

Press Clippings for the period of January 31<sup>st</sup> to February 6<sup>th</sup> 2017 / Revue de presse pour la période du 31 janvier au 6 février 2017

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## **Reprise des négos pour les avocats et notaires en grève du gouvernement**

**Lia Lévesque, La Presse, le 3 février 2017**

Les juristes de l'État, en grève depuis le 24 octobre, reprendront la négociation avec le Conseil du trésor au cours du week-end.

Lors d'une entrevue, vendredi, le président de leur association, Les Avocats et notaires de l'État québécois (LANEQ), Me Jean Denis, s'est dit encouragé, mais il a avoué du même souffle que sa banque d'optimisme commence à s'épuiser après plus de trois mois de débrayage.

Me Denis affirme que des progrès ont été réalisés depuis l'arrivée en poste du ministre Pierre Moreau au Conseil du Trésor.

« Oui », il y a des progrès, a-t-il dit.

« Depuis que M. Moreau est là, je ne m'en suis pas caché. M. (Carlos) Leitao ne s'occupait pas de notre dossier ; ça ne l'intéressait pas et ça a paru. Depuis que M. Moreau est là, ça bouge. Donc, moi je suis encouragé. Et M. Moreau est un avocat ; on est des avocats, donc c'est encore plus encourageant », a opiné Me Denis.

Et à Québec, le premier ministre Philippe Couillard a convenu qu'il y avait « une perspective de solution à la table de négociation » et que le ministre Moreau y travaillait « excessivement activement ».

Mardi dernier, Me Denis a rencontré le ministre Moreau pendant une heure et demie. « On s'est parlé bien franchement, (ça a été) très cordial, très amical même, sans animosité. Il m'a demandé si on était capable de régler le monétaire. Je lui ai dit dans quelle mesure on accepterait certaines choses. Il m'a dit que ça avait de l'allure ce que je lui avais dit. Donc, c'est déjà pas pire », a-t-il conclu.

Ces 1100 avocats et notaires qui travaillent au sein de différents ministères et organismes gouvernementaux revendiquent le même traitement que les procureurs aux poursuites criminelles et pénales.



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Me Denis estime à « 10 pour cent sur quatre ans » ce qu'ils ont obtenu. « L'aménagement, on peut faire plein de choses à l'intérieur de ça, pourvu qu'en rémunération globale, ça corresponde aux 10 pour cent qui a été accordé aux procureurs de la Couronne », a-t-il précisé.

Ils revendiquent également la reconnaissance de leur autonomie professionnelle.

Le premier ministre Couillard a répété qu'il n'était pas « dans l'ambiance d'une loi spéciale » pour forcer le retour au travail des grévistes. Bien que les services essentiels soient assurés, la grève des avocats et notaires a ralenti le processus législatif à l'Assemblée nationale et causé de nombreux délais devant des tribunaux.

« Il semble que tous les éléments sont réunis pour avoir une entente négociée », a conclu le premier ministre Couillard.

## **Les juristes en grève manifestent devant la Cour suprême à Ottawa**

**ICI Radio-Canada, le 1<sup>er</sup> février 2017**

Au 101<sup>e</sup> jour de grève des avocats et des notaires de l'État québécois, les juristes se sont transportés par dizaines à Ottawa, où ils ont brandi pancartes et banderoles devant l'immeuble de la Cour suprême du Canada, mercredi.

D'autres manifestations ont eu lieu à Montréal et à Québec. En tout, selon le syndicat, les trois rassemblements ont réuni plus de 400 personnes.

Ces manifestations se sont tenues au lendemain d'une rencontre avec le président du Conseil du Trésor, Pierre Moreau, rencontre que le syndicat des avocats et des notaires de l'État québécois (LANEQ) a qualifiée de « constructive », par voie de communiqué.

Les porte-parole syndicaux soutiennent avoir convenu, avec le ministre Moreau, de la nécessité de reprendre les négociations dès que possible. La dernière rencontre de négociation a eu lieu le 24 janvier.

Les juristes de l'État québécois sont en grève générale illimitée depuis le 24 octobre 2016. La semaine dernière, ils ont rejeté dans une proportion de 97 % les dernières offres gouvernementales et ils se sont prononcés à 83 % en faveur de la poursuite de la grève.

