Study on Subject Matter of Parts 5, 6, 7 and 8 of Bill C-12, An Act respecting certain measures relating to the security of Canada's borders and the integrity of the Canadian immigration system and respecting other related security measures

Brief submitted to the Standing Senate Committee on Social Affairs, Science and Technology

Bellissimo Law Group PC

www.bellissimolawgroup.com

Mario D. Bellissimo,

Certified Specialist in Citizenship, Immigration and Refugee Law, Lead Author

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Ten Key Recommendations

1. Amend Bill C-12 to remove or substantially narrow extraordinary executive powers allowing the Minister or Governor in Council to cancel, suspend, or deny classes of immigration applications on undefined "public-interest" grounds. Fundamental aspects of the legislation should not be deferred to regulations.
2. Define in statute the terms "public interest," "prescribed circumstances," and "authorized purposes" to ensure consistent and lawful exercise of discretion.
3. Replace cancellation authority with time-limited, reviewable emergency provisions that must be tabled in Parliament and automatically sunset within one year unless renewed.
4. Reinstate the necessity test for data collection and inter-agency sharing under the *Privacy Act* to safeguard proportionality, privacy, and accountability.
5. Authorize a Universal Expression of Interest (EOI) system to manage pending and future applications dynamically through transparent, criteria-based draws aligned with labour, regional, and humanitarian priorities without the need for full scale terminations.
6. Establish independent oversight and accountability by creating an Immigration Ombudsperson and AI Oversight Unit, supported by mandatory annual parliamentary reporting on backlog, fairness, and automation metrics. The use of retroactive or retrospective legislation should be limited.
7. Legislate procedural-fairness safeguards, including binding service standards, digital accessibility, and a statutory deficiency-notice regime to prevent curable refusals and systemic backlogs.
8. Embed absorptive-capacity and rights-based planning in the *IRPA*, linking immigration levels to housing, healthcare, and labour readiness, while codifying the right to legal counsel in all immigration and refugee processes to ensure accessibility and due process.
9. Amend Bill C-12 to remove the one-year ineligibility rule and fourteen day procedural deadlines ensuring refugee hearings remain individualized, timely, and *Charter*-compliant.
10. Expand IRB adjudicative and triaging capacity and digital case-management tools to address government concerns about backlogs while upholding fairness, access to protection, and Canada's obligations under the *IRPA* and the 1951 Refugee Convention.

Executive Summary

Bill C-12, *The Strengthening Canada's Immigration System and Borders Act*, represents the government's next phase in modernizing immigration and border security. Introduced in October 2025, it seeks to align immigration integrity with national security objectives by enhancing coordination between Immigration, Refugees and Citizenship Canada (IRCC), the Canada Border Services Agency (CBSA), and Public Safety Canada (PSC). The Bill follows the earlier *Strong Borders Act (Bill C-2)* but introduces revisions intended to address operational inefficiencies and public-confidence gaps identified by Parliament, civil-society organizations, and the courts.

According to PSC, Bill C-12 would *"strengthen Canada's ability to manage its borders, disrupt increasingly complex criminal groups, and modernize the immigration system".*[1] It introduces several forward-looking measures including expanded CBSA powers to inspect exports, access warehouses and transport hubs, and collaborate with domestic and international partners to combat organized crime, fentanyl trafficking, and illicit financing. The creation of a unified information-sharing framework among immigration, border, and law-enforcement agencies to improve responsiveness to emerging security threats while maintaining service efficiency. A streamlined electronic claim submissions and alignment of inland and port-of-entry procedures to reduce duplication and improve decision timeliness. Updated authorities to permit the use of modern digital tools in processing immigration and refugee claims, and to enhance transparency in case management. Also, the

[1] Public Safety Canada, *Understanding Strengthening Canada's Immigration System and Borders Act, Bill C-12*, 9 October 2025, Government of Canada, online: https://www.canada.ca/en/services/defence/securingborder/strengthen-border-security/understanding-stregthening-canada-immigration-system-borders-act.html

elimination of the Designated Country of Origin regime is a welcomed amendment. Finally, amendments to the *Oceans Act* to allow the Canadian Coast Guard to conduct security patrols supporting CBSA and RCMP operations. These objectives respond to genuine concerns regarding organized crime, cyber-enabled smuggling, and delays that erode confidence in Canada's immigration and refugee systems.

While the intent of Bill C-12 is commendable, its drafting continues to raise serious constitutional and procedural-fairness questions. The Bill preserves vague and expansive discretionary powers, such as undefined "public-interest" grounds for mass cancellations of immigration documents, while offering limited independent oversight. Without clear statutory guardrails, these powers could undermine the very integrity the Bill seeks to strengthen. Although Bill C-12's focus on inter-agency coordination, crime prevention, and digital modernization aligns with legitimate national-security and administrative-efficiency goals, the Bill must equally enshrine fairness, transparency, and independent oversight to succeed.

This brief builds on our brief to the House of Commons Standing Committee on Citizenship and Immigration (CIMM) study on *Improving the Order, Fairness, and Effectiveness of Canada's Immigration System*.[2] It also draws from the Canadian Bar Association's (CBA) *Law, Technology, and Accountability* report, which sets out 100 recommendations to strengthen fairness, transparency, and accountability[3] as well as research drawn from other stakeholders in advancing ten key recommendations. This submission urges Parliament to remove or redraft the Bill's overbroad executive powers, particularly the ministerial and Governor in Council cancellation authorities. It calls for codified procedural fairness measures, including deficiency notices, a reconsideration process, and an explicit right to counsel in all immigration and refugee matters. It further seeks remove of the one-year and fourteen-day bars on refugee claims and expand IRB's adjudicative and triaging capacity and digital case-management tools to address government concerns about backlogs while upholding fairness. Finally, our recommendations propose aligning immigration growth with real-world absorptive capacity by legislating annual public reporting on housing, healthcare, labour-market readiness, and Francophone and regional integration outcomes, thus building a system that is efficient, transparent, and rights-based.

Context and Legislative Evolution

Bill C-12 seeks to respond to mounting concerns about irregular migration, organized crime, and administrative backlogs, but has faced extensive criticism from legal experts, the CBA, and settlement organizations for overbroad ministerial powers and insufficient procedural safeguards.[4] The government's re-drafting into Bill C-12 aimed to re-balance enforcement authority with transparency, efficiency, and digital modernization. Public Safety Canada and IRCC describe Bill C-12 as part of a "whole-of-government" modernization strategy to secure borders while maintaining humanitarian commitments. Its stated objectives include:

- Streamlining enforcement and refugee processes to reduce backlogs and provide consistent decision-making across ports of entry and inland claims.
- Enhancing cross-agency information-sharing between CBSA, the Royal Canadian Mounted Police (RCMP), and IRCC to counter sophisticated smuggling networks and money-laundering operations.
- Expanding CBSA's operational reach to allow inspection of exports, warehouses, and transport hubs, and to coordinate with the Canadian Coast Guard for maritime security patrols.
- Introducing digital efficiencies, such as online claim submission, standardized processing tools, and improved data management across federal systems.
- Reinforcing national security and public safety through measures to detect fraudulent documents, disrupt transnational crime, and safeguard the integrity of Canada's immigration programs.

