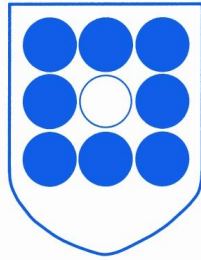


# CANADIAN CIVIL LIBERTIES ASSOCIATION

360 Bloor Street West, Suite 506  
Toronto, ON M5S 1X1  
Telephone (416) 363-0321  
Fax (416) 861-1291  
E-mail: [mail@ccla.org](mailto:mail@ccla.org)



# ASSOCIATION CANADIENNE DES LIBERTES CIVILES

360 rue Bloor Ouest, Suite 506  
Toronto, ON M5S 1X1  
Téléphone (416) 363-0321  
Télécopieur (416) 861-1291  
Courriel: [mail@ccla.org](mailto:mail@ccla.org)

**CUTIVE COMMITTEE**  
**COMITE EXECUTIF**  
**Past Presidents**  
**ésidentes Précédentes**  
J. KEILLER MACKAY  
(1888-1970)  
J.S. MIDANIK, Q.C.  
(1920-1997)  
JOHN NELLIGAN, Q.C.  
HARRY W. ARTHURS  
ALTER TARNOPOLSKY  
(1932-1993)  
WALTER PITMAN  
SYBIL SHACK  
(1911-2004)  
DON. ALLAN BLAKENEY

**President**  
**Présidente**  
MARSHA HANEN

**Vice-presidents**  
**Vice-présidentes**  
JAMIE CAMERON  
SUSAN COOPER  
CÔTE-HARPER, Q.C.  
MARLYS EDWARDH  
L. GREENSPAN, Q.C.  
PATRICIA JACKSON  
JOHN D. McCAMUS  
DELIA OPEKOKEW  
DON. HOWARD PAWLEY  
KENNETH P. SWAN  
DR. JOSEPH WONG

**Secretary**  
**Secrétaire**  
DNEY GOLDENBERG

**Treasurer**  
**Trésorière**  
ELAINE SLATER

**General Counsel**  
**Avocat Général**  
THALIE DES ROSIERS

**BOARD OF DIRECTORS**  
**D'ADMINISTRATION**  
FRANK ADDARIO  
RREN ALLMAND, Q.C.  
OMLEY ARMSTRONG  
RONALD ATKEY, Q.C.  
FREDERIC BACHAND  
JOSEPH BOYDEN  
DWARD BROADBENT  
LEAH CASSELMAN  
SAUL CHERNIAK, Q.C.  
OMINIQUE CLÉMENT  
JANE COBDEN  
MICHAEL CONNER  
DR. DEBBY COPES  
DAVID CRONENBERG  
FERNAND DAOUST  
PETER DESBARATS  
BRIAN A. F. EDY  
SUSAN ENG  
MEL FINKELSTEIN  
ROBERT FULFORD  
VICKI GABEREAU  
ANCE R. GLUBE, Q.C.  
KATHERINE GOVIER  
LOUIS GREENSPAN  
HUSSEIN HAMDANI  
SHIRLEY HEAFEY  
HARISH JAIN  
MUHMUD JAMAL  
JANET KEEPING  
JOY KOGAWA  
ANNE La FOREST  
CYRIL LEVITT  
ANDREW LOKAN  
A. WAYNE MACKAY  
KEN MANDZUIK  
JON OLIVER  
PENELOPE ROWE  
PAUL SCHABAS  
MARVIN SCHIFF  
VID SCHNEIDERMAN  
ERIC TEED, Q.C.  
WALTER THOMPSON  
RY REV. LOIS WILSON

**ion & Administration**  
**ion et administration**  
D. S. McLAUGHLIN

**of Expression Project**  
**, Project de la liberté**  
**d'expression**  
MENDELSON AVIV

**Public Safety Project**  
**de sécurité publique**  
GRAEME NORTON

**ral Counsel Emeritus**  
**ocat Général Émérite**  
A. ALAN BOROVY

May 21, 2010

To: House of Commons  
Standing Committee on  
Citizenship and Immigration

By e-mail: [cimm@parl.gc.ca](mailto:cimm@parl.gc.ca)

Dear Committee Members:

## RE: Bill C-11: An Act to amend the Immigration and Refugee Protection Act and the Federal Courts Act (March 2010)

The CCLA thanks you for the opportunity to provide brief, written comments on Bill C-11.

