugee protection in Canada, including public attitudes about refugees. It also has a detrimental impact on refugees already in Canada, many of whom are feeling shaken and retraumatized by messaging suggesting that they are not welcome here. We call on you to provide specificity and offer assurances without delay.

We would welcome a meeting with you, Minister Blair and officials as early as possible to discuss this further.

Sincerely,

Alex Neve, Secretary General
Amnesty International Canada (English branch)

Claire Roque, President
Canadian Council for Refugees

Geneviève Paul, Directrice Générale
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