[2] Mario Bellissimo, *Study on Improving the Order, Fairness, and Effectiveness of Canada's Immigration System Standing Order 108(2),* 17 October 2025, Bellissimo Law Group PC. [hereafter: BLG PC's *Order, Fairness and Effectiveness Brief*]
[3] The Canadian Bar Association Immigration Law Section, *Law, Technology, and Accountability: Reimagining Canadian Immigration for the 21st Century*, May 2025, CBA, online: https://www.cba.org/CBA/media/PDFs/Our%20Impact/Submission/2025/25-19-Sub-eng.pdf. [hereafter CBA's Recommendations (May 2025)]
[4] COSTI Immigrant Services, *Letter to the House of Commons Standing Committee on Citizenship and Immigration re: Settlement Funding Reductions*, 2025. [hereafter: COSTI Letter 2025]; Ontario Council of Agencies Serving Immigrants, *Written Submission for the Pre-Budget Consultations in Advance of the Fall 2025, Federal Budget*, 31 July 2025, OCASI, online: https://drive.google.com/file/d/1Xc_71OIC3lv6f1e1SLD5v97RtNKiu3b0/view?pli=1, Recs. 4–5. [hereafter: OCASI, Federal Pre-Budget Submission 2025]

The government frames these reforms as essential to *"maintaining Canada's welcoming and rules-based immigration system while keeping Canadians safe."*[5] This vision reflects legitimate and urgent priorities. Border modernization and data-driven enforcement are critical in an era of cyber-enabled smuggling, rising global migration pressures, and complex humanitarian crises. However, persistent vagueness in statutory language, deferral to future regulations and continued reliance on Orders-in-Council without parliamentary scrutiny could enable overreach. Accelerated processes and expanded enforcement powers require offsetting safeguards to protect *Charter* rights and maintain access to justice. Despite these goals, Bill C-12 preserves key features of Bill C-2 that raise constitutional and policy challenges. Both bills:

- Depend heavily on broad "public-interest" powers, allowing Cabinet to suspend or cancel immigration documents or categories without individualized review.
- Extend data-collection and sharing authorities without re-instating the "necessity" test previously required under the *Privacy Act*[6].
- Retain provisions limiting refugee-claim eligibility (including a one-year bar) and restricting hearings for claimants outside Canada, potentially infringing Charter-protected procedural fairness
- Delegate significant details to future regulations and Orders-in-Council, reducing parliamentary visibility at the implementation stage.

The transition from C-2 to C-12 does demonstrate some movement toward balance:

- Clarified operational language on enforcement collaboration and maritime jurisdiction;
- Commitments to digital transparency in refugee processing;
- Public assurances of proportional application of cancellation and data-sharing powers; and
- A renewed emphasis on modernization and service improvement in government communications.

However, without clearer statutory limits, transparency mechanisms, and independent oversight, the reforms risk undermining the very legitimacy they aim to restore. This trajectory risks deepening opacity, unpredictability, and public mistrust. Bill C-12 compounds this gap by expanding executive discretion without adding any new accountability framework.[7]

1. Remove and Redraft Overbroad Executive Powers

Analysis

A defining feature of both Bill C-2 and Bill C-12 is the reliance on open-ended statutory language such as *"public interest"*, *"prescribed circumstances"*, and *"authorized purposes"*. While flexibility is necessary in a dynamic immigration environment, the absence of precise definitions risks arbitrary application and inconsistent decision-making. The CBA (May 2025) emphasizes that broad discretion must be anchored in clear legislative criteria.[8] As drafted, Bill C-12 would still allow the Governor in Council to suspend or cancel classes of immigration documents or pending applications by Order-in-Council without individualized assessment, notice, or opportunity to respond.[9] While government statements suggest these powers would be used only in exceptional circumstances reliance on post-hoc explanations is not a substitute for prior statutory clarity.

The expansion of executive discretion under Bill C-12 continues a trend that began with the 2008 Ministerial Instructions (MI) regime and accelerated under Bill C-2. These authorities, permitting class-wide suspension or cancellation of immigration or refugee processing "*in the public interest*," lack objective criteria and parliamentary oversight. Canadian administrative-law jurisprudence, notably *Roncarelli v. Duplessis* [1959][10], establishes that discretionary power must be exercised within defined limits and for lawful purposes. Similarly, the Supreme Court

[5] Public Safety Canada, *Government of Canada introduces new streamlined legislation to strengthen border security and keep Canadians safe*, 8 October 2025, Government of Canada, online: https://www.canada.ca/en/public-safety-canada/news/2025/10/government-of-canada-introduces-new-streamlined-legislation-to-strengthen-border-security-and-keep-canadians-safe.html
[6] *Privacy Act*, RSC 1985, c P-21.
[7] Cristin Schmitz, *CBA offers Parliament 'better way' forward to reform beleaguered immigration and refugee system*, 18 September 2025, Law360, online: https://www.law360.ca/ca/articles/2352380/cba-offers-parliament-better-way-forward-to-reform-beleaguered-immigration-and-refugee-system. [hereafter: Law360 "CBA offers Parliament 'better way' forward"].
[8] See Note 3, CBA's Recommendations (May 2025).
[9] See Note 7, Law360 "CBA offers Parliament 'better way' forward
[10] *Roncarelli v. Duplessis* [1959] S.C.R. 121.

affirmed[11] that discretion in immigration matters must conform to procedural fairness and *Charter* values. Sections 5 and 24 of the *Charter* address fair process and judicial oversight, while s. 94 of the *Immigration and Refugee Protection Act* (*IRPA*)[12] requires periodic reporting to Parliament.

Bill C-12's proposed Orders-in-Council powers, without statutory criteria or review, would undercut those obligations and risk rendering immigration governance non-transparent. Integrity is essential to public confidence in Canada's immigration system, but enforcement reforms in Bill 12 overcorrect toward control at the expense of fairness and proportionality. The Refugee Law Lab's *Consultation Report on Bill C-2* confirmed that the Bill's "*public interest*" provisions could enable wholesale termination of valid programs, destabilizing lawful residents and eroding due process[13]. Community stakeholders reinforce these concerns. COSTI reported that abrupt program cancellations and funding cuts have already forced service closures and layoffs, reducing housing and settlement capacity[14]. OCASI emphasized that arbitrary enforcement and systemic bias, particularly against African, Caribbean, and Black applicants compound inequities and damage public trust[15].

