BRIEF OF THE

CANADIAN ASSOCIATION OF REFUGEE LAWYERS

RE: BILL C-97 - BUDGET IMPLEMENTATION ACT

MAY 7, 2019

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1. *Introduction*

The Canadian Association of Refugee Lawyers (CARL) is a national association of over 365 practicing lawyers, academics and law students across the country with the objective of educating and litigating legal issues relating to the human rights of refugees, asylum seekers, and immigrants.

Many of Canada's most experienced and knowledgeable lawyers and professors of refugee and immigration law are members of CARL. CARL members have appeared before all levels of the federal courts, including the Supreme Court of Canada. In the eight years since its formation, CARL has appeared as an intervener in 14 appeals before the Supreme Court of Canada on refugee and immigration related matters and has been granted public interest party standing in several cases successfully challenging the constitutionality of provisions in the *Immigration and Refugee Protection Act* (IRPA). CARL was instrumental as a party to litigation that resulted in the Federal Court striking down the discriminatory Designated Country of Origin regime.

CARL strongly opposes the proposed amendments to the IRPA contained at Division 16 of Part 4 of Bill C-97, the *Budget Implementation Act* (BIA).

2. *Legislation to deny access to fundamental human rights protections should not be done through omnibus legislation.*

The BIA includes a number of amendments to the IRPA that are cause for serious concern and require more study and debate before being voted on by Parliament. The current hasty and narrowly constrained committee hearings are completely inadequate and prevent the legislature from exercising its duty of democratic oversight.

Nowhere is this concern more justified than in respect of the refugee amendments set out in the BIA, in particular the new ineligibility provision at s. 306. This provision strikes at the very heart of Canada's well-established and highly respected refugee determination system. It runs contrary to principles of fundamental justice and non-discrimination guaranteed by the *Canadian Charter of Rights and Freedoms* and explicitly recognized by the Supreme Court of Canada.

While CARL has much to say in the following pages about how ill-advised the provision is, we must start by raising our objection to the manner in which these amendments have been introduced and the haste with which they will be implemented.

This Government has had over three years to engage with stakeholders and Parliamentarians about how to best ensure that the refugee determination system operates effectively and efficiently to ensure protection to those to require it. Indeed CARL and its members have been involved in numerous conversations and consultations with the current and previous Ministers of

Immigration, Refugees and Citizenship about how that might best happen. Many options were proposed and discussed, and detailed briefs were prepared to assist the Government. At no point, however, was the ineligibility provision contained in the BIA raised as an option or discussed with CARL or, to our knowledge, other Canadian stakeholders.

Instead, this unexamined amendment appeared in the budget bill, defended not by the Minister of IRCC, who is actually responsible for refugee protection, but the Minister of Border Security and Organized Crime Reduction. The ineligibility provision has nothing to do with border security or organized crime.

If the Government is intent on enacting a provision like the new ineligibility provision, CARL urges it to, at the very least, remove the provision from the BIA and table new, stand-alone legislation that can be properly scrutinized, debated and improved or rejected through the democratic process. The same is true of the other IRPA amendments, which have been inadequately justified or explained by the Government, and which stand to have long range but ill-considered impacts on vulnerable people.

3. *Denying access to refugee determination at the RPD for anyone who has made a claim in the US, UK, Australia or NZ[1] is wrong-headed and unfair.*

Canada's existing laws *already* prohibit refugee claimants who have received refugee protection in any country from having their claim heard by the IRB. If a claimant has received status in the U.S., for example, our laws already require them to return there. The proposed changes would bar refugee claimants who have simply "made a claim" in a country with whom Canada has an information-sharing agreement from having their claim heard by the IRB – without any regard to whether a decision was *ever* made on that claim. As a result, the proposed changes will bar access to the IRB for some persons whose need for refugee protection has never been assessed anywhere. The Government has failed to provide a rationale for this provision, and indeed it is difficult to conceive of one that is consistent with international refugee law and the *Charter*.

Contrary to some messaging by the Government, there are many legitimate reasons why a refugee may decide to journey to Canada for protection before their claim has been decided in another country. For example, the U.S. and Australia have some of the most draconian detention policies for refugee claimants. The U.S. detains refugee families on a wide scale, and has intentionally separated refugee children from their parents at the southern border. While US Courts have ruled the family separation program illegal, the US administration says it may still take up to two years to reunite many of the families it separated – and some may never be able

[1] While currently the new ineligibility provision would only apply Canada's "Five Eyes" partners, Canada could enter into information-sharing agreements with any other country. This would automatically extend the IRB bar to anyone who had made a refugee claim in that country, without Parliament's review, and with no analysis of whether that country's refugee program is reliable

to be reunited.[3] The US is now implementing mandatory detention for claimants.[4] Australia detains refugee claimants on remote off-shore islands for years on end, where suicides have become prevalent.[5] These policies are *specifically intended* to compel refugee claimants to discontinue their claims and leave the country. It is cruel and unfair to punish refugee claimants for seeking actual protection in Canada's more humane and rights-respecting system.

