

## **Montreal Gazette**

### **Ottawa's fast-track refugee bill is a rush to judgment**

#### **Many deserving claimants could be ejected after 60 days**

By PAULA KLINE and RICK GOLDMAN

April 9, 2010

At an age when most Canadian children are adjusting to their first year of high school, Brihan was given into marriage by her parents. The eldest of nine children, Brihan (not her real name, the name means "light" in her native Amharic) was born in a village in northern Ethiopia, and never went to school. On the day after her 14th birthday, she gave birth to her first child, a boy. In the next five years, she bore another son and two daughters.

When the Ethiopian-Eritrean war broke out in 1998, Brihan's husband was called to fight and is presumed to have died in combat. Meanwhile, Ethiopian authorities began arresting and expelling people of Eritrean origin. Brihan's mother, who is Eritrean, was expelled to that country, while Brihan was arrested and held for a week in a tiny cell with more than 40 other detainees. She was beaten, tortured, and brutally raped. Aside from emotional scars, she was left with a serious medical condition.

After that horrific week in prison, Brihan was released and fled to Sudan, where she worked at odd jobs for five years, always in fear of being arrested and deported to Ethiopia. Finally, in 2004, one of her friends arranged for her to make it to Canada.

Brihan arrived in Montreal with no identity documents, no knowledge of English or French and illiterate even in her native tongue. She was held in immigration detention for three months, which had the effect of speeding up her refugee hearing. With little access to her legal-aid lawyer or to interpreters, and little time to prepare her case properly, her refugee claim was refused.

However, with the assistance of our two organizations, Brihan subsequently presented an application for permanent residence on humanitarian grounds. With evidence of the medical condition contracted during her assault (not available at the time of her refugee hearing), and of other compelling humanitarian considerations, such as the risks that her young daughters faced back home, the humanitarian application was accepted. If all goes well, Brihan, now 29, should be reunited with her children in the coming months, after 10 long years of separation. She has learned to read and write in both of Canada's official languages and has already gained some Canadian work experience.

However, if the newly proposed reforms to Canada's refugee system had been in place when Brihan arrived in Canada, she might very well not be here (or anywhere) today. Under the proposals unveiled by Immigration Minister Jason Kenney last week, Brihan, like all refused refugees, would not have been allowed to file a humanitarian application. Kenney says this measure will help to remove refused refugees more quickly. However, humanitarian applications do not stop removals, so this makes no sense and amounts to an unjustified attempt to deprive refused claimants, such as Brihan, of an important recourse.

Kenney's proposals would also institutionalize, for all new claimants, the speedy refugee hearing process that contributed to Brihan's initial refusal. Refugees would have just 60 days to prepare for their hearings. We certainly welcome a system that would move faster (we are currently working with a Haitian man who has been waiting two years for a hearing, even though his wife and children are now in the street in Port-au-Prince). However, two months is not a realistic time-frame to prepare for a refugee hearing. Claimants often suffer from the trauma of torture or other abuse and need time before enough trust is established for them to speak openly about their experiences. Obtaining documents from overseas as well as medical or psychological reports can be lengthy. This is a dangerous "rush to judgment" for such complex decisions involving life-and-death stakes.

Perhaps the most controversial aspect of the proposed reform is the introduction of a "two-tiered" system, in which nationals from a yet-to-be announced list of "safe countries" will be unable to appeal negative decisions. As former Immigration and Refugee Board chairperson Peter Showler has pointed out, such lists can be dangerous if used improperly. For example, Mexico is likely to be on the list, given that the government acted to stem arrivals of Mexican claimants by imposing a visa requirement on that country last summer. As Showler puts it:

"Refugee claims from certain countries have had low acceptance rates in Canada. For example, Mexico has an 11-per-cent acceptance rate. However, some of these countries, like Mexico, can be dangerous for certain people. Often claims from these countries are the most difficult to decide. These claims are often decided on issues of credibility. These are precisely the kinds of claims that require a full review by the Refugee Appeal Division." Under Kenney's proposals, however, they would be denied that appeal.

One normally expects major pieces of legislation to be the subject of broad consultation before tabling in Parliament. However, the minister refused requests by refugee-serving groups for an opportunity to provide their input, based on first-hand knowledge of the refugee system. It is therefore essential that Parliament consult widely on these major changes, and that Canadians make their voices heard during that consultation, to avoid an ill-advised rush to judgment on these proposals.

-----  
*Paula Kline is director of the Montreal City Mission and Rick Goldman is co-ordinator of the Montreal-based Committee to Aid Refugees.*