The 2012 Ministerial instruction terminating long-standing Federal Skilled Worker applications, some pending for over eight years at the time, remains a cautionary example of the harm caused by unilateral decision-making[16]. A joint polling project notes that Canadians' concerns tend to focus more on how immigration is managed (policy, volume, integration capacity, housing, services, etc.) rather than hostility toward migrants themselves.[17] Further, Bill C-12 expands ministerial and CBSA authorities over admissibility, data-sharing, and enforcement while providing no new mechanisms of independent review. This creates an imbalance between efficiency and accountability. The proposed framework enables Orders-in-Council to cancel or suspend classes of visas or permits, as well as restrict access to Immigration and Refugee Board (IRB) hearings for claimants abroad, and introduce new data-sharing schemes with other federal, provincial, and foreign bodies.

Also, Bill C-12's enhanced information-exchange provisions aim to improve inter-agency cooperation against transnational crime, but they replace the *necessity-based* test under the *Privacy Act* with a more permissive *"authorized purpose"* standard. Without explicit limitations on scope, retention, and use, function creep may occur where personal or biometric data collected for immigration administration is later used for unrelated enforcement or intelligence purposes. The absence of notification or consent requirements for individuals whose data is shared further weakens procedural fairness. Parliament should therefore reinstate a statutory *necessity* threshold and require periodic public audits by an independent AI and Data Oversight Office to ensure compliance with privacy and equality obligations. This would align Canada's approach with emerging international best practices, including the EU's *AI Act* (2024)[18] and the Organisation for Economic Co-operation and Development's (OECD) principles on trustworthy digital governance.[19]

Recommendations – Remove and Redraft Overbroad Executive Powers

1. Amend Bill C-12 to remove or substantially narrow extraordinary executive powers allowing the Minister or Governor in Council to cancel, suspend, or deny classes of immigration applications on undefined "*public interest*" grounds.
2. Define in statute the terms "*public interest*," "*prescribed circumstances*," and "*authorized purposes*" to ensure consistent and lawful exercise of discretion. Fundamental aspects of the legislation should not be deferred to regulations.

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[11] *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 S.C.R. 817, at para 53
[12] *Immigration and Refugee Protection Act*, S.C. 2001, c. 27
[13] Sean Rehaag et al., *Consultation Report on Bill C-2*, 14 July 2025, Refugee Law Lab, online: https://refugeelab.ca/publications/consultation_report/, pp. 2–4. [hereafter: RLL Bill C-2 Consultation Report 2025]
[14] See Note 4, COSTI Letter 2025
[15] See Note 4, OCASI Pre-Budget Submission 2025, Rec. 4
[16] *Tabingo v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 377, [2014] 4 FCR 150, at paras 17–19; *Tabingo v. Canada (Citizenship and Immigration)*, 2014 FCA 191, [2015] 3 FCR 346.
[17] Broadbent Institute & Friedrich-Ebert-Stiftung Canada, *Public Attitudes Toward Immigration, Integration, and Social Cohesion in Canada*, 2024, Broadbent Institute (Ottawa) and Friedrich-Ebert-Stiftung Canada (Toronto), online: https://broadbentinstitute.ca/research/shifting-borders/. pp. 8–10.
[18] Regulation (EU) 2024/1689 (Artificial Intelligence Act), Official Journal L 2024/1689 (2024). [hereafter: the *AI Act*]
[19] Organisation for Economic Co-operation and Development, *AI Principles – Overview*, OECD, online: https://www.oecd.org/en/topics/sub-issues/ai-principles.html. [hereafter: OECD's AI Principals].

3. Replace cancellation authority with time-limited, reviewable emergency provisions that must be tabled in Parliament and automatically sunset within one year unless renewed.
4. Reinstate the *necessity* test for data collection and inter-agency sharing under the *Privacy Act* to safeguard proportionality, privacy, and accountability.

2. Alternatives to Mass Cancellation So We Do Not Get Here Again

Analysis

Canada's immigration backlog, while substantial, is not evidence of failure; it reflects sustained global demand for Canada's programs and confidence in its rule of law. While the intent administrative efficiency is understandable, wholesale cancellation of lawfully filed applications risks breaching legitimate expectations, undermining public confidence, and exposing Canada to *Charter* and international-law challenges. The Supreme Court confirmed[20] that administrative discretion must reflect fairness, transparency, and the values of the *Charter*. Similarly, *Mount Sinai Hospital Center v. Quebec (Minister of Health)* [2001][21] recognized that individuals who rely in good faith on a lawful regime are entitled to procedural fairness before their rights or opportunities are extinguished. Mass termination without recourse violates those principles and destabilizes the very predictability that sustains public confidence in Canada's immigration system.

Rather than extinguish the backlog, Canada can use it intelligently to build a sustainable, transparent selection framework. A Universal Expression of Interest (EOI) System, modeled on the successful *Express Entry* architecture but expanded across all categories including family reunification, caregiver, and humanitarian classes would transform the backlog into a dynamic resource rather than a liability. Each existing application would become an active data point within an ongoing pool, allowing IRCC to conduct regular draws based on real-time labour-market, demographic, and humanitarian priorities. Most would remain eligible for selection and others not meeting criteria would be terminated, preserving fairness while enabling modernized intake control. By connecting selection directly to absorptive-capacity indicators (i.e. housing, health, settlement, and regional needs), IRCC could regulate admissions dynamically while honouring applicants' lawful submissions.[22] This approach supports the *Charter*'s proportionality principle[23] and fulfills Canada's international commitments under the *International Covenant on Civil and Political Rights* and the *1951 Refugee Convention*, both of which emphasize fair, accessible procedures.

In our *Order, Fairness and Effectiveness Brief,* we submitted that modernization also demands accountability. The implementation of an EOI-based system should be paired with the Independent Immigration Ombudsperson and AI Oversight Unit proposed in earlier sections.[24] Civil-society voices confirm that settlement agencies and applicants face systemic inequities and service failures without any avenue for redress.[25] International comparators such as the UK and Australia demonstrate how independent oversight improves accountability and reduces litigation.[26] These bodies would monitor fairness, automation, and decision integrity while ensuring the EOI system operates transparently. Codifying statutory service standards, real-time performance dashboards, and deficiency-notice procedures would institutionalize efficiency without eroding due process. Such an office would enhance transparency, restore accountability, and reduce reliance on judicial review, aligning directly with the CBA's roadmap.[27] Together, these reforms would prevent future backlogs by replacing ad-hoc processing with continuous, data-driven intake management supported by independent oversight and measurable performance.

