



# Statement Déclaration

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## IT IS TIME TO END CANADA'S EXCESSIVE DEMAND REGIME

*The following statement was delivered by Maurice Tomlinson, Senior Policy Analyst with the Canadian HIV/AIDS Legal Network, following the introduction of a Private Member's Bill by New Democratic Party of Canada Member of Parliament Jenny Kwan (Vancouver East) to repeal Section 38(1)(c) of the Immigration and Refugee Protection Act.*

**February 15, 2018** — The Canadian HIV/AIDS Legal Network stands in support of the Private Member's Bill to repeal Section 38(1)(c) of the *Immigration and Refugee Protection Act* (IRPA)—which we called for before the Standing Committee on Citizenship and Immigration last November. We hope that Parliamentarians from all parties will vote in favour of this proposal.

As Canada's only national organization working exclusively on HIV-related legal issues, and one of the world's leading organizations in the field, we receive many questions from people who wish to immigrate to Canada but are effectively barred because of one condition: their HIV status. Their many potential contributions to our country are not even considered.

Section 38(1)(c) violates Canada's international obligations, including the *Convention on the Rights of Persons with Disabilities* that requires Canada to eliminate barriers to free movement based on disability. Canada ratified this Convention with great fanfare in the lead-up to the Vancouver Winter Olympics and Paralympics in 2010. Canada's true intention, however, seems to be that people with disabilities can play here, but they are not welcome to stay here.

During the Standing Committee on Citizenship and Immigration's study of medical inadmissibility, numerous witnesses, including those personally affected by the law and the lawyers who represent them, described how the excessive demand regime—the provision in Section 38(1)(c)—is discriminatory, inefficient and costly to operate with no net benefit to Canada. The Committee also heard how this regime causes painful family separations, denies Canada access to highly skilled labour, and undermines the very objectives of the IRPA.

As the Minister of Immigration, Refugees and Citizenship said before the Standing Committee, "This provision needs to be changed. It's simply not in line with our

government's policies with respect to moving towards an accessibility agenda, but also with ... how Canadians are increasingly of the opinion that we should be more inclusive as a society."

We agree, and we know after careful consideration that this provision cannot be fixed. In fact, any tinkering with the regime would only perpetuate discrimination against people with disabilities.

This hurtful, stigmatizing and unnecessary regime must end.

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