

COMMITTEE STAGE CONSIDERATION OF BILL C-11

FOLK ARTS COUNCIL OF ST.CATHARINES MULTICULTURAL CENTRE

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This paper will focus on Bill C-11's positive contributions to amend the Immigration and Refugee Protection Act and the Federal Courts Act for Immigration . This paper does not purport to answer or attest to all aspects of the Bill. Other critical details and clauses will be left for our policy makers, legal professionals, expert commentators and stakeholders who have a much deeper and profound grasp of the details of the bill.

It is generally agreed that Canada's current asylum system is too slow – it can take many, many years to finalize a claim. The average time required is about 18 months for a first decision at the Immigration and Refugee Board (IRB) because of backlogs. 1 Many refused claimants carry on for years waiting for their issues to be addressed. Delays hurt authentic claims and spurious claims are detrimental to and further impede this process. The focus must be on obligations to protect individuals who are fleeing from violence and persecution. 2 This should be done in a timely, honest and in a measured but deliberate fashion. The current system takes far too long. The new bill provides for a much speedier hearing.

It is important that a refugee claimant be granted status as quickly as possibly as deemed by the IRB. The quicker the hearing the less likely for false claims and the sooner the claimant(s) can get settled in Canada. The fewer people making false claims the less likely the system will get clogged or backed up. This is another positive feature of the proposed bill.

“Other strengths include access to a system whereby refugees are allowed an opportunity to speak of their situation; many countries do not allow this. Access allows for fewer people going underground or remaining illegally in Canada. The incentive *is* for refugees to claim status so they are known to officials. The government can identify claimants easily and this can deter the temptation to go underground”. 3

“First level decisions by the IRB is another strength .They have access to good resources with regard to information about other countries, careful procedures, and refugees get a full and fair opportunity to tell their story”. 4

If a claim is accepted then refugees are permitted to have permanent status. Other countries do not allow refugees to acquire full status as citizens of their host country even when their claims are accepted. 5 Once permanent status has been granted individuals can set down roots and call Canada home.

“The proposed new asylum system would include a Refugee Appeal Division at the IRB. This appeal process would allow new evidence to be introduced if it were not available at the initial IRB hearing. All failed claimants, including those from designated safe countries of origin, would continue to be able to ask the Federal Court to review a negative decision”. 6 The idea of being able to introduce new evidence not available at the initial interview allows for a great opportunity to enhance one’s case.

“Making refugee decisions is an incredibly difficult task. To meet this challenge, a reformed system needs to be based on the following three pillars: (1) A good first decision; (2) a reliable appeal; and (3) the prompt removal of failed claimants.” 7

Recommendations:

1. That the IRB place highly trained, skilled, experienced staff at the tribunal to make sound first decisions.
2. That the IRB undertakes a regular review of what are considered to be “safe countries”.
3. That CBSA remove false claimants in a timely fashion.
4. That the IRB has discretion to extend the timelines in exceptional circumstances.

End Notes

Bibliography

1. Maytree Report by Peter Showler © 2009, The Maytree Foundation

Director of the Refugee Forum, located at the Human Rights Research and Education Centre, University of Ottawa

2. Maytree Report by Peter Showler © 2009, The Maytree Foundation

Director of the Refugee Forum, located at the Human Rights Research and Education Centre, University of Ottawa

3. You tube Interview, Maytree, *Fast, Fair and Final: Reforming Canada's Refugee System* In the Media, October 31, 2009. Peter Showler, Sept 8, 2009 Maytree Toronto

4. Same source as 3.

5. Same source as 4.

6. Citizenship and Canada Home page Introducing Refugee Reform

7. Fast, Fair and Final: Reforming Canada's Refugee System A Maytree Report by Peter Showler © 2009, The Maytree Foundation

Recognition of Scholarly Research:

Author: **Peter Showler**

Peter Showler is the Director of the Refugee Forum, located at the Human Rights Research and Education Centre, University of Ottawa. The Refugee Forum undertakes various research and law reform initiatives dealing with refugee law. Peter teaches Immigration and Refugee Law and Advanced Refugee law. Peter is the former Chairperson of the Immigration and Refugee Board of Canada (1999-2002) and is the author of *Refugee Sandwich: Stories of Exile and Asylum*. For the past two years, Professor Showler and the Refugee Forum, in cooperation with the Institute for Research

and Public Policy, have been engaged in a comparative study of the asylum systems of several of the industrialized countries including the United Kingdom, France, Belgium, the United States and Australia. The policy proposals and commentary are based on that research. The Institute intends to publish Professor Showler's research paper in the coming months.