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[20] See *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 S.C.R. 817, at paras. 53–56.
[21] *Mount Sinai Hospital Center v. Quebec (Minister of Health)* [2001] 2 S.C.R. 281
[22] See Note 2, BLG PC's *Order, Fairness and Effectiveness Brief.*
[23] Proportionality principle under *R. v. Oakes*, [1986] 1 S.C.R. 103.
[24] See Note 3, CBA Recs. 78–82, pp. 83–87
[25] See Note 4, COSTI Letter 2025; OCASI, Federal Pre-Budget Submission 2025
[26] Commonwealth Ombudsman, *Annual Report 2023–24*, 17 July 2024, Office of the Commonwealth Ombudsman (Australia), online: https://www.ombudsman.org.uk/sites/default/files/Ombudsmans_Annual_Report_2023_2024.pdf, pp. 28–35; Parliamentary and Health Service Ombudsman (UK), *Annual Report and Accounts 2023–24*, 17 July 2025, The Stationery Office, online: https://www.gov.uk/government/publications/annual-report-and-accounts-2024-to-2025, pp. 52–57.
[27] See Note 3, CBA Rec. 17, p. 28; Mario Bellissimo, *Application Backlogs & Processing Times*, 30 May 2022, Bellissimo Law Group PC, online: https://www.ourcommons.ca/Content/Committee/441/CIMM/Brief/BR11845890/br-external/BellissimoLawGroupProfessionalCorporation-e.pdf, p. 8. [hereafter: BLG PC *Backlogs Brief 2022*].

In operational terms, the EOI-backlog integration model would require limited new legislation: the addition of a specific *IRPA* section authorizing ongoing "invitation rounds" across classes, the preservation of filing priority within defined time limits, and mandatory reporting to Parliament on selection outcomes. It would also respect jurisprudence on fairness while leveraging Bill C-12's modernization infrastructure for legitimate efficiency gains. In short, Canada can regain control of its immigration system not by erasing its past, the use of retroactive or retrospective legislation should be limited, but by transforming legacy applications into the foundation of a responsive, rights-based, and technologically modernized future.

Canada's immigration system faces recurring crises because growth has outpaced capacity and governance reform. Immigration levels have become more disconnected from real-world absorptive indicators such as housing, healthcare, labour readiness, and settlement infrastructure. This detachment breeds backlogs, ad-hoc enforcement, and public frustration. As the CBA, BLG PC, OCASI, and COSTI have shown, opaque quota-setting without transparency or service alignment undermines both newcomers and communities.

Bill C-12 can correct this trajectory by legislating *predictable, capacity-linked planning* and *procedural fairness obligations*. Parliament should require annual public reporting on absorptive-capacity metrics, like housing supply, healthcare access, labour-market integration, and Francophone retention, alongside immigration-levels plans. This would rebuild public trust. The Fédération des communautés francophones et acadienne du Canada (FCFA) further highlights that linguistic and regional equity depend on aligning admissions with available French-language and local supports.[28]

But structural reform cannot stop at planning. Procedural fairness and representation must be legislated as permanent features, not policy preferences. The absence of a statutory deficiency-notice regime and the exclusion of legal counsel in varying measures have led to preventable refusals and litigation. Codifying the right to counsel under *IRPA* would ensure all applicants, particularly vulnerable and digitally excluded group, can meaningfully participate in accelerated or automated processes[29]. Procedural fairness is the bedrock of Canadian immigration law. In *Singh*[30], the Supreme Court held that every person physically present in Canada is entitled to a hearing consistent with s. 7 of the *Charter*. Digitalization compounds these risks when applicants cannot correct omissions or obtain legal help. The *Service Fees Act* and s. 91 of *IRPA* presume meaningful participation by counsel, which must now be reflected in Bill C-12's digital architecture.[31]

Modernization also requires accountability in automation. The growing reliance on algorithmic triage and automated decision systems must be matched by statutory AI oversight. Establishing an AI and Digital Oversight Unit, as proposed earlier, would provide independent auditing of all automated tools, ensure "human-in-the-loop" review for consequential decisions, and publish annual algorithmic-impact assessments, aligning Canada with the *AI Act* and OECD governance standards. Modernization introduces algorithmic triage, automated decision systems, and cross-agency data sharing. In *Vavilov v. Canada (Minister of Citizenship and Immigration*[32], the Supreme Court held that administrative decision-makers must provide reasoned justification and act within legislative intent. The same applies to algorithmic tools: where human judgment, in part or otherwise, is delegated to machines, legislative oversight is essential.

Internationally, the *AI Act* and OECD's AI Principals classify immigration and refugee decision-systems as "high-risk," requiring transparency, auditability, and human review.[33] Canada's *Privacy Act* and Directive on Automated Decision-Making[34] set baseline standards, but they are policy instruments, not statutes, and therefore persuasive

[28] Fédération des communautés francophones et acadienne du Canada, *Strengthening our Francophone Communities, Strengthening our Country,* FCFA, online: https://monvotefrancophone.ca/strong-francophone-communities-for-a-strong-canada/

[29] Consistent with *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 S.C.R. 817 and *Singh v. Minister of Employment and Immigration* [1985] 1 S.C.R. 177

[30] *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177

[31] *Immigration and Refugee Protection Act Service, s*s.91(1) – (4) of *Fees Act* (SFA), S.C. 2017, c. 20, ss. 451–462

[32] *Vavilov v. Canada (Minister of Citizenship and Immigration)* 2019 SCC 65

[33] See *European Union Artificial Intelligence Act*, Regulation (EU) 2024/1689, OJ L 202, 12 July 2024, Arts. 6(2), 9, 14–19, 52(1) and Annex III(7) (classifying AI systems used in migration, refugee, and border control as "high-risk" and requiring transparency, human oversight, and risk management); and *OECD Council Recommendation on Artificial Intelligence*, OECD/LEGAL/0449 (2019), Principles 1.2–1.5, 2.5 (calling for accountability, transparency, and human oversight in high-impact public-sector AI).

[34] Treasury Board of Canada Secretariat, *Directive on Automated Decision-Making*, 29 March 2021, Government of Canada, online: https://publications.gc.ca/site/eng/9.899938/publication.html

but not enforceable. Embedding oversight in Bill C-12 would give these principles binding force, transforming it into a *self-correcting, transparent system* that links capacity planning, fairness, and technological accountability to prevent backlogs and preserve public confidence.

Recommendations – Dynamic Backlog Management and System Modernization

The CIMM recommend that Bill C-12 be amended to ensure long-term sustainability and fairness. Specifically, Parliament should:

5. Authorize a universal EOI system to manage pending and future applications dynamically through transparent, criteria-based draws aligned with labour, regional, and humanitarian priorities.
6. Establish independent oversight and accountability by creating an Immigration Ombudsperson and AI Oversight Unit**,** supported by mandatory annual parliamentary reporting on backlog, fairness, and automation metrics. The use of retroactive or retrospective legislation should be limited.
7. Legislate procedural fairness safeguards, including binding service standards, digital accessibility, and a statutory deficiency-notice regime to prevent curable refusals and systemic backlogs.
8. Embed absorptive-capacity and rights-based planning in *IRPA*, linking immigration levels to housing, healthcare, and labour readiness, while codifying the right to legal counsel in all immigration and refugee processes to ensure accessibility and due process.

