



## POLICY SUBMISSION

RE: Senate BILL S-235

An Act to amend the Citizenship Act and the Immigration and Refugee Protection Act

---

Joint submission by:

Border(ing) Practices: Systemic Racism, Immigration and Child Welfare  
Research Team,  
West Coast LEAF,  
WomanACT, and  
The South Asian Legal Clinic of British Columbia

January 22, 2024

---

### INTRODUCTION & PURPOSE

We are pleased to jointly submit this briefing note in support of **Senate Bill S-235** which seeks to amend the Citizenship Act and the Immigration and Refugee Protection Act to grant citizenship to children in the welfare system.

**We propose that the Senate to pass Bill S-235 with the following recommendations:**

**Recommendation 1: For the federal government to defer to terminology used by provincial and territorial governments to encompass the broad range of child welfare services and care offered to children and youth.**

**Recommendation 2: For a clause to be added granting Ministerial powers to facilitate equitable consideration of eligibility beyond that is described in the Bill.**

---

## ABOUT THE AUTHORS

**Border(ing) Practices: Systemic Racism, Immigration and Child Welfare** (from herein referred to as **Bordering Practices**) is a research collaboration led by Professor Rupaleem Bhuyan at the University of Toronto and Associate Professor Mandeep Kaur Mucina, at University of Victoria. The Bordering Practices project works in partnership with service providers and community-based advocates in Ontario and British Columbia who work directly with immigrant children, youth and families who are involved in the child welfare system. This research aims to better understand how immigration policies impact immigrant children, youth and their families who are involved in the child welfare system, particularly when one or more family members has a precarious immigration status. This research is supported by an Insight Grant from the Social Sciences and Humanities Research Council. For more information go to: [www.borderingpractices.com](http://www.borderingpractices.com)

**West Coast LEAF** is a BC-based legal advocacy organization. West Coast LEAF uses legal strategies (litigation, legal reform, and public legal education) in full collaboration with those most affected by overlapping systems of oppression to dismantle gender-based discrimination. West Coast LEAF aims to move towards gender justice by advancing access to justice, health and economic security, promoting freedom from gender-based violence, supporting child and family well-being and ensuring protection for the rights of those who are criminalized.

**Woman Abuse Council of Toronto** (from herein referred to as **WomanACT**), is a charitable organization with a membership of organizations and individuals working to end violence against women through system change. WomanACT works collaboratively to eradicate gender-based violence through research, education and advocacy.

**South Asian Legal Clinic of British Columbia** (from herein referred to as **SALCBC**) was founded in 2019 and is the first ethno-linguistic legal clinic in BC. Operating from an intersectional feminist approach, SALCBC serves the South Asian community by offering low-barrier, multilingual and culturally sensitive legal information, education, advice, and advocacy. SALCBC offers free summary legal advice by appointment as well as free legal education materials and workshops. Beginning in January 2024, SALCBC will also offer unbundled legal services in family law, wills and estates law, employment law, and poverty law.

---

## ENDORSEMENTS

The following partnering individuals and organizations provided input into and endorse this submission:

### British Columbia

---

Omar Chu                      Community Legal Worker, Immigration and Refugee Legal Clinic  
Amarjit Sahota              Member of the Research Advisory Committee for Bordering Practices

Moving Forward Family Services  
Solid State Community Industries  
Housing and Violence Prevention, YWCA Metro Vancouver

### Ontario

---

Liz Okai & Danielle      Peel CAS' Child Welfare Immigration Centre of Excellence (CWICE)  
Ungara

Travonne Edwards      Assistant Professor, Toronto Metropolitan University  
Zoha Salam                  Researcher in Global Health, McMaster University

Abrigo Centre  
Black Legal Action Centre (BLAC)  
Justice for Children and Youth  
Ontario Children's Advancement Coalition  
South Asian Legal Clinic of Ontario (SALCO)  
Women's Habitat of Etobicoke

### Nationwide Networks

---

Aura Freedom International  
Canadian Association of Refugee Lawyers (CARL)

---

## WHAT WE KNOW ABOUT PRECARIOUS IMMIGRATION STATUS & CHILD WELFARE IN CANADA

While Canada is a leading destination for immigrants from around the world, a growing number of immigrants living in Canada today have a temporary or precarious status. In 2022, Statistics Canada (2023) recorded 2.2 million non-permanent residents in Canada who are granted temporary and thus precarious legal status to study, work, or seek asylum in Canada. As non-citizens and non-permanent residents, immigrants with precarious status represent a structurally vulnerable population who experience higher rates of poverty, inadequate housing, and face exclusion from essential social and health services (Bhuyan, 2012; Bhuyan, Osborne, and Cruz, 2016; Magalhaes, Carrasco, and Gastaldo, 2010).