The CCLA recognizes the need to ensure that the refugee system is efficient. Bill C-11 contains several welcome changes in this regard. However, we are concerned that some of the proposed changes may undermine some of Canada's international legal commitments to refugees, and elaborate below.

### A. CONTEXT: Canada's Legal Commitment to Refugees

Refugees are individuals who are particularly vulnerable as they have lost the protection of their country of origin and are victims of persecution. Canada's legal commitments to refugees arise pursuant to the 1951 *UN Convention on the Status Relating to Refugees*, ("1951 Convention"), and the *Immigration and Refugee Protection Act*, (2001), ("IRPA").

It is CCLA's view that the purposes of IRPA provide the context in which Bill C-11 must be considered, and we note that sections 3(2)(a), (b), (d), and (e) set out IRPA's purposes as being:

- To fulfill Canada's international obligations to refugees
- To protect the persecuted
- To provide a safe haven to those with a "well-founded fear of persecution based on reasons of race, nationality, religion, membership in a social group and political opinion".
- To "establish fair and efficient procedures to maintain the integrity of Canada's refugee protection system while upholding Canada's respect for the human rights and fundamental freedoms of all human beings". (our emphasis)

## B. Designated Countries of Origin

Clause 12 of Bill C-11 amends section 109 IRPA, providing that the Minister “may, by order, for the purposes of subsection (3), designate a country or part of a country or a class of nations of a country if, in the Minister’s opinion, they meet the criteria established by the regulations.”

The CCLA is opposed to the creation of a ‘designated countries’ or ‘safe countries of origin’ list, because such a list would be inherently flawed:

1. A presumption that human rights violations do not occur in western democracies is false and harmful. Countless reports by government monitors, UN mechanisms, and domestic NGOs, indicate that persecution of vulnerable individuals – for example, ethnic minorities, women, homosexuals, members of a particular social group – persist worldwide.
2. The list contradicts a basic tenet of refugee law which is individual status determination. Only in urgent circumstances (e.g. Rwanda, the former Yugoslavia) are ‘group determination status’ measures employed, and even then, the presumption is for “inclusion” and not, as here with a ‘safe country list’, for “exclusion”.
3. There are no legislatively prescribed criteria, regarding creation of such lists, which can be scrutinized. As it stands, the list could fall prey to diplomatic, political or economic pressures or expediencies.<sup>1</sup> Criteria that may be prescribed later in regulations will not be subject to proper Parliamentary scrutiny.
4. A claimant hailing from a so-called ‘safe country’ is likely to be subject to bias against his or her claim being legitimate.
5. A claimant hailing from a so-called ‘safe country’ will not be allowed to appeal a negative decision to the new Refugee Appeal Board, but must go directly to the Federal Court. In refugee status determination, to treat one claimant differently from another claimant on the basis of country of origin with no regard to individual circumstances, may result in discrimination.
6. The argument that safe country lists may be used elsewhere does not justify use in Canada, in light of the above concerns.

---

<sup>1</sup> We note in the Citizenship and Immigration Canada 2010 Backgrounder: Safe Countries of Origin, available at <http://www.cic.gc.ca/english/departement/media/backgrounders/2010/2010-03-30b.asp>, that it is stated the opinion of “UNHCR will be sought” in identifying ‘safe countries’; but as presented, this in our view is no absolute guarantee against other influences.

**The CCLA recommends that clause 12 of Bill C-11 creating 'designated' or 'safe countries' be deleted.**

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Des Rosiers', with a long horizontal flourish extending to the right.

Nathalie Des Rosiers  
General Counsel