This model balances modernization with legality and fairness. It leverages existing data to meet present and future needs without the social and economic harm of mass terminations. By legislating transparency, independent oversight, and adaptive intake management, Parliament can restore public trust, strengthen operational efficiency, and ensure that Canada's immigration system remains both effective and just. Embedding capacity planning, counsel access, and AI oversight within Bill C-12 creates a rights-anchored, evidence-based immigration system that adapts to national realities while safeguarding fairness and public confidence ensuring Canada never again faces unmanageable backlogs or crisis-driven reforms.

3. Balancing Refugee Rights, Administrative Efficiency, and Humanitarian Fairness

Analysis

Bill C-12's retention of the one-year ineligibility rule and fourteen-day procedural deadlines raises acute fairness and *Charter* vulnerabilities. In *Singh,* and later *Charkaoui v. Canada (2007) SCC 9*, the Court made clear that liberty and security interests require individualized, timely, and meaningful hearings.[35] The 1951 Refugee Convention and its 1967 Protocol (to which Canada is party) prohibit refoulement and demand accessible procedures for all refugee seekers.[36] The *IRPA* ss. 96–97 define protection grounds without temporal limits; imposing rigid filing windows by subordinate legislation contradicts that framework. Refugee rights must be preserved through discretion, not procedural exclusion.

The one-year bar on refugee claims, limits on hearings for claimants outside Canada, and new "inactive-claim" rules risk excluding genuine refugees on technical or trauma-related grounds. The Supreme Court's jurisprudence in *Singh*[37] underscores that efficiency cannot trump fairness where life, liberty, or security of the person is at stake. Gender-based violence advocates, like the Barbara Schlifer Clinic, warn that restrictive ineligibility rules disproportionately harm survivors who require time to gather evidence or reach safety, highlighting the urgent need for facilitation and accountability rather than deterrence.[38]

While the elimination of the Designated Country of Origin regime is a welcomed amendment as are other modernization efforts highlighted above in the legislation, more can be done to manage refugee claims. For one, expanding the IRB's adjudicative and digital capacity is both practical and fiscally sound. The Board already has statutory authority to adjust decision-making resources, and recent surge initiatives demonstrate that timely

[35] *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177 at paras. 35, 65, 67–70 and *Charkaoui v. Canada (Citizenship and Immigration)*, 2007 SCC 9 at paras. 29, 63–65, 135–140.
[36] 1951 Convention Relating to the Status of Refugees, art. 33; 1967 Protocol, both acceded to by Canada.
[37] *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177 at paras 65, 82–89.
[38] Barbra Schlifer Commemorative Clinic*, Statement: Bill C-2 Risks Undermining Canada's Commitments to Gender-Based Violence Survivors*, 9 June 2025, online: https://www.schliferclinic.com/wp-content/uploads/2025/06/Statement-Bill-C-2-Risks-Undermining-Canadas-Commitments.pdf.

expansion is feasible without legislative amendment.[39] By converting temporary decision-maker positions into permanent roles, employing specialized and part-time adjudicators, and deploying secure virtual-hearing infrastructure, the IRB can clear cases more efficiently while preserving fairness. Enhanced triage and pre-hearing case management would allow simpler or uncontested claims to be decided rapidly, freeing capacity for complex matters. These measures would reduce reliance on judicial review, accelerate refugee protection, and restore public confidence. Achieving faster, fairer outcomes without risking increased litigation, delays and backlogs.

Recommendations – Protect Refugee Rights and Humanitarian Fairness

9. Amend Bill C-12 to remove the one-year ineligibility rule and fourteen day procedural deadlines ensuring refugee hearings remain individualized, timely, and *Charter*-compliant.
10. Expand IRB's adjudicative and triaging capacity and digital case-management tools to address government concerns about backlogs while upholding fairness, access to protection, and Canada's obligations under the *IRPA* and 1951 Refugee Convention.

Concluding Statement

Bill C-12 represents a pivotal opportunity to modernize Canada's immigration and refugee system while restoring the balance between security, efficiency, and fairness. The Standing Committee on Citizenship and Immigration is urged to view this Bill not as a technical statute, but as a blueprint for the next generation of Canadian immigration law anchored in fairness and the security of our country, powered by innovation, grounded in humanitarian values, and accountable to Parliament and the public it serves. The Bill deserves recognition for several forward-looking objectives: it seeks to enhance border security, modernize data-management systems, improve inter-agency coordination, and introduce digital infrastructure that could make processing faster and more reliable. These aims reflect a legitimate public interest in efficiency, integrity, and predictability, and if carefully implemented could strengthen public confidence and Canada's global leadership in immigration governance.

As currently drafted, however, the Bill risks concentrating executive power, eroding procedural safeguards, extensive deferral to regulation, and deepening administrative opacity. In particular, the proposed mass-cancellation authority would not only extinguish lawfully filed applications but impact public trust and weaken Canada's international reputation. Global confidence in Canada's immigration integrity depends on stable rules, due process, and fair treatment of those who have relied on our laws in good faith. Rather than authorizing cancellations or retrospective measures, Canada can achieve modernization through a Universal Expression of Interest system that transforms the backlog into an adaptive, transparent selection pool. This model allows pending and future applications to be drawn dynamically according to real-time labour, regional, and humanitarian priorities, meeting administrative efficiency goals while avoiding the economic, reputational, and humanitarian costs of mass terminations. Coupled with statutory service standards, digital accessibility, and a deficiency-notice regime, such a framework would deliver efficiency through design, not deprivation.

Meaningful reform must also include refugee protection and adjudicative modernization. Bill C-12 should remove the one-year ineligibility rule and fourteen-day filing deadlines like it has with the DCO regime, and expand the IRB's adjudicative and digital capacity to address backlogs without sacrificing fairness. These changes would align with the Supreme Court's decisions in *Singh* and *Charkaoui* and with Canada's obligations under the 1951 Refugee Convention. The ten interlocking recommendations advanced in this brief provide a constitutional, practical, and forward-looking roadmap that constrains overbroad discretion, embeds independent oversight, modernizes digital governance, strengthens refugee protections, and links immigration growth to real-world absorptive capacity. Together, they replace reactive policymaking with evidence-based, rights-anchored governance, ensuring that Bill C-12 marks a new era of immigration leadership that is fair, transparent, innovative, and responsive to both Canada's administrative realities and its humanitarian legacy.

[39] See: Office of the Auditor General of Canada, *Processing of Asylum Claims* (Report 2, 2019); House of Commons Standing Committee on Citizenship and Immigration, *In Demand Yet Unprocessed: Endemic Immigration Backlogs* (44th Parl., 1st Sess., Report 18), December 2023, online: https://www.ourcommons.ca/documentviewer/en/44-1/CIMM/report-18/; See Note 3, CBA's Recommendations (May 2025); See Note 25, BLG PC *Backlogs Brief 2022;* See Note 4, COSTI Letter 2025; OCASI, Federal Pre-Budget Submission 2025.