Emerging research has documented the negative effects of precarious immigration status for children and youth in Canada. Newcomer families are twice as likely to be reported to child protection in Canada with racial discrimination against newcomers, miscommunication due to language barriers and social isolation identified as key causes for higher rates of reporting (Houston et al., 2021). Once involved in child welfare, parents' immigration status may pose additional barriers to family reunification, due to the exclusion from social and health services that are needed to ensure the child or youth's well-being (Cervantes & Lincroft, 2010). Systemic racism compounds higher rates for Black (Mohamud et al., 2021) and Latin American immigrant youth and their families (King et al., 2024).

For former youth in care (i.e. those who age out of the childcare system), unresolved immigration applications can lead to the loss of access to healthcare, having to pay international student fees to access postsecondary education, and risk of deportation (Hare, 2007). Involvement in the criminal justice system is also a serious concern for non-citizen former youth who may be deemed "criminally inadmissible" and thus deported from Canada— even after spending most of their lives in Canada (Bergen & Abji, 2020; Edwards et al., 2023; Mucina & Lash-Ballew, in press). The double punishment of youth and former youth in care, who are deported after being deemed "criminally inadmissible" is in violation of child rights and migrant rights outlined in the Convention of the Rights of the Child and the Global Compact on Migration.

Systemic racism and xenophobia work in concert to place specific children and youth at risk of, at first entering the child protection system, then not being granted immigration status while in the system, and subsequently being placed at heightened risk for a multitude of negative outcomes. We, as Canadians, have an obligation to ensure the well-being of children that are in our collective care, and this means that they are treated as Canadians with respect to their status in Canada.

---

## RECOMMENDATIONS

We commend that the proposed changes to the Citizenship Act and the Immigration and Refugee Protection Act recognize the importance of addressing precarious status of children in the welfare system through granting citizenship and bringing children and youth rights central to the discussion.

Bill S-235 addresses gaps in the protection of children's rights, especially for those arriving in Canada as immigrants, refugees, or asylum-seekers. This act aligns with the United Nations Convention on the Rights of the Child, by being attentive to the rights and best interests of children when decisions are made that relate to and affect their future.

We recommend that the Standing Committee on Social Affairs, Science and Technology pass Bill S-235 with amendments that address the following recommendations.

### **RECOMMENDATION 1: For the federal government to defer to terminology used by provincial and territorial governments to encompass the broad range of child welfare services and care offered to children and youth including:**

- Children or youth who reside in “group foster homes, the private home of foster parents or the private home of a guardian, tutor or other individual occupying a similar role.”
- Children or youth residing in “an institution licensed or otherwise authorized under the law of the province to have the custody or care of children.”
- Children or youth who are receiving services to improve their living conditions when they were not residing with a relative under an agreement, including those who enter into voluntary agreements for child welfare services.
- Children or youth who are in the “care and custody of their parent,” while receiving services from a child welfare authority.
- Children and youth in kith and kin placements.

### **RECOMMENDATION 2: For a clause to be added granting the Minister discretion to facilitate equitable consideration of eligibility beyond that is described in the Bill.**

- This would ensure the broadest inclusion for immigrant children or youth who come into care to be eligible for citizenship but whose length of time in care and/or relationship to the respective state authority for child welfare is complex and dynamic.

- For example, youth who arrive in Canada close to the age of majority (18 or 19 years depending on the province or territory) and as such may spend less than 365 in the child welfare system, youth who are separated from their parent/guardians or unaccompanied who may be excluded due to the current 365-day eligibility criteria.
- As the age for “transitioning” varies by province or territory, ministerial discretion should consider circumstances where youth do not formally “age out,” but go unaccounted for through voluntary or involuntary discharge from the child welfare system.

---

## **CONCLUSION**

We urge the Standing Committee on Social Affairs, Science and Technology to consider these recommendations as amendments to Bill S-235 to align with the broader principles of child welfare, and to prevent further vulnerability of non-status children, youth, and families in care. This legislation will address a key legal void by formally recognizing state wards already in every other aspect as Canadians.