It should also be noted that major differences between Canada's refugee laws and those of other countries can result in claimants being rejected elsewhere even if they meet the refugee definition under Canadian and international law. Women and children fleeing domestic violence are a prime example. In 2018, U.S. Attorney-General Jeff Sessions ruled that women fleeing domestic violence – even if they were from a country that offered women *no* protection from such harm – are not refugees under U.S. law.[6] Canada, by contrast, has recognized domestic violence as a form of gender-based persecution for more than two decades. The proposed changes to *IRPA* take no account for the weakness of US refugee laws. So a mother and daughter from Saudi Arabia whose domestic violence claim was rejected in the U.S. would still be barred from having their claim heard by the IRB. This effectively imports President Trump's refugee policies directly into our laws.

4. *The Pre Removal Risk Assessment (PRRA) is not an adequate substitute for a hearing at the IRB.*

Under the proposed amendment, refugee claimants who are barred from having their claims heard by the IRB will only have access to a Pre-Removal Risk Assessment (PRRA) application.

The IRB is an independent tribunal. In almost all claims before it, a refugee claimant:

- receives an oral hearing where they can present witnesses, test the evidence of the government, and meet the decision-maker face-to-face;
- can appeal an initial refusal to the Refugee Appeal Division;
- is automatically protected from deportation while they review a final refusal in Federal Court.

PRRA officers are not independent. Unlike a claim heard by the IRB, in a PRRA application:

- the decision-maker is an IRCC employee and not an independent adjudicator;

[3] *New York Times,* "U.S. Says It Could Take 2 Years to Identify Up to Thousands of Separated Immigrant Families", April 6, 2019.
[4] *New York Times,* "In New Effort to Deter Migrants, Barr Withholds Bail to Asylum Seekers", April 16, 2019.
[5] *The Guardian*, "Self-harm and suicide worsening under Australian detention regime, report finds", Nov. 21, 2018.
[6] *New York Times*, "Sessions Says Domestic and Gang Violence Are Not Grounds for Asylum", June 11, 2018.

- the application is paper-based and there is no process for a hearing. There is the possibility of an "an oral interview which is almost never granted;
- there is no appeal;
- there is no automatic protection against deportation while an applicant challenges a final refusal decision in the Federal Court.

The deficiencies of the PRRA are structural and are legislated. Policy tinkering will not resolve the problem.

Some media reports have suggested that the Government intends to make some improvements to the PRRA process for those affected. However, to date we have not seen any proposed amendments to the BIA. Anything less than legislative amendments will necessarily be inadequate.

Currently, IRPA expressly states that immigration officers are not required to convoke a hearing in every PRRA case. Moreover, the oral interviews that PRRA officers are empowered to undertake fall far short of the standards of IRB hearings and the requirements of natural justice. In PRRA interviews, for example, a person can generally not call their own witness and cannot cross-examine witnesses on whose evidence the Government is relying. There is also a dramatically diminished role for counsel who, under interview rules, usually only have the right to 'observe' but not to intervene or make submissions for their client. PRRA decision makers, moreover, lack the expertise, knowledge and training of the Members of the IRB

While Government representatives have suggested in the media that there will be an 'appeal' for refused PRRA applicants, the IRPA contains no such right of appeal for such persons and no mechanism or tribunal to hear 'PRRA appeals'. Nor does the BIA contain any provisions to create one.[7]

5. *The Proposed New Ineligibility Provision is unconstitutional*

The consequences at stake in a refugee claim are some of the most serious any decision-maker can confront. A wrong decision can result in a person being sent to persecution, torture or death. For this reason, since the Supreme Court's landmark decision in *Singh* (1985) established that refugee claimants, as "persons" under the *Charter*, are entitled to the protection of s.7 of

[7] Moreover, experience suggests such promises should be met with skepticism: when Parliament created a right of appeal for refused IRB claimants in 2002, it still took the Government a decade to finally establish the Refugee Appeal Division in 2012.

the *Charter.* As such they have the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

A full hearing before an independent decision-maker is required under s. 7 of the Charter and the decision of the Supreme Court in Singh

Prior to the Supreme Court's judgment in *Singh* (1985), refugee claims were based on a recorded interview with an immigration officer, who was a direct employee of the Minister. *Singh* declared this regime to be unfair and unconstitutional under s.7 of the *Charter*. Parliament eventually responded with the creation of refugee hearings before the Refugee Protection Division ("RPD") of the Immigration and Refugee Board – a model which not only complies with the *Charter* but has become a leading example for other refugee systems around the world.