About Bellissimo Law Group PC& Lead Author

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Study on Subject Matter of Parts 5, 6, 7 and 8 of Bill C-12, An Act respecting certain measures relating to the security of Canada's borders and the integrity of the Canadian immigration system and respecting other related security measures

Brief submitted to the Standing Senate Committee on Social Affairs, Science and Technology

Bellissimo Law Group PC

www.bellissimolawgroup.com

Mario D. Bellissimo,

Certified Specialist in Citizenship, Immigration and Refugee Law, Lead Author

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Summary of Recommendations

No.	Clause(s) / Proposed New Section(s)	Action / Responsible Body	Key Issue Addressed	Summary Rationale
1	Clause 72 (*Public-Interest Cancellation Authority*)	**Delete – SECU / Government**	Executive Discretion & Oversight	Risks arbitrary decisions and risks *Charter* violations.
2	Clauses 73–75 (including 73(1)(b.2) cross-reference to *IRPR* s. 159.4(1.1))	**Delete – SECU / Government**	Refugee Eligibility & Access to Justice	One-year and fourteen-day bars undermine *Singh* and *Charkaoui*, risk *Charter* breaches, exclude vulnerable claimants while increasing pressures on enforcement and courts.
3	Clauses 38 & 47 (amending *IRPA* ss. 44.1 & 104.1)	**Review/Amend – SECU / Government**	Physical Presence Requirement & Procedural Fairness	A narrowly tailored exception to restricts hearings unless claimants/ persons concerned are physically in Canada to maintain the integrity of Canada's territorial refugee-determination model, *Charter* guarantees and Canada's reputation for fairness.
4	Clauses 28–29 and 80–84 (+ new s. 150.1 *IRPA*)	**Review / Amend – SECU return to Government/CIMM**	Privacy & Data Governance	Expands data-sharing for enforcement, inter-agency cooperation, admissibility screening, and digital modernization so close study required re sufficient proportionality or audit limits, privacy safeguards and sharing of information with third countries or countries of origin.
5	Complementary *IRPA* Provisions (new ss. 11.5, 102.2, s. 102.3, 202.1, 300–303 and amend ss. 91, 94)	**Refer to CIMM for Development**	Intake Management, Oversight & Capacity Planning	Builds on recent proposals to CIMM to dynamically manage intake re EOI system, refugee queue-management framework, right to counsel, oversight offices, and absorptive-capacity planning aligning modernization with fairness and security.

Executive Summary[1]

Bill C-12 represents a pivotal opportunity to modernize Canada's immigration and refugee system while restoring balance between security, efficiency, and fairness. Its stated objectives to improve integrity, transparency, and modernization are commendable. Measures such as removing the designated-country-of-origin regime, expanding digital tools, and improving cross-agency cooperation are positive and long overdue.

That said, several provisions in their current form risk undermining the Bill's own modernization objectives by expanding discretion without safeguards and reducing parliamentary oversight. The fourteen-day and one-year refugee-eligibility bars would remove the Refugee Protection Division's (RPD) jurisdiction to hear delayed or trauma-affected claims, risking *Charter*[2] breach and appears to contradict jurisprudence such as *Singh v. Canada*.[3] Expanded data-sharing powers threaten privacy safeguards, while provisions preventing proceedings unless the claimant is in Canada could undermine access to justice and family unity.

Similarly, undefined "public-interest" cancellation powers could invite arbitrary or unequal treatment, potentially engaging section 15 of the *Charter*. The 2012 termination of the Federal Skilled Worker backlog illustrates the risk, years of litigation, lost confidence, and reputational harm to Canada's rules-based system.[4] The Honourable Minister of Citizenship and Immigration Canada, Lena Diab, testified before House of Commons Standing Committee on Citizenship and Immigration (CIMM) that the Bill deliberately leaves "*public interest*" undefined to preserve flexibility. Flexibility has value, but without limits, extraordinary powers risk becoming unconstitutional. Bill C-12 will likely compound existing systemic problems by introducing new jurisdictional, constitutional, and operational challenges regardless of outcome.

The good news is that these outcomes are avoidable. Bill C-12's modernization goals can be achieved through measured, *Charter*-compliant reforms that strengthen both fairness and border integrity. This brief reiterates additional reforms and highlights key areas requiring further study and refinement. There are additional provisions in Bill C-12 that warrant examination, but this brief focuses on the most consequential clauses affecting executive authority, refugee eligibility, procedural fairness, data governance, and oversight, which most directly engage Canada's constitutional and national-security obligations.

While CIMM's earlier work examined policy design, SECU's clause-by-clause review now provides a crucial opportunity to ensure that these modernization measures advance security, transparency, and constitutional accountability. With thoughtful revision, Bill C-12 can deliver a secure, efficient, and rights-anchored immigration framework that reinforces public safety, strengthens national security, and sustains public confidence in Canada's immigration system.

1. Remove Clause 72 Cancellation Authority

The sections to be added should be deleted in their entirety. They risk concentrating unchecked discretion, raising *Charter* concerns and eroding procedural safeguards. Open-ended statutory

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[1] We ask that this brief be read in conjunction with our briefs and testimony before the House of Commons Standing Committee on Citizenship and Immigration (CIMM) *on Improving the Order, Fairness, and Effectiveness of Canada's Immigration System* and the *Study on Bill C12*.

[2] *Canadian Charter of Rights and Freedoms*, s. 7, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

[3] *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177, at paras. 35, 65, 67–70.

[4] Government of Canada, Jobs, *Growth and Long-term Prosperity Act*, *S.C. 2012, c. 19*, 2012, Department of Justice, online: https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2012_19/; *Tabingo v. Canada (Citizenship and Immigration),* 2013 FC 377.

language such as *"public interest"*, *"prescribed circumstances"*, and *"authorized purposes"* may appear flexible but, in practice, enable arbitrary and inconsistent decision-making.

The expansion of executive discretion continues a trend begun with the 2008 Ministerial Instructions (MIs) regime and will accelerate under the current Bill C-12. Canada's immigration system increasingly relies on such powers to introduce major program changes without parliamentary scrutiny. This trajectory risks deepening opacity, unpredictability, and public mistrust. [5] MIs and public policies should therefore be confined to transparent, time-limited pilot programs with sunset clauses and independent impact reviews.

These new authorities go even further permitting class-wide suspension or cancellation of immigration or refugee processing "*in the public interest*," lack objective criteria and parliamentary oversight. Canadian administrative-law jurisprudence, notably *Roncarelli v. Duplessis* [1959][6], establishes that discretionary power must be exercised within defined limits and for lawful purposes. Similarly, the Supreme Court affirmed[7] that discretion in immigration matters must conform to procedural fairness and *Charter* values.

