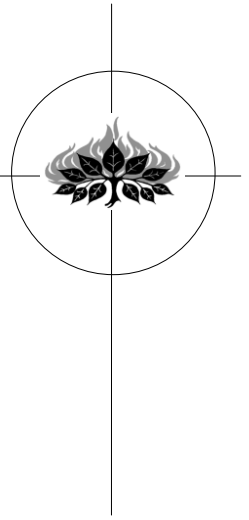


The Presbyterian Church in Canada L'Église presbytérienne au Canada



Friday, May 28, 2010

Mr. Jacques Maziade,
Acting Clerk,
Parliamentary Standing Committee on Citizenship and Immigration,
Sixth Floor, 131 Queen Street,
House of Commons,
Ottawa, ON
K1A 0A6
cimm@parl.gc.ca

Re: Bill C-11 *Balanced Refugee Reform Act*

Dear Mr. Maziade,

Please find enclosed a brief on **Bill C-11 *Balanced Refugee Reform Act*** from The Presbyterian Church in Canada. When we spoke a few days ago, you advised me to submit a short brief and to do this as soon as possible. You indicated that if the brief was submitted today, this would allow enough time for translation and distribution to members of the Standing Committee.

This brief does not refer to the commitment made by Minister Kenney on March 29, 2010 to resettle 2,500 more refugees living in refugee camps and urban slums (2,000 through private sponsorship and 500 through government sponsorship).

This commitment is strongly welcomed. As this commitment is not part of Bill C-11, we have not made reference to it in the brief.

I wish members of the Standing Committee on Citizenship and Immigration well in their upcoming discussions and discernment on Bill C-11.

Thank you for your cooperation.

Yours sincerely,

Stephen Allen,
Associate Secretary,
Justice Ministries
The Presbyterian Church in Canada

Bill C-11: the Balanced Refugee Reform Act

A brief submitted to the
Parliamentary Standing Committee on Citizenship and Immigration

From the Life and Mission Agency,
The Presbyterian Church in Canada



Introduction

The Presbyterian Church in Canada is pleased to submit this brief on Bill C-11, the *Balanced Refugee Reform Act* to the Standing Committee on Citizenship and Immigration and trust that it contributes to the work of the Standing Committee.

The Presbyterian Church in Canada has been involved in various aspects of support to refugees for over thirty years and assists refugees in several ways:

1. Sponsoring refugees from overseas and assisting them to recover from the trauma of exile and to successfully settle in Canada.
2. Referring refugee claimants to lawyers to receive legal information with a special focus on those who are detained.
3. Educating members of The Presbyterian Church in Canada about refugee issues. The Presbyterian Church in Canada's Study for 2010-2012, is about refugees and is entitled "*Staying Rooted in an Uprooted World*".

Events that force individuals or groups to flee and seek asylum are unpredictable. Our legislation, policies and programs must take this into account. Those fleeing persecution and seeking safety in Canada need to know that their cases will be dealt with fairly by Canada. As doors are being closed to asylum seekers by many countries, it is vital that Canada be held as an example of compassion and justice.

The Government of Canada has a duty to ensure the integrity of our refugee system. Not every claimant meets the definition of a Convention Refugee. This does not mean that every claimant is making a fraudulent claim. Claimants may truly believe that they are at risk of persecution. Some may have experienced persecution, unlawful detention or torture. But they may not have had all the necessary documentation with them to prove their claim. They may be suffering from trauma caused by psychological and/or physical torture and be unwilling or unable to share these painful experiences.

Those making decisions as to whether a claim meets the criteria of a Convention Refugee have a sacred and at times, a challenging duty. Immigration and Refugee Board officials must be highly qualified, independent and adequately resourced.

The Presbyterian Church in Canada welcomes the Balanced Refugee Reform Act (Bill C-11) if it strengthens measures to protect asylum seekers who arrive in our country to claim refugee status.

Refugee Appeal Division (RAD)

Bill C-11 includes the provision to implement the Refugee Appeal Division (RAD). This is a welcome initiative and is long overdue as it was included in the Immigration and Refugee Protection Act (2002), but never enacted.

Efficiency Vs. Fairness

Bill C-11 is intended to reduce the length of time required for a decision to be made about a refugee's claim. In principle, this could be very positive as there is an extensive backlog of claims. Asylum seekers no doubt would like decisions that will affect their lives to be made faster, if they are confident that they will be treated fairly. There are procedures in Bill C-11 that require greater clarity and careful deliberation.

Eight days after an asylum seeker makes her/his claim, an information interview occurs with a civil servant. What is the purpose of this information interview? Will the claimant understand the purpose of this information meeting?

Is it assumed that this eight day period is an adequate length of time for the claimant to acquire all of the essential documentation he/she will need? Is the refugee claimant expected to attend this information interview alone? Will the claimant have access to legal counsel? The claimant may be suffering from trauma and find it difficult to share painful experiences with a public official.

A claimant may not have all of the vital documentation at this information meeting. Will the claimant be able to submit additional documentation at the hearing?

Reducing the backlog of claims is in principle, a welcome initiative, but speedier decisions should not trump fairness.

Country of Origin List

As noted above, the proposed implementation of the Refugee Appeal Division is a welcome initiative and is long overdue, but what is the rationale of denying the right to appeal to claimants from countries on the "Country of Origin List"? Is the denial of the right to appeal by claimants from countries on the "Country of Origin List" consistent with **Article 3 (Non-discrimination)** of the **Convention Relating to the Status of Refugees** which states that: *The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.*

Minister Kenney has referred to the "Country of Origin List" as a "safe list." The word 'safe' does not appear in Bill C-11. Does this imply that asylum seekers from countries on this list are less likely to meet the criteria of genuine Convention Refugees? Under Bill C-11, asylum seekers from the "Country of Origin List" will be assessed differently than asylum seekers from countries not on this list as they will be denied the right to an appeal.

Under Bill C-11, the responsibility and the power to decide which countries are included and which countries are excluded from the "Country of Origin List" will rest with the



Minister of Citizenship, Immigration and Multiculturalism. How will countries be chosen? Will there be public input in selecting those countries that will be included in the "Country of Origin List"? Will Governments lobby the Canadian Government to be included in the Country of Origin List? What measures will be taken to ensure that Canadian foreign or commercial interests do not influence the selection of countries on the "Country of Origin List"? Finally, is the "Country of Origin List" required in the first place?

Conclusion

Unfortunately, there have been limited opportunities for public input into Bill C-11. Many organizations that have requested to appear before the Standing Committee have been denied the opportunity.

The interest and the concerns about Bill C-11 from individuals and organizations across Canada will hopefully be viewed by members of the Standing Committee as testimony to the long standing commitment by Canadians from all walks of life to welcoming refugees to our country. This is strength to draw on.

While Bill C-11 is designed to reduce the length of time required for a decision and to discourage unfounded claims, values such as compassion and fairness need to be reflected in the legislation and in the regulations.

There are financial costs in administering our refugee system. But how do we assess the financial cost and the benefit of an asylum seeker who is granted refugee status and can begin to call Canada home?

The true test of Bill C-11 (*Balanced Refugee Reform Act*), is not just whether it results in faster decisions of the claims by men, women and children seeking protection, but whether it strengthens protection for those who desperately need protection.

The Presbyterian Church in Canada wishes the members of the Parliamentary Standing Committee on Citizenship and Immigration well in your forthcoming discussions and discernment about Bill C-11.