LANEQ représente plus de 1100 avocats et notaires qui travaillent au sein de différents ministères et organismes gouvernementaux. Le syndicat demande notamment que le mode de

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négociation soit réformé, sur la base du rôle particulier joué par ses membres et en fonction de leur indépendance de fonction.

Mercredi dernier, LANEQ a dénoncé ce qu'il a qualifié de [« faux pas du ministre Pierre Moreau »](#), après que ce dernier eut affirmé avoir fait aux juristes une « proposition monétaire » qui les placerait au même niveau que les procureurs aux enquêtes criminelles et pénales du Québec.

Le syndicat a affirmé qu'à son avis la récente proposition monétaire de la partie patronale n'était pas différente de celle massivement rejetée par ses membres, quelques semaines auparavant.

## **Crown prosecutors reach tentative collective agreement with N.B. government**

**Union, government agree not to release details about the deal until ratification**  
**Bobbi-Jean MacKinnon, CBC News, January 31 2017**

The union representing New Brunswick Crown prosecutors has reached a tentative collective agreement with the provincial government after meeting with a conciliation board last week.

The Professional Institute of the Public Service of Canada and the government have agreed to withhold details about the deal, pending its ratification, according to a statement issued Tuesday.

New Brunswick Crown prosecutors are the lowest paid in the country, according to Steve Hindle, vice-president of the PIPSC.

Job action was being "seriously contemplated" after 97 per cent of members rejected the government's previous offer of a one per cent wage increase for each of the next four years, Hindle had said.

If a deal wasn't reached, the prosecutors were expected to be in a strike position by March.

Only 28 of the 61 prosecutors would be designated essential

The proposed new deal would replace a contract that expired March 31, 2013.

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## **Health benefits tax off the table, Trudeau says**

**Prime Minister Justin Trudeau says his government has no plans to tax Canadians on employer-provided health benefits, a declaration that came after mounting opposition to the move**

**Bruce Campion-Smith, The Toronto Star, February 1 2017**

Prime Minister Justin Trudeau now says his government has no plans to tax Canadians on employer-provided health benefits, a declaration that came after rising backroom opposition to the move.

Under questioning by the opposition Conservatives, both Trudeau and Finance Minister Bill Morneau had been refusing to comment on whether such a tax was in the cards for the coming [budget](#), a line that Morneau stuck with Wednesday.

“We are not going to talk about budget measures in advance of the budget,” Morneau told reporters.

But a short time later in question period, Trudeau suggested the tax would not be part of the upcoming budget after he was quizzed on the issue by interim Conservative Leader Rona Ambrose.

“Millions of Canadian workers will be forced to pay the Liberals' new tax on health and dental benefits. . . . Why would the prime minister even consider doing this?” Ambrose asked.

But Trudeau replied that such a tax was not part of the Liberals' budget strategy.

“We are committed to protecting the middle class from increased taxes and that is why we will not be raising the taxes the member opposite proposes we will do,” the prime minister told MPs.

Trudeau repeated that assertion to Conservative MP Denis Lebel (Lac-Saint-Jean), who asked whether there would be a “new tax on dental and health care?”

“It was never in our plan to increase taxes as suggested by the member,” Trudeau replied.

The finance department has been considering making employer-provided health and dental plans a taxable benefit, a move that could add more than \$1,000 to the income tax bills of the 13.5 million Canadians who have such plans.



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Such a move could generate close to \$3 billion in additional tax revenues annually, an enticing amount for a government keen to find new sources of cash.

But as word got out, opposition from the insurance industry, unions, medical associations and small businesses began to mount.

## **Public servants turning to Privacy Act to access personal Phoenix files**

**'It's another desperate measure for people to try to manage their own pay,' says union president**

**Ashley Burke, CBC News, February 2 2017**

A growing number of public servants desperate to have [their Phoenix pay problems](#) fixed are trying to access their personal files through privacy legislation for answers — but for some it's turning out to be another frustrating dead end.

- [Phoenix Falling | Stories of public servants with pay problems](#)
- [Phoenix fix shifts focus to new cases as backlog shrinks](#)
- [PIPSC wants temporary parallel pay system until 'Phoenix fiasco' is fixed](#)

According to Public Services and Procurement Canada, nearly 150 employees have filed requests under Canada's Privacy Act for information about their paycheques since Phoenix started making headlines last April.