At the core of what makes the RPD process fair and *Charter*-compliant is (i) it is an independent tribunal whose decision-makers are able to make decisions on sensitive, sometimes life-or-death matters without political influence from the Minister and (ii) no refugee claimant can be denied protection without the opportunity to have a full, in-person hearing where they can call witnesses, cross-examine the government's evidence, and be fully represented by a lawyer. These protections are written directly in the IRPA to ensure the Government must respect them.

The proposed immigration amendment turns back the clock to the time before *Singh*. They give refugee claimants access to only the PRRA process – which was principally meant as a safety-net for claimants who had already been refused by the RPD after a full hearing, not as a substitute for the RPD itself. As noted above, the PRRA application process lacks almost all of the basic protections of the RPD model, and fall far short of the requirements of fundamental justice and procedural fairness.

6. *Parliament cannot and should not pre-judge certain classes of claims or mark them as being unmeritorious without hearing the individual facts of the claim*

Every refugee case is different. For this reason, under s.7 of the *Charter*, refugee claimants are entitled to an independent, unbiased determination of their claim based on the unique facts of their own case. The BIA amendment contravenes this principle.

As detailed in the previous section, there are several reasons why a genuine refugee may be denied protection in a previous country or may choose to come in Canada before a decision on their previous claim has been made. Presently, the IRB meets each such claimant and considers each one's explanations for their past actions. And it then decides, after a full hearing, whether these provide good reason to deny them protection. In some cases it finds the claimant's explanation to be convincing; in others it does not.

The BIA amendment, however, marks out a class of claimants in law – those who have previously made a claim for refugee protection in a Five-Eyes partner country – and pre-judges their case. Indeed, based on the mere fact they have made such a previous claim and *nothing else*, the BIA amendment labels these claimants as suspect; denies them access to the IRB; and then relegates them to a less-fair, less-safe PRRA process. Such *en masse* decision-making is anathema to Canada's refugee system and to our country's understanding of a fair hearing. And it ensures the PRRA Officer begins her/his assessment of the claim from the starting point that the Parliament has marked the claim as being likely unmeritorious. This is contrary to the most basic principles of fairness.

7. *Claimants should have equal access to refugee protection without discrimination based on gender, sexual orientation or gender identity*

Section 15 of the *Charter* guarantees that "every individual is equal before and under the law and has the right to the *equal protection and equal benefit* of the law without discrimination." And the federal courts have consistently held that this equality guarantee applies equally to the government's treatment of refugee claimants in Canada.

The BIA amendment would have disproportionate and discriminatory impact on women and LGBTQ+ refugee claimants – in particular to those traveling onwards from the U.S.:

Women

Women and their children claiming asylum in Canada who have filed a refugee claim in the U.S. on the basis of their fear of domestic violence in their home countries will be significantly harmed by the new ineligibility provision. In 2018, U.S. Attorney General Jeff Sessions established a binding legal precedent that a woman cannot obtain refugee protection for gender persecution based on domestic violence, even if the woman comes from a country that offers women no state protection from domestic violence.[8] The proposed amendment in the Budget bill fails to account for these gaps in U.S. refugee law.

The proposed amendment is a step backward from Canada's current refugee determination system, which has long recognized domestic violence as a basis on which a woman may seek Canada's protection. Canada has acknowledged the special difficulties faced by women asylum seekers in making their legal claims for protection, including that they may be reluctant to disclose their experiences of violence.[9] This recognition was the basis for the creation of the IRB's *Chairperson Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution* over twenty-five years ago, which seek to ensure the fairest possible process for these claimants.

[8] *Matter of A-B,* 27 I&N Dec. 316 (A.G. 2018).
[9] IRB Chairperson *Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution*, November 13, 1996 at D,"Special Problems at Determination Hearings".

Instead of appreciating the special hurdles women asylum seekers face, this budget will make it more difficult for them to establish their refugee claims by depriving them of an independent hearing with an opportunity to make their case. This amendment has the result that women who have experienced domestic violence will not benefit from the full and fair process to which other refugee claimants are entitled under law, and will be at grave risk of return to persecution as