

31 January 2017

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The Honourable Ahmed D. Hussen
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L'Honorable Ahmed D. Hussen
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CC:

c. c.

The Right Honorable Justin Trudeau
Prime Minister of Canada

Le très honorable Justin Trudeau
Premier ministre du Canada

The Honourable Serge Cormier
Parliamentary Secretary to the Minister of
Immigration, Refugees and Citizenship

L'Honorable Serge Cormier
Secrétaire parlementaire du ministre de
l'Immigration, des Réfugiés et de la Citoyenneté

Re: Suspending Safe Third Country Agreement

Objet : Suspension de l'Entente sur les tiers pays sûrs

Dear Minister Hussen / Cher Monsieur le Ministre Hussen,

We, the undersigned law professors, call on the Canadian government to immediately suspend directing back refugee claimants at the Canada-US border under the Safe Third Country Agreement.

Canada's immigration legislation indicates that, in determining whether a country should be designated as "safe" for refugees, consideration must be given to the country's human rights record and to whether the country complies with the 1951 Refugee Convention and the Convention against Torture.

Executive orders issued by President Trump demonstrate that the US is not "safe" for refugees. These include a ban on Syrian refugees and a bar on entry of nationals of seven mostly Muslim countries. It is also evident that administration of the executive orders through border enforcement has been chaotic, inconsistent and arbitrary. This exposes refugees to yet more risk. Additional statements issued by the President also indicate that the US is not "safe", including his call for a ban on entry for all Muslims and his suggestion that he is open to considering the use of torture.

We condemn these actions and statements in the strongest possible terms. They reflect the very bigotry, xenophobia and nativist fear-mongering that the international refugee regime was designed to counteract. We also note that they are inconsistent with the 1951 Refugee Convention, the Convention Against Torture, the UN Declaration of Human Rights, the International Covenant on Civil and Political Rights, and many other international human rights instruments.

At the same time, we applaud and are heartened by Prime Minister Trudeau's recent statement that Canada continues to welcome those fleeing persecution, torture, and war, regardless of their religion.

To make good on this statement, the Canadian government must immediately stop blocking refugee

claimants from crossing the border from the US into Canada. To this end, the Canadian government should exercise its right under the Safe Third Country Agreement to suspend the Agreement for up to three months, pending a review of the Agreement.

Signed:

Nous soussignés, professeures et professeurs de droit, demandons au gouvernement canadien de suspendre immédiatement le renvoi des demandeuses et demandeurs d'asile à la frontière du Canada et des États-Unis en vertu de l'Entente sur les tiers pays sûrs.

La législation canadienne sur l'immigration exige qu'en déterminant quel pays devrait être désigné « sûr » pour les personnes réfugiées, on tienne compte des antécédents du pays en matière de respect des droits de la personne et de conformité avec la *Convention sur les réfugiés* de 1951 et à la *Convention contre la torture* de 1984.

Les décrets signés par le président Trump démontrent que les États-Unis ne sont pas un pays « sûr » pour les réfugiés. Ces décrets comprennent une interdiction de séjour pour les réfugiées et réfugiés syriens ainsi qu'une interdiction d'entrée imposée aux ressortissantes et ressortissants de sept pays principalement musulmans. Il est aussi évident que la mise en œuvre des décrets aux frontières s'avère chaotique, inégale et arbitraire. Cette situation expose les réfugiées et réfugiés à un niveau de risque encore plus élevé. Les déclarations supplémentaires du président, y compris son appel à une interdiction d'entrée de toutes les personnes musulmanes et ses propos en faveur de l'utilisation de la torture, démontrent également que les États-Unis ne sont pas un pays « sûr ».

Nous condamnons fermement ces actions et déclarations. Elles évoquent tout ce que le régime international de protection des réfugiés combat : l'intolérance, la xénophobie et l'alarmisme nativiste. Nous soulignons aussi qu'elles vont à l'encontre de la *Convention sur les réfugiés* de 1951, de la *Convention contre la torture* de 1984, de la *Déclaration universelle des droits de l'homme* de l'ONU, du *Pacte international relatif aux droits civils et politiques*, et de plusieurs autres instruments internationaux des droits de la personne.

En même temps, nous saluons et nous sommes rassurés par la déclaration récente du premier ministre Trudeau selon lequel le Canada va continuer à ouvrir ses portes aux personnes qui fuient la persécution, la torture et la guerre, et ce, peu importe leur religion.

Afin de respecter cet engagement, le gouvernement canadien doit immédiatement cesser d'empêcher les demandeuses et demandeurs d'asile de traverser la frontière entre les États-Unis et le Canada. Pour ce faire, le gouvernement canadien devrait exercer son droit, tel que prévu dans l'Entente, de suspendre pendant une période maximale de trois mois l'Entente sur les tiers pays sûrs, en attendant que cette dernière soit révisée.

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