That's triple the number of requests made last fiscal year and 10 times the number from 2014-15.

"It's another desperate measure for people to try to manage their own pay," said Debi Daviau, president of the Professional Institute of the Public Service of Canada (PIPSC), which represents more than 57,000 government workers across Canada.

*'I think people are now grasping at straws ...' - Debi Daviau, PIPSC president*

"[That] is really sad to begin with, that employees would be expected to have to intervene at this level just to secure their correct pay. I think people are now grasping at straws because they don't see any other options. [Access to information requests] take an extraordinarily long time."



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Tens of thousands of public servants have been underpaid, overpaid, or not paid at all since the new pay system rolled out almost a year ago.

Some workers still don't know if they are getting paid correctly because they are struggling to get answers from the pay centre.

## 2 complaints to privacy commissioner

One public service manager in Ottawa complained to Canada's privacy commissioner that the government is holding back his pay records, in violation of his legal rights.

After almost a year of pay problems and unreturned calls, he filed an access to information request to find out how his pay was being calculated.

CBC News has agreed not to name that manager over fears he could face reprisals at work. He's one of two people who have officially complained to the privacy commissioner.

'I'm outraged. I don't understand.'- *Federal public service manager*

His request came back without any records about how his pay is calculated.

"I'm outraged. I don't understand," said the manager.

"They're dispersing massive sums of money. There seems to be enough evidence that they are screwing it up. And they don't appear to have any records or paper trail.

"The Privacy Act is supposed to have teeth," he added.

The Privacy Commissioner of Canada investigated and had the department in charge of Phoenix make "a thorough secondary search for records," according to a letter.

Again, no records were found.

## Phoenix does the math

The department in charge of Phoenix said it does keep a record of employee pay, but the computer software does the math automatically and doesn't generate reports that break down the calculations for public servant's files.

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"Keeping records that support the calculation of employee pay is a legal requirement that is taken very seriously. There are numerous controls in place to ensure these records are being kept by departments, by the pay centre and within the payroll system," said Public Services and Procurement Canada in a statement to CBC News.

The manager said that response confirms "records" do exist and he feels it's his legal right that the government, at the very least, screenshots the information it has, prints it out and sends him a copy.

The president of PIPSC agreed that this information should be made available.

"At least through an [access to information request] you would think that an employee has the right to access the information the government is holding on them," said Daviau.

#### 'Decoding' new pay stubs

New pay stubs that are more detailed with extra lines of information are now available for the first two pay periods in 2017, said Public Services and Procurement Canada.

The government also plans to soon provide more information on all past pay stubs since Phoenix was implemented after receiving complaints about the new pay stubs.

However, PIPSC said the stubs are still too complicated and not worth the \$6 million the government paid IBM for enhancements to the system.

"People are still not understanding all the codes and are having to go to multiple locations to decode the information that they're receiving," said Daviau.

"It's extremely frustrating, they are in financial dire straights. They're having to spend an enormous amount of time trying to figure this all out. Although some improvements have been made, they don't go nearly far enough to bridge the gap that was created through this fiasco."

## **Phoenix pay system still causing issues for federal public sector**

**Journal Pioneer, February 1 2017**

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**Almost a year after its launch, the Phoenix pay system is still causing issues for federal public sector employees.**

“Certainly the issue has not been fixed. We continue to work daily to ensure that workers are paid on time and accurately,” said Chris Aylward, the national executive vice president of Public Service Alliance Canada.

It is unacceptable that it has gone on this long, he added.

“It’s been almost a year since they rolled Phoenix out and we are still facing the same issues. Yes there has been some progress made, but not in the numbers we want.”

Phase one of the Phoenix pay system was launch in February 2016. After its launch workers in public service and other government sectors began coming forward about pay issues.

“When it launched many voiced their opinions and warned the government that it shouldn’t go to phase two, which would be launched in April 2016, but it still went ahead anyway.”

There is a lesson to learn from Phoenix, Aylward said.

“Before there are anymore plans to modernize anything else in the public service, the government needs to listen to the workers who are performing the duties and the unions that are representing them.”

Aylward continues to receive emails every week from workers who are experiencing pay issues.