Sections 7, 15 and 24 of the *Charter* address fair process, equality before and under the law**,** and the right to equal protection and equal benefit of the law without discrimination, and judicial oversight, while s. 94 of the *Immigration and Refugee Protection Act* (*IRPA*)[8] requires periodic reporting to Parliament. Such mass cancellations may compromise the procedural and equality guarantees in these sections and weaken the accountability mechanisms that uphold both the rule of law and public trust in border security governance.

2. Remove Refugee Ineligibility Clauses (73-75)

Bill C-12's one-year ineligibility rule and fourteen-day procedural deadlines raises acute fairness and *Charter* vulnerabilities. In *Singh,* and later *Charkaoui v. Canada* [2007] SCC 9, the Court made clear that liberty and security interests require individualized, timely, and meaningful hearings.[9] The *1951 Refugee Convention* and its *1967 Protocol* prohibit refoulement and demand accessible procedures for all refugee seekers.[10] The *IRPA* ss. 96–97 define protection grounds without temporal limits.

The one-year bar on refugee claims and new "inactive-claim" rules risk excluding genuine refugees on technical or trauma-related grounds. The Supreme Court's jurisprudence in *Singh*[11] underscores that efficiency cannot trump fairness where life, liberty, or security of the person is at stake. Gender-based violence advocates, like the Barbara Schlifer Clinic, warn that restrictive ineligibility rules disproportionately harm survivors who require time to gather evidence or reach

[5] The Canadian Bar Association Immigration Law Section, *Law, Technology, and Accountability: Reimagining Canadian Immigration* for the 21st Century, May 2025, CBA, online: https://www.cba.org/CBA/media/PDFs/Our%20Impact/Submission/2025/25-19-Sub-eng.pdf. [hereafter CBA's Recommendations (May 2025)].
[6] *Roncarelli v. Duplessis* [1959] S.C.R. 121.
[7] *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 S.C.R. 817, at para 53.
[8] *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.
[9] *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177, at paras. 35, 65, 67–70; *Charkaoui v. Canada (Citizenship and Immigration)*, 2007 SCC 9, at paras. 29, 63–65, 135–140.
[10] 1951 Convention Relating to the Status of Refugees, art. 33; 1967 Protocol - both acceded to by Canada.
[11] *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177, at paras 65, 82–89.

safety, highlighting the urgent need for facilitation and accountability rather than deterrence.[12] In operational terms, these provisions could also overwhelm the enforcement stream by diverting ineligible or prematurely refused claims to the pre-removal and judicial systems, thereby straining limited enforcement capacity.

Given the structural and constitutional vulnerabilities, no technical amendment is recommended**.** The Committee should instead advise that clauses 73(1)–(2) and 73(1)(b.2), incorporating the "one year" and "fourteen-day" ineligibility bars with cross-reference to section 159.4(1.1) of the *Immigration and Refugee Protection Regulations* (*IRPR*), as well as clauses 74 and 75 be removed from Bill C-12 in their entirety.

Even if these provisions were ultimately deemed constitutionally compliant, their practical effect would be to erode procedural fairness, create unnecessary complexity, and expose the system to further litigation and delay. To even approach constitutional compliance, the Pre-Removal Risk Assessment (PRRA) process would need to be dramatically scaled up, supported by an independent decision-making unit with specialized training and sufficient resources to manage a vastly increased caseload. Such an expansion would likely introduce even more significant processing delays, strain enforcement operations, and undermine the Bill's stated goals of efficiency and modernization. In operational and humanitarian terms, the costs far outweigh any marginal efficiency gained.

3. Carve Out Limited Exceptions to In-Canada Physical-Presence Requirements for Hearings at the immigration and Refugee Board (IRB) (Including but Not Limited to c. 38 and c. 47) to Preserve Procedural Flexibility

Clauses 38 and 47 introduce physical-presence requirements for admissibility, refugee, and appeal hearings, stipulating that no proceeding may be commenced or continued unless the person concerned is physically in Canada. While the principle that protection and admissibility determinations are territorially based is sound and consistent with the United Nations High Commissioner for Refugees (UNHCR) guidance, a categorical bar would unduly constrain adjudicative discretion and risk procedural unfairness in exceptional circumstances.

SECU should recommend that these clauses be redrafted to allow limited exceptions where proceedings have been validly initiated in Canada and fairness or administrative efficiency require continuation such as cases involving wrongful removals, medical evacuation, or other circumstances beyond the person's control. The IRB already possess procedural tools to manage remote participation and ensure due process; these should be expressly preserved rather than overridden by rigid statutory language.

A narrowly tailored exception would maintain the integrity of Canada's territorial refugee-determination model while preventing procedural gaps that could undermine *Charter* guarantees and Canada's reputation for fairness in enforcement and protection.

4. Review Privacy and Data Governance Clauses (Including but Not Limited to Clauses 28-29, and 80-84)

Bill C-12's enhanced information-exchange provisions seek to strengthen inter-agency cooperation not only to combat transnational and organized crime, but also to support immigration

[12] Barbra Schlifer Commemorative Clinic*, Statement: Bill C-2 Risks Undermining Canada's Commitments to Gender-Based Violence Survivors*, 9 June 2025, online: https://www.schliferclinic.com/wp-content/uploads/2025/06/Statement-Bill-C-2-Risks-Undermining-Canadas-Commitments.pdf.

enforcement, admissibility screening, and digital modernization. While these objectives are legitimate and important to national security, the proposed clauses introduce expansive authorities for data collection, sharing, and algorithmic use across federal departments and with foreign partners. Without clear limits on scope, retention, secondary use, and onward disclosure, these powers risk eroding privacy protections and undermining public confidence in Canada's border-management and security institutions.

Particular care is required where information sharing could involve countries of origin or third states in cases concerning refugee claimants or individuals alleging persecution. Disclosure of identifying or case-specific data to such governments even inadvertently could endanger claimants' safety, compromise Canada's non-refoulement obligations under the *1951 Refugee Convention*, and compromise vulnerable persons from seeking protection.

Establishing explicit necessity and proportionality thresholds, independent audit mechanisms, and transparent reporting would ensure that information sharing enhances operational effectiveness while remaining consistent with *Charter* values, the *Privacy Act*,[13] and international data-protection standards. Ensuring strong privacy and audit mechanisms will reinforce both national security, public trust and operational security.

5. Identify Areas for Further Study by CIMM to Enhance Transparency, Oversight, and Capacity-Based Planning

SECU's clause-by-clause review plays a vital role in ensuring that the Bill's modernization measures strengthen both enforcement effectiveness and institutional accountability. While SECU cannot itself introduce new legislative clauses, it can ensure that authorities created by Bill C-12 function within lawful, transparent, and accountable structures. SECU may wish to note that Bill C-12's long-term success depends on managing system pressures at the intake stage. Transparent selection mechanisms, procedural fairness, and auditable data governance are prerequisites to secure, predictable enforcement.

