

Statement on publication of the “most wanted” list

September 2011

In July 2011, the Canadian government published a list of 30 individuals described as “suspected war criminals”, asking the public for help in tracking them down so that they can be deported.

The government is of course responsible for enforcing the laws and must constantly seek the most effective and fair ways to do so. The “most-wanted list” is a novel approach. While it appears to have some early success, we believe that it also has a number of serious disadvantages that Canadians will want to consider carefully. Underlying the lists are many complex and challenging issues that cannot necessarily be addressed by simple solutions.

The following are our main concerns:

1. Canada has legal and moral obligations to assist in bringing to justice perpetrators of war crimes and crimes against humanity. If they are deported to countries that lack the capacity or will to prosecute them in a fair trial, they may never answer for their crimes. Canada rarely looks beyond the “deport them” solution for people in Canada who may have committed war crimes or crimes against humanity. A variety of options for justice may exist in any of these cases, and Canada should help ensure that justice is served, either in another country, before an international court or tribunal, or here in Canada. Upholding this obligation allows Canada to contribute to addressing human rights abuses internationally, and making our own country and the rest of the world safer.
2. Canada is bound by important international obligations not to deport individuals to situations where they face a serious risk of being tortured or other serious human rights violations. Publishing the list of names with the label “suspected war criminals” could potentially put people at increased risk if deported to their home country. It is not clear whether the government has taken this possibility into account.
3. The label “suspected war criminals” is wrong and unfair. The cases of the people included in this list vary greatly and some are not necessarily suspected of any crime. They are caught up in the very broad inadmissibility provisions in the *Immigration and Refugee Protection Act*, which go far beyond people who have actually committed crimes to people who only have an indirect association with crimes (for example, a driver or a computer technician working for a government that committed gross human rights abuses).
4. The principle of the presumption of innocence is undermined by the publication of this list. Most, if not all, of the “suspected war criminals” have not been convicted of a crime and Canada is not proposing a trial in which they could seek to clear their name. A finding of inadmissibility under the *Immigration and Refugee Protection Act* requires significantly lower standards of proof than a criminal conviction. It is therefore unfair to publicly identify people as “suspected war criminals”.
5. The publication of the names of “suspected war criminals” may violate the individuals’ right to privacy. Under law the government is entitled to disclose personal information when it is

in the public interest, but only if necessary, and it is not clear that the government had exhausted other options (such as actively enlisting the support of local police forces). Even if it were necessary to make the names public, it has not been explained why the “war criminal” label had to be attached to them.

6. The publication of the “war criminal” list, as well as of a second list of “serious criminals”, contributes to a negative perception of non-citizens as dangerous criminals. The number of individuals on the lists represents only a tiny percentage of newcomers to Canada – the government’s intensive focus, picked up by the media, is out of all proportion. Unfortunately this is likely to reinforce existing xenophobia, hurting all newcomers, particularly in the context of repeated recent government messaging associating refugees and immigrants with criminality, fraud and abuse. We believe that the government needs to take a more balanced approach, and guard against feeding into existing xenophobic prejudices that exist in Canada as in all societies.

Canadian Council for Refugees

Canadian Centre for International Justice

Canadian Civil Liberties Association

Amnesty International Canadian Section (English branch)

Amnistie internationale Canada francophone

BC Civil Liberties Association

Réseau d'intervention auprès des personnes ayant subi la violence organisée (RIVO)

Criminal Lawyers' Association

Canadian Association of Refugee Lawyers (CARL)

World Federalist Movement-Canada

Law Union of Ontario

Refugee Lawyers Association

Association québécoise des avocats et avocates en droit de l'immigration

Canadian Centre for Victims of Torture

Manitoba Interfaith Immigration Council

Table de concertation des organismes au service des personnes réfugiées et immigrantes (TCRI)