“They haven’t been paid or paid properly and that is really concerning. We don’t know when it will be fixed and we’re waiting to reach that “steady state” that Public Services and Procurement Canada is talking about.”

However it isn’t a Miramichi issue, said Aylward about the federal payment centre.

“The pay centre could be in Toronto or Ottawa or Saskatchewan and it wouldn’t matter, we would still be facing these problems. The cause is the Phoenix system itself.

“The workers at the tax centre in Summerside and the tax office in Charlottetown are lucky, they still have payment advisors they can turn to. Many are forced to contact Miramichi or the new offices that have been opened because of Phoenix.”



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Aylward said due diligence wasn't followed before Phoenix was installed.

"We warned them. The workers in Miramichi basically said it wasn't ready. They even called in external consultants who told them there were concerns about proper payment."

To counteract some of the issues, the government has opened up more pay centres and call centres.

"It goes back to the previous government when they decided to take 1,700 advisors across various departments and reduce it to 500 and then move them to Miramichi."

It's been a gross mismanagement of the Phoenix pay system, he said.

One of the worst scenarios Aylward has come across is when someone in the Canadian Coast Guard is left unpaid or incorrectly paid.

"They can be out on the waters for weeks and not have access to their account. Then when they come back to shore they might have gone two or three pay cycles without any retribution and all of a sudden their lights and utilities are being cut off at home."

It is unacceptable that there are around 80,000 people still facing this issue, said Aylward.

"We're trying to encourage all workers to really analyse their T4s before they have to submit them for tax season. As well, if workers notice that they weren't paid they can receive an emergency check or priority pay within 48 hours."

## **Union asks for emergency advance over \$1.7M in missing union dues**

**Government collecting wrong union dues for 70 percent of PIPSC members, says union**  
**Ashley Burke, CBC News, February 3 2017**

A union representing the federal government's professional employees is asking the Treasury Board for emergency money because the Phoenix pay system failed to properly transfer \$1.7 million worth of union dues.

- **PHOENIX FALLING | [Stories of public servants with pay problems](#)**

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- [Focus shifts to new cases as backlog shrinks](#)
- [Union asks for temporary pay system until Phoenix fixed](#)

Since Phoenix rolled out almost a year ago, the Professional Institute of the Public Service of Canada calculated that it has been dramatically underpaid union fees.

President Debi Daviau has been reluctant to talk about the financial shortfall while unpaid public servants are suffering hardships.

All efforts have been on getting members the money they are owed, she said. And her hope was the union's pay problems would be sorted out over time.

But the problem has continued to grow and may damage the union's operations, Daviau said.

"This is money we need to represent our members," Daviau told CBC News.

"A year in at \$1.7 million, we are deeply concerned about our continuing ability to provide the high-quality services to our members that they obviously desperately need in the context of Phoenix. It's really a lot of money for us at this point."

### 70 percent of workers affected

The government has not collected the proper union dues for 70 percent of PIPSC's members since Phoenix was implemented, the union said.

Linda Martel, the union's manager of membership and administration, said it's "very disconcerting."

"I've been here for 38 years at the institute and I've never seen anything like this," Martel said.

Martel discovered the government wasn't properly collecting union dues in May when it's customized database spit out a huge report flagging discrepancies. She says it was immediately clear, money was missing.

"We had a lot of members that weren't paying any dues," Martel said. "We had a lot of our members that were paying a different rate than our \$62.56 a month, we had members paying more than the \$62.56."

The union said it has gone to Public Services and Procurement Canada and told them the pay system isn't properly collecting dues, but the problem still hasn't been solved.

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Martel is meeting with the Treasury Board on Friday to ask for an emergency advance of money for the union, in the same way many federal workers have had to ask to be compensated when they weren't getting paid because of Phoenix.

The union will also present detailed records of the discrepancies Phoenix created in membership dues.

### Other unions affected

Other unions representing public servants aren't sure exactly how much money they are missing in union dues.

The Association of Canadian Financial Officers said it relies on the government to tell them if employees are coming and going from its membership, but since Phoenix there have been issues.

"Part of the problem is ... getting any kind of information from the system and employer on this," said Joe Boughner, director of communications for ACFO.

