Canadian Arab Federation Submission On Bill C-11
Presented to
The Standing Committee on Citizenship and Immigration

Arab Canadian Community Interest in Bill C-11

The Canadian Arab Federation is the national organization serving the Arab Canadian community. Since its founding in 1967 the Canadian Arab Federation has advocated on behalf of Arab Canadians on a wide range of issues. Although the Arab Canadian community has roots in Canada dating back to the 1880's, due to immigration patterns, the Arab Canadian community is ,by proportion, a relatively new community. As many as two-thirds of the Arab Canadian community is under 15 years of age or has been in Canada less than 15 years. Numbering at about 500,000 the Arab Canadian community is one of Canada's largest and fastest growing minorities. Due to the insecurities of life in the Middle East today that area of the world is likely to remain a major source of immigrants and refugees to Canada for the foreseeable future. As such the Arab Canadian community has a special interest in Bill C-11.

Specific Concerns about Bill C-11

Not all aspects of the proposed changes are negative. For example the Canadian Arab Federation applauds the inclusion of provisions for appeals on the basis of merit and more timely hearings for refugees. However, there are also very disturbing changes imbedded in the legislation. As the lives of refugees are at stake these aspects require special attention today.

1. Interview at Immigration and Refugee Board

A fair and expeditious process for assessing refugee claimants is a common goal. However, "fair and expeditious" are not alternative choices. The requirement for refugee claimants to give details of their claim at an information gathering interview within 8 days of a claim being referred to the Immigration and Refugee Board is insufficient and prejudicial to legitimate claimants. Refugees undergo traumatic and gruelling processes to arrive in Canada. They will understandably require more time than is contemplated in the legislation just to recover from their odyssey. In addition, they legitimately need to consult legal counsel prior to presenting their narrative. Legal aid certificates often require longer than the 8-day period allotted just to be issued. This initial interview requirement undermines due process. **Reference to the initial interview should be deleted from the legislation.**

2. Hearing Date Scheduling

The present scheduling of hearings is profoundly problematic. Refugee claimants should not have to wait years to have their claim adjudicated. However, many refugees will necessarily

require more than the 60 days allotted under the legislation to prepare their case. Evidence of persecution may be difficult to obtain from dysfunctional parts of the world. States that generate larger numbers of refugees are often the vary states that are most oppressive and chaotic. In addition, even evidence gathered in Canada such as medical or psychological assessments and reports may take much longer than the 60 days being contemplated in the legislation. The right to an expeditious hearing should be clearly stated in the legislation. However, **hearings should generally be scheduled on the basis of when they are ready to proceed with long-term time limits setting out maximum time limits.**

3. First Instance Decision Makers

The move away from an Immigration and Refugee Board (IRB) uploaded with political appointees is a welcome measure. However, limiting the decision makers of first instance to civil servants will undermine the objectivity of the refugee process. **A process that handles appointments to the IRB without political interference or partisan consideration would be a welcome measure.** D**ecision makers should be appointed for fixed terms and qualified candidates from both inside and outside the civil service should be considered for this role.**

4. Designated Countries of Origin

Provisions under the legislation that would enable the Minister to designate countries of origin would unnecessarily politicise and undermine the integrity of the refugee determination process. Such determinations also violate international law by discriminating on the basis of country of origin. In addition, they carry with them the real spectre of endangering legitimate refugees by leaving undefined the terms “safe countries of origin” and “safe”. Indeed, the criteria on which a country of origin could be listed as safe, by the Minister, are non-existent. Ultimately, this provision establishes a two-tiered refugee determination process. **The “designated countries of origin” provision should be deleted from the legislation.**

5. Refugee Appeal Division

The establishment of a Refugee Appeal Division is a welcome measure. The need for a genuine appeal process that allows for the inclusion of new evidence is long overdue. Indeed, the primary concern lies in the definition of “new” evidence. Historically, evidence that could be added to the record has been limited to “evidence not reasonably available” during the initial adjudication. This can be remedied by generalizing the concept of what “new” evidence can be added to the record on appeal. To achieve this objective **the legislation should be changed to make clear that all relevant additional evidence may be presented by a refugee claimant at an appeal.**

6. Pre-Removal Risk Assessment

The barring of anyone from a pre-removal risk assessment unnecessarily creates risk to refugee claimants. The Immigration and Refugee Board, and not the office of the Minister, is the correct venue for determinations as to whether or not a person can be removed without risk. The legislation does not contemplate changing circumstances that could legitimately raise new issues of risk beyond those that existed at the time of initial adjudication. **The pre-removal risk assessment restrictions should be removed and authority for administration of this provision should be placed under the jurisdiction of the Immigration and Refugee Board.**

7. Humanitarian and Compassionate Applications

Definitions of who is a refugee is narrowly defined and restricted in international and domestic law. Refugee claimant cases and situations are usually complex. There is often no simple way to compartmentalize legitimate refugees from persons who may also have cases that raise genuine humanitarian and compassionate considerations. For example, a legitimate refugee claimant case may also independently raise issues of what is in the best interest of a child. Such a consideration would not be relevant to refugee adjudication but would be central to a humanitarian and compassionate application. The arbitrary barring of refugee claimants from accessing the humanitarian and compassionate application process will undermine Canadian values and law. **The provisions in the legislation that bar access to humanitarian and compassionate applications for refugee claimants should be deleted and the administration of these applications should be placed under the jurisdiction of the Immigration and Refugee Board.**

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