Recommendations previously advanced before CIMM including the introduction of an Expression-of-Interest (EOI) framework, codifying a right to counsel, establishing independent oversight offices in line with best practices under the *European Union AI Act*[14] and OECD AI Principles[15] would enshrine systemic oversight and strengthen fairness and transparency in digital and administrative decision-making. Linking immigration levels to absorptive capacity is equally central to managing our border integrity and ensuring that modernization remains fiscally realistic.

These reforms align with areas of the *IRPA* where new provisions could logically be introduced to give effect to the recommendations such as s. 11.5 (for transparent intake management), s. 102.2 (for refugee and humanitarian scheduling), s. 102.3 (overseas protection and UNHCR coordination), s. 150.1 (for data governance safeguards), ss. 202.1 (for procedural fairness and counsel access), and ss. 300–303 (for independent oversight and accountability) along with an amendments to s. 91 (right to counsel) and s. 94 (to link immigration planning to absorptive capacity). These references identify the appropriate legislative context for future consideration, as

[13] *Privacy Act*, RSC 1985, c P-21.
[14] See *European Union Artificial Intelligence Act, Regulation* (EU) 2024/1689, OJ L 202, 12 July 2024, Arts. 6(2), 9, 14–19, 52(1) and Annex III (7) (classifying AI systems used in migration, asylum, and border control as "high-risk" and requiring transparency, human oversight, and risk management).
[15] *OECD Council Recommendation on Artificial Intelligence*, OECD/LEGAL/0449 (2019), Principles 1.2–1.5, 2.5 (calling for accountability, transparency, and human oversight in high-impact public-sector AI).

referenced in the recommendation table. Together, they outline a coherent framework for transparent intake management, procedural fairness, oversight, and capacity-based planning that aligns modernization with both operational efficiency and constitutional accountability.

At their core, these reforms are about better managing intake. A flexible EOI framework could manage intake transparently through published criteria, capacity-linked draws, and real-time reporting. Caps and queues would adjust dynamically to processing capacity, labour-market needs, and absorptive-capacity indicators such as housing, healthcare, and Francophone integration. Even in rights-based categories, family reunification, humanitarian, and compassionate applications, EOI principles can help, not as selection tools but as transparent pre-registration and capacity-linked intakes that maintain fairness and predictability while preventing backlogs.

EOI principles could also support humanitarian and refugee intake in an increasingly dangerous world. For overseas protection, pre-registration of at-risk populations through UNHCR or Canadian missions would allow dynamic, data-driven resettlement planning. This approach aligns with the UNHCR's *route-based framework* and the objectives of the *Global Compact on Refugees* and the *Global Compact for Safe, Orderly and Regular Migration*.[16] It emphasizes early identification, rescue, and referral of vulnerable persons along migration routes; the strengthening of asylum systems to ensure rights-based, protection-sensitive entry procedures; and the creation of safe, lawful alternatives to dangerous journeys.

Through collaborative international mechanisms, Canada can help build refugee capacity abroad while managing its own intake transparently. Early registration and screening, supported by digital tools and interoperable data systems, can enable predictable, protection-oriented processing, reducing irregular arrivals and supporting security screening integrity.

Integrating this model with an EOI framework would allow Canada to participate in *forward-looking humanitarian planning*: linking protection priorities to absorptive-capacity indicators and security assessments. By engaging with UNHCR and regional partners on specific migration corridors Canada can strengthen border management while fulfilling its humanitarian obligations through safe and regular pathways.

In this sense, EOI principles are not only administrative tools but also instruments of strategic border management promoting fairness, transparency, and accountability while advancing Canada's international commitments to responsibility-sharing, protection, and human security.

For those already here, and with Bill C-12's enhancements to information-sharing and case preparation, the IRB could adopt EOI-style queue management, building on demand-driven initiatives for a transparent national scheduling system linking hearings to capacity anywhere in Canada and better identifying vulnerable cases. Meaning fewer adjournments, fewer idle days, and faster, fairer outcomes.

To sustain public confidence, immigration levels must reflect Canada's real-world capacity. Bill C-12 should require annual public indicators on housing, healthcare, labour-market readiness, and Francophone retention as part of the Immigration Levels Plan. Evidence-based planning would align policy ambition with settlement infrastructure and provincial partnership.

Finally, guaranteed access to counsel, introducing a fair correction mechanism, and strengthening transparency and accountability remain essential to public trust. These proposals, already before

[16] UN High Commissioner for Refugees (UNHCR), *A Route-Based Approach: Strengthening Protection and Solutions in the Context of Mixed Movements of Refugees and Migrants*, June 2024, UNHCR, online: https://www.refworld.org/policy/strategy/unhcr/2024/en/148087, pp. 3-5.

CIMM, remain available to the Government and Parliament for implementation following SECU's review. Collectively, they align operational modernization with the rule of law and security imperatives, ensuring that reform enhances rather than erodes institutional legitimacy.

Conclusion

Bill C-12 offers an important opportunity to reinforce Canada's border integrity and humanitarian leadership through modernization grounded in both efficiency and fairness. However, several provisions particularly those expanding executive discretion or limiting access to independent adjudication raise constitutional and operational risks that warrant further examination. As SECU finalizes its clause-by-clause review, it may wish to note that these provisions are not amenable to simple technical amendment and should be referred back to CIMM or the Government for further study, consultation, and redrafting.

While not exhaustive, these recommendations address key constitutional, operational, and governance issues requiring priority attention. They also identify future legislative avenues, such as areas of the *IRPA* where new provisions could logically be introduced to give effect to the recommendations such as s. 11.5 (for transparent intake management), s. 102.2 (for refugee and humanitarian scheduling), s. 102.3 (overseas protection and UNHCR coordination), s. 150.1 (for data governance safeguards), ss. 202.1 (for procedural fairness and counsel access), and ss. 300–303 (for independent oversight and accountability) along with an amendments to s. 91 (right to counsel) and s. 94 (to link immigration planning to absorptive capacity) that SECU may wish to note for referral back to CIMM and the Government of Canada. Ensuring these provisions are fully examined before enactment will help deliver modernization that is Charter-compliant, operationally sound, and securely anchored in Canada's rule-of-law and humanitarian traditions.

A measured approach remains essential. Advancing Bill C-12 without fully addressing these vulnerabilities and without considering available alternatives to achieve the same objectives could unintentionally undermine both the integrity of the immigration system and public confidence in its administration. With careful refinement and by incorporating practical, *Charter*-compliant reforms such as transparent intake management, independent oversight, and proportional data governance Bill C-12 can become a model for modernization that is secure, fair, and reflective of Canada's humanitarian and national-security values.

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