"It's hard to know if the information is correct and how many dues we might be missing, but it's not something that's affecting our operations and we're much more focused on getting our members' problems solved."

The largest union in the public service confirmed it is experiencing issues, but did not provide an estimate about how many people could be affected.

"In some cases, union dues have been impacted by Phoenix," said Robyn Benson, national president of the Public Service Alliance of Canada, in a statement. "However, our primary focus remains the direct impact of the Phoenix debacle on our members."

The Treasury Board confirmed the meeting with PIPSC on union dues is scheduled for Friday.

## 'Right thing to do': Canadian lawyers volunteer at airports to help during Trump travel ban

**U.S. president's executive order bans entries from 7 Muslim-majority nations for 90 days**  
**CBC News, February 2 2017**



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Canadian lawyers are mobilizing at airports across the country to assist people affected by U.S. President Donald Trump's travel ban on all entries from seven Muslim-majority nations.

They are volunteering their time to help anyone who gets turned away at American security checkpoints.

"I've never been more proud to be a lawyer," said Janet Thompson-Price, an immigration lawyer in Saint John who is helping to co-ordinate the effort in response to a request from her U.S. counterparts.

'Everybody's shocked how this played out. I mean, you can't ban a group based on a religious denomination or from a particular country. It's not right.'- *Janet Thompson-Price, immigration lawyer*

She said she has watched media reports of American lawyers "literally camping out at airports, donating their time."

She has also heard that most of them have had to buy airline tickets at their own expense so they can get through security to try to meet with clients.

"So obviously they're doing everything they can because they feel it's the right thing to do," said Thompson-Price.

- [UNB law profs urge immediate action against Trump's refugee policies](#)

"Everybody's shocked how this played out," she said. "I mean, you can't ban a group based on a religious denomination or from a particular country. It's not right."

Trump's executive order last Friday immediately put a 120-day halt on all refugee resettlement to the U.S. (indefinitely for Syrian refugees), and a 90-day ban on anyone trying to enter the country from one of seven Muslim-majority countries, including Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen.

The number of detainees and emergency situations has decreased since the [White House offered clarification](#) Wednesday about how the ban should be applied.

But Canadian lawyers are still doing rotations at international airports in the larger centres, such as Toronto, Montreal, Halifax, Calgary and Vancouver, to help those in need, said Thompson-Price.

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They can't practise U.S. immigration law, she stressed, but they can reassure clients on what their rights are and put them in contact with immigration lawyers in the U.S.

If the people who are turned away have valid U.S. visas and are not otherwise inadmissible to Canada for any security reasons, they can also be issued special permits to remain in Canada for up to 180 days, said Thompson-Price.

### Still some uncertainty, risk

She anticipates seeing an increase in the number of people choosing to come to Canada.

"We're obviously a little more welcoming right now," she said, adding Trump's pause is set for 90 days but could end up being extended.

For Canadian citizens or permanent residents who are also citizens of the seven affected Muslim-majority countries, Thompson-Price recommends avoiding travel to the United States — "until more clarity becomes available."

"We've had high-level assurances [they] will be allowed in, but they're not expressly excluded in the executive order and so it's still somewhat risky to try to go the States, I think," she said.

If they have to go to the United States, Thompson-Price suggested "the safest thing" could be to fly out of an airport that has U.S. pre-screening in Canada.

"That way, if you're going to be turned away, you're still on Canadian soil, as opposed to the States and then hitting U.S. security and then running into issues," she said.

## Law school grads and students offer help to travellers denied entry to U.S.

**'This is why I went to law school,' says McGill law student and volunteer Sydney Warshaw  
Alison Crawford, CBC News, January 30 2017**

Recent law school graduates and students from McGill University are volunteering their services at Montreal's airport to get an Iranian PhD student into the United States.

The man, an Iranian citizen, is among those stuck at an airport and barred from flying to the United States because of U.S. President Donald Trump's travel ban.

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CBC News has agreed not to publish the man's name, owing to fear of repercussions if he eventually gets to the U.S.

On Monday morning he said he was removed from the passenger list on a Porter Airlines flight to Boston through Toronto.

The man has been in Canada for almost four years and studies advanced mathematics at the University of Quebec in Montreal. He has an American student visa for a four-month research project at the Massachusetts Institute of Technology in Boston.

