

Sanctuary Coalition of Kitchener-Waterloo

**Submission to the Standing Committee on Citizenship and Immigration  
Regarding Bill C-11**

May 19, 2010

**Introduction**

The Sanctuary Coalition of Kitchener-Waterloo is a faith-based alliance of local community members who support refugee individuals and families at risk of deportation to unsafe countries. We believe that human life is sacred and that every refugee has a fundamental right to freedom and safety. We remain dismayed at the human cost of the deficiencies of Canada's Refugee Determination system. Accordingly, we support the efforts of potential sanctuary providers and the needs of sanctuary seekers.

For more than 6 years we have been advocating for balanced reform in the refugee determination process. We agree that the current system is in need of improvement. Some of the proposed changes in Bill C-11 are constructive and encouraging, such as access to the Refugee Appeal Division based on merits and the desire for more timely hearings.

However, we are gravely concerned about several elements in the proposed Bill. We feel specific key components will likely increase the potential for refugees to be deported to unsafe countries where they may face persecution and even death.

**Assessment of Bill C-11**

*1) 8 Day Interview / 60 Day Hearing*

Although a faster method of claim resolution is positive in principle, the proposed timeline for an interview and hearing is not realistic and cannot ensure fair, balanced decisions. An interview after 8 days, and a hearing after 60 days, does not allow a claimant the necessary time to obtain proper legal counsel, prepare their case or obtain necessary documents from their country of origin.

Eunice Valenzuela, Executive Director of the *Mennonite Coalition for Refugee Support*, has told our coalition that, "60 days does not allow enough time to properly prepare a refugee case. 4 to 6 months after referral to the IRB is a more realistic and fair amount of time."

The proposed timeline also does not take into consideration the complex circumstances surrounding victims of abuse or trauma and their inability to articulate these experiences in a hasty manner. The *Medical Survivors Foundation for the Care of Victims of Torture* explains that victims of rape and torture have suffered profound humiliation and are often

unable to recount these experiences in initial interviews.<sup>1</sup> Sensitivity and patience are integral to an accurate recounting of such experiences.<sup>2</sup> Oftentimes, these experiences are only revealed as trust develops over the course of several meetings, sometimes this process requires several months.

Rushing the interview and hearing process will simply promote negative decisions with disastrous consequences for vulnerable refugees.

- **We recommend that a hearing be set 120 days after referral to the IRB – with discretion for exceptional cases to be scheduled later than 120 days.**

## 2) *Designated Countries of Origin*

The “Designated Countries of Origin” proposal is a discriminatory inclusion in Bill C-11. The proposal threatens to exclude refugee claims based on political relationships – not on individual assessments of merit. It ignores and marginalizes those fleeing persecution due to particularized events such as gender violence or sexual orientation. The proposal also creates a biased two-tier refugee system where some claimants have access to appeal and others, based on nationality, do not. By allowing the Minister to designate safe countries it puts political alliances above human life.

- **We recommend that provisions relating to Designated Countries of Origin be removed completely from Bill C-11.**
- **We recommend that all refugee cases be decided upon by individual merit, as has been the tradition of Canada’s Refugee Determination System.**

## 3) *Decision Makers*

Bill C-11 proposes to use civil servants as first instance decision makers instead of Governor-in-Council appointees. By assigning civil servants to these positions the refugee determination system becomes a politicized body that lacks autonomy. First instance decision makers would no longer be an independent board making neutral decisions – but rather an organization influenced by the expectations of the appointing government. Assigning civil servants would also ensure the exclusion of many highly qualified decision makers from participating in a role critical to the refugee determination process.

- **We recommend that first instance decision makers be drawn from a pool of highly qualified candidates and not be left solely to public servants who are subject to the will of the government.**

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<sup>1</sup> [http://www.torturecare.org.uk/news/latest\\_news/110](http://www.torturecare.org.uk/news/latest_news/110)

<sup>2</sup> [http://www.arrivalpractice.com/word\\_docs/phase2/late%20disclosure%20Medical%20Foundation%20submission.doc](http://www.arrivalpractice.com/word_docs/phase2/late%20disclosure%20Medical%20Foundation%20submission.doc)

## 4) *Humanitarian and Compassionate Applications (H&C)*

Under Bill C-11, refugee claimants would be barred from applying for permanent residence based on Humanitarian and Compassionate grounds while their original claim is in process and for 12 months following a rejected claim.

H&C is a critical resource for refugees whose cases do not fall within the narrow definition of a refugee. It permits consideration based on human rights issues and is a vital resource to those who don't fall into any specific category. It allows for special considerations such as those involving best interests of the child.

- **We recommend that amendments barring claimants from accessing the H&C be removed completely from Bill C-11.**

#### *5) Terminology of Discourse*

The Sanctuary Coalition finds the terminology used by the government to describe refugees during the tabling of Bill C-11 to be misguided and reprehensible. We object to terms such as “bogus”, “cheaters” and “false claimants” used in public reference to refugees seeking asylum. We also reject the implication that many refugees are sent to Canada by criminal organizations.<sup>3</sup> This type of rhetoric creates and fuels a feeling of mistrust and non-tolerance towards refugees in Canada. It labels refugees as unwelcome outsiders and makes them easy targets for racism and abuse.

- **We recommend that derogatory terminology be removed from any further discourse surrounding Bill C-11.**

#### **Summary of Recommendations**

The Sanctuary Coalition of Kitchener-Waterloo believes that key proposals in Bill C-11 will greatly increase the number of mistaken negative decisions. As a result, vulnerable refugees who are in need of protection will be denied and put at risk. Our coalition recommends the following modifications to Bill C-11:

1. A hearing be set 120 days after referral to the IRB – with discretion for exceptional cases to be scheduled later than 120 days.
2. Remove all provisions relating to the basis of “Designated Countries of Origin.”
3. Decide all refugee cases on the basis of individual merit.
4. Draw all first instance decision makers from a pool of highly qualified candidates and do not leave it solely in the hands of civil servants.
5. Remove all amendments that would bar claimants from accessing the H&C.
6. Remove derogatory terminology from any further discourse surrounding Bill C-11.

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<sup>3</sup> <http://www.muchmormagazine.com/2010/03/jason-kenney-to-introduce-refugee-system-reforms-this-week/>  
<http://www.theepochtimes.com/n2/content/view/32986/>