---

## REFERENCES CITED

- Bergen, H. & Abji, S. (2020). Facilitating the Carceral Pipeline: Social Work’s Role in Funneling Newcomer Children From the Child Protection System to Jail and Deportation. *Affilia*, 35(1), 34–48. <https://doi.org/10.1177/0886109919866165>
- Bhuyan, R., Osborne, B., & Cruz, J. F. J. (2016). “Once you arrive, se te sala todo” (everything is salted): Latina Migrants’ Search for “Dignity and a Right to Life” in Canada. *Immigrant and Refugee Studies*, 14(4), 411-431.
- Cervantes, W., & Lincroft, Y. (2010). Caught between systems: The intersection of immigration and child welfare policies. *First Focus: Making Children & Families the Priority*. <https://firstfocus.org/resources/report/caught-between-systems-the-intersection-of-immigration-and-child-welfare-policies>
- Edwards, T., Laylor, A., King, B. & Parada, H. (2023). When home reminds me of jail: The carceral nature of out-of-home care for Black youth in Ontario’s child welfare system. *Children and Youth Services Review*, 155, 107309. <https://doi.org/10.1016/j.childyouth.2023.107309>
- Gagnon, M., Kansal, N., Goel, R., & Gastaldo, D. (2021). Immigration Status as the Foundational Determinant of Health for People Without Status in Canada: A Scoping Review. *Journal of Immigrant and Minority Health*, 1-16.
- Goodman, L. A. & Fauci, J. E. (2020). The Long Shadow of Family Separation: A Structural and Historical Introduction to Mandated Reporting in the Domestic Violence Context. *Journal of Family Violence*, 35(3), 217–223. <https://doi.org/10.1007/s10896-020-00132-w>
- Hare, F. G. (2007). Transition without status: The experience of youth leaving care without Canadian citizenship. *New Directions for Youth Development*, 113, 77–88. <https://doi.org/10.1002/yd.202>
- Houston, E., Ganness, A., Black, T. & Fallon, B. (2021). View of Examining Child Maltreatment-Related Investigations of Children from Newcomer and non-Newcomer Households in Ontario, Canada. *International Journal of Child and Adolescent Resilience*, 1(8), 110–123. <https://ijcar-rirea.ca/index.php/ijcar-rirea/article/view/281/241>
- King, B., Parada, H., Fallon, B., Olivo, V. E., Best, L. M. & Filippelli, J. (2024). Latin American children in Ontario child welfare: An examination of investigation disparities. *Children and Youth Services Review*, 156, 107357. <https://doi.org/10.1016/j.childyouth.2023.107357>

- Magalhaes, L., Carrasco, C., & Gastaldo, D. (2010). Undocumented Migrants in Canada: A Scope Literature Review on Health, Access to Services, and Working Conditions. *Journal of Immigrant and Minority Health*, 12(1), 132-151. <https://doi.org/10.1007/s10903-009-9280-5>
- Mohamud, F., Edwards, T., Antwi-Boasiako, K., William, K., King, J., Igor, E. & King, B. (2021). Racial disparity in the Ontario child welfare system: Conceptualizing policies and practices that drive involvement for Black families. *Children and Youth Services Review*, 120, 105711. <https://doi.org/10.1016/j.childyouth.2020.105711>
- Kaur Mucina, M., & Lash-Ballew, A. (in press). Narratives from Noncitizen Former Youth in Child Welfare Care Fighting Crimmigration and Deportation. *International Journal of Migration and Border Studies (Special Issue on Coloniality of Bordering and Belonging: Everyday Bureaucratic and Legal Violence through Nation-State)*, 1-24.
- Statistics Canada. (2023). Canada's demographic estimates for July 1, 2023: record- high population growth since 1957 of Work. Government of Canada, Ottawa, ON. <https://www150.statcan.gc.ca/n1/daily-quotidien/230927/dq230927a-eng.htm>
- Tremonti, A. M. (2018). “The government was our parents”: Abdoul Abdi’s sister says Somali refugee failed by Canadian foster system | CBC Radio. In CBC- The Current. <https://www.cbc.ca/radio/thecurrent/the-current-for-january-15-2018-1.4487410/the-government-was-our-parents-abdoul-abdi-s-sister-says-somali-refugee-failed-by-canadian-foster-system-1.4487428>
- Walsh, J. (2014). From nations of immigrants to states of transience: Temporary migration in Canada and Australia. *International Sociology*, 29(6), 584-606.