- [Trump's travel ban prompts human chain protest at U.S. Embassy in Ottawa](#)
- ['A wave of litigation': How Trump's immigration order could be struck down](#)
- [Canadian dual citizens can travel freely to the U.S. despite Trump travel ban](#)

"I was in the lounge prior to my departure and I was notified that due to the recent executive order I couldn't fly the Porter airline, but the lady wasn't sure," he said, adding that he showed the agent a letter from MIT that included a clarification of the original executive order pertaining to student visas.

After being turned away by Porter Airlines, the man said he tried to buy a ticket from United Airlines, to no avail. But the ticket agent referred him to Brodie Noga, a recent McGill law school grad who is among several volunteering to help people in legal limbo at airports across Canada.

"He found us because we had spoken to United Airlines earlier in the day and they knew we were in the airport ready and willing to give information to anyone who hadn't been allowed to board. And he was directed to find us out at a café," Noga told CBC News from the departures lounge at the Trudeau airport.

"We've been putting him in contact with a pro bono lawyer in the U.S. along with other legal resources that are available to him in Canada."

So far though, lawyers on both sides of the border haven't been able to get him on a flight. The student said MIT is now submitting legal documents to support his case to enter the United States.

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"I couldn't see [this situation] two weeks ago because this is a very drastic change," the man said.

"But I received some warnings since last Thursday. MIT sent to me an email sharing some concerns. And they encouraged me to reschedule my flight, but I had some commitments this weekend. I wanted to participate in a conference which ended on Sunday afternoon."

Trump's order imposes a 90-day ban on entry to the United States for citizens from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen — all predominantly Muslim countries. The order also halts the processing of all Syrian refugees for the next 120 days.

Sydney Warshaw is in her final year at McGill law school and is co-ordinating efforts in Montreal. When Warshaw saw what the American Civil Liberties Union was doing for people at U.S. airports over the weekend, she immediately got to work.

"This is why I went to law school. I wanted to have concrete skills to help people," she said.

Noga echoed that feeling.

"It's atrocious what is happening in the U.S. in terms of people being banned essentially for the basis of their religion. Just being able to offer whatever services, whatever help we can is... just what we need to do as lawyers and law students," he said.

Warshaw and Noga are loosely affiliated with volunteers across Canada from several other groups, including the Canadian and British Columbia Civil Liberties Associations, Amnesty International, the National Council of Canadian Muslims and a number of prominent private Canadian law firms.

As for the student, he said he's thankful for all the information and support he's received so far.

"I look forward to practice every right that I have, to follow the legal procedure but there's [nothing] I can do as an individual, just follow the rules."

## **Advocates, lawyers mull court challenge to Canada's refugee pact with U.S.**

**Michelle Zilio, The Globe and Mail, February 1 2017**

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Advocacy groups and lawyers say they are considering taking the federal government to court again over an agreement that prevents migrants who arrive from the United States from seeking asylum in Canada, in light of recent anti-immigration measures in the U.S.

Last week, President Donald Trump signed a number of directives, including a 120-day ban on all refugee admissions and a ban on the entry of people from seven predominantly Muslim countries – Iran, Iraq, Syria, Sudan, Libya, Yemen and Somalia – for 90 days. Immigration experts say the executive order clearly violates the Safe Third Country Agreement, which requires that people be sent back across the border if they claim refugee status after entering Canada through the United States, which is considered a “safe third country” by the Canadian government.

After widespread calls from legal experts to suspend the agreement between Canada and the United States, Immigration Minister Ahmed Hussen said Tuesday the government would not do so. Ottawa’s refusal has advocates and immigration lawyers considering their legal options.

“I would expect that in the very near future, it is extremely likely that a new challenge will be launched,” said immigration lawyer Lorne Waldman, who represented Amnesty International in a 2005 court challenge of the agreement.

“There’s a need to gather some evidence to really show the impact [of the Trump executive orders], but I don’t think that’s something that’s going to take a significant amount of time.”

Amnesty International Canada, the Canadian Council of Churches and immigration lawyers say they are discussing when and how to launch a court challenge to the Safe Third Country Agreement. It would be the second time the agreement, which came into effect in 2004, has been taken to court.

