



CANADIAN CENTRE FOR VICTIMS OF TORTURE

March 12, 2012

The Honourable Jason Kenney
Minister of Citizenship and Immigration
Ottawa, Ontario

Dear Hon. Minister:

Re: Bill C-31 and proposed changes to the Immigration and Refugee Protection Act

We are writing to request a meeting with you in order to discuss your proposals under Bill C-31, affecting changes to the *Immigration and Refugee Protection Act* (IRPA) and the *Regulations*.

At the Canadian Centre for Victims of Torture, we represent victims of torture from countries all over the world. Our clients, Convention Refugees and Permanent Residents, are among the most vulnerable people in the world, and they come to us to help them heal from the psychological scars of physical, psychological and sexual torture.

As a community-based organization that works with hundreds of refugees that are victims of torture, we are compelled to demand that the federal government rethink some key changes to the IRPA, as outlined in the Bill, and consider the impact of these changes of victims of torture.

First, we are extremely concerned that Designated Foreign Nationals (DFN) over the age of sixteen, some of whom will be victims of torture, will be subject to mandatory detention for one year, even after their refugee claim is approved. We are equally concerned that children *under* the age of sixteen will be subject to *de facto* detention unless there is someone who can look after the children. We are also perturbed that successful refugee claims who are DFNs will be barred from applying for permanent residence, and thereby being reunited with family members, for a period of five years. Although we can sympathize with the government's desire to curb criminal human smuggling operations, imposing measures that punish refugees and asylum seekers are not a legitimate policy response.

Second, we are concerned that the Government has gone back on one of the compromises reached two years ago, by removing any consultative process tied to the creation of lists of Designated Countries of Origin (DCO) for refugee claimants. Given the serious implications of the designation, we believe that input from impartial sources would reduce the chances of the process becoming politicized. We are also concerned that these claimants will be subject to impossible timelines, will not have the right of appeal to the Refugee Appeal Determination, and will not benefit from a



Main Office
194 Jarvis Street, 2nd Floor
Toronto, Ontario, Canada M5B 2B7
TEL. (416) 363-1066
FAX. (416) 363-2122
E-mail: mahai@ccvt.org
Website: www.ccvt.org

Scarborough Branch
2425 Eglinton Avenue E.
Unit 220
Scarborough, ON M1K 5G8
TEL. (416) 750 - 3045
FAX. (416) 750 - 4990

Charity No.: 133327908 RR0001

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statutory stay of removal while they seek judicial review of their negative decision. We worry that they may be returned to torture before the Federal Court has had the opportunity to evaluate the decision.

Third, we are extremely concerned about the implications of section 19 of the Bill. According to this clause, until they obtain citizenship, Convention Refugees (CR) and Permanent Residents (PR) will remain vulnerable to having their CR status ceased, and will automatically lose their PR status if the current Minister believes that conditions have changed in their country of origin. Imposing this precarious situation on refugees is unacceptable and goes against the principles of resettlement. This clause risks returning refugees to their country of origin where, although perhaps no longer at risk, will be at risk of re-traumatization.

The bill ignores the fundamental distinction between those who obtained their refugee status and thus their permanent resident status fraudulently, and so are reasonably subject to having their status vacated and losing permanent residence automatically, and those who obtained refugee protection and permanent residence legitimately but whose countries of origin have changed for the better over the years, such that they would no longer face persecution if they went back. By stripping them of their status in Canada, the bill deprives legitimate refugees of the security they need to become fully contributing, participating members of Canadian society. That is a loss for refugees and for Canada

Finally, we are also concerned that refugee claimants will be forced to choose between making a refugee claim and submitting an application for permanent residence on humanitarian and compassionate (H&C) grounds. Although some claimants may not meet the test for Convention Refugee or protected person status, their plight may be deserving of humanitarian and compassionate intervention. A one year ban will force them back to their home country, and some risk being re-traumatized. This could be remedied if the RAD had jurisdiction to examine humanitarian factors. Furthermore, the five year ban on H&C applications for DFNs is excessive and punitive.

These are some of our concerns with the proposed changes to IRPA. Honourable Minister, our clientele is extremely vulnerable, and we fear that Bill C-31, if implemented as it currently stands, will cause them significant harm. We therefore request a meeting with you to express our concerns in more detail.

In the meantime, we call on you to withdraw the bill as it is fundamentally flawed, and urge you to work with the CCVT and others who have direct experience in the field of refugee protection to ensure that refugee reform measures meet the government's goals of speeding up the refugee determination process and addressing smuggling, while ensuring that Canada continues to provide safe haven to refugees in compliance with our obligations under international law and our humanitarian tradition.



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Honourable Minister, we appreciate your efforts to introduce some much needed changes to refugee legislation – such as the RAD and faster processing times – but urge you to allow organizations who work with refugee claimants to make recommendations so that the legislation works for everyone.

We look forward to your response.

Sincerely,

Mulugeta Abai
Executive Director

On Behalf of the National Network

Mohan Doss, R
Chair, Board of Directors

Richard Wazana
Barrister and Solicitor
Chair, Legal committee

- Vancouver Association for Survivors of Torture (VAST)- Vancouver, BC
- Intervention Network for Persons having been subject to Organized Violence (RIVO) Montreal, Quebec
- Victoria Coalition for Survivors of Torture- Victoria, BC
- Edmonton Mennonite Centre for New Comers-Edmonton, Alberta
- Canadian Centre for Victims of Torture, Toronto, Ontario



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