In 2005, Amnesty International, the Canadian Council of Churches, the Canadian Council for Refugees and a Colombian national named “John Doe” challenged the agreement at the Federal Court. The case said that Mr. Doe was denied the right to make a refugee claim in the United States and faced deportation to his country of origin, where he feared being persecuted and tortured. It asked the Federal Court to declare the designation of the United States as a safe third country unconstitutional and in breach of international law. In 2007, a Federal Court judge ruled that the U.S. was not a safe third country for refugees.

However, that decision was reversed by the Federal Court of Appeal in 2008, which ruled that whether the United States actually complies with the agreement is irrelevant, as long as the Canadian government had considered the human-rights situation in the U.S. when entering into the deal. The judge also ruled that a challenge to the designation of the United States as a safe



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third country could only be brought forward by a refugee who has been denied entry to Canada. Mr. Doe had not.

Advocates say there is good reason to believe that a challenge to the Safe Third Country Agreement may not be rejected on procedural grounds today because of a 2012 Supreme Court decision, *Canada v. Downtown Eastside Sex Workers United Against Violence Society*, which made it easier for non-governmental organizations to launch constitutional claims in the public interest.

“The Supreme Court ruled in 2012 ... that there should be a more relaxed approach to how judges assess the legitimacy of concerned organizations bringing cases forward rather than strictly limiting access to the courts to individuals who are directly affected by a law or policy,” said Alex Neve, secretary-general of Amnesty International Canada.

Andrew Brouwer, advocacy co-chair of Canadian Association of Refugee Lawyers, said there is also growing evidence that under Mr. Trump, the United States is not a safe country for refugees, which would bolster a court challenge.

“I have been speaking to NGOs and refugee academics across the States over the past few days and the consensus ... is that combination of those executive orders and the ongoing promises of the new administration to further clamp down makes it unsafe for refugees,” said Mr. Brouwer, who represented the applicants in the 2005 case.

Advocates say the easiest and most responsible way forward for the Canadian government would be to suspend the Safe Third Country Agreement while it can be reviewed. The text of the agreement allows either country to suspend the agreement for up to three months with written notice; suspensions may then be renewed for an additional three months at a time. Either country can also terminate the agreement with six months’ written notice.

## **Q & A with first public service ombudsman for mental health**

**Andrew Seymour, Ottawa Citizen, February 5 2017**

Public Service and Procurement Canada will be the first government department with an ombudsman for mental health.

André Latreille, who has been the director general for labour relations, occupational health and safety and well-being at PSPC, is expected to assume his new role beginning Monday. The move

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to appoint Latreille comes after Privy Council Clerk Michael Werwick highlighted in his latest report to the prime minister the need for respectful public service workplaces that focused on employees' mental health.

Latreille will serve the 13,000 employees within PSPC. We spoke with Latreille to learn more about his role. His answers have been edited for length.

**Q. What will your role be as the ombudsman for mental health?**

A. The role is essentially to guide employees towards services that we offer now in support of their well-being and mental health.

Mental health is something that has taken on quite a bit of importance over the years and I think the (Privy Council) clerk in his last report highlighted that as a federal organization we need to pay special attention to it, and the deputy here took the extra step in ensuring it gets the proper attention.

In this department there is a strong working relationship with the unions, and this is key in supporting employees with mental health issues for themselves or for people around them.

I'll be in a position to provide recommendations to the deputy to enhance the services that we're offering now and hopefully I'll become the model that other departments and agencies can replicate.

**Q. Why is a mental health ombudsman necessary?**

A. It's a neutral voice. It's independent, it's impartial, it's accessible, and it's also confidential. Not everybody feels comfortable going to programs in the HR world for different reasons. I know I have met employees in different situations and it is more the conversation where they want to talk in an anonymous fashion because there is that fear, that stigma, that they don't want to raise issues. We're offering those employees a safe space to come and have those conversations.

**Q. Is the government doing enough to address the mental health needs of federal public service workers?**

A. I'm very encouraged by the tone set at the top by the clerk and all of the different initiatives that are being run in different departments. A lot of attention is being paid to it. We work with our minds and it is important that we ensure that when you are work you feel at ease, that it is



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a safe space for you. It is a respectful workplace and that we take care of our employees. It is a very, very positive message that is being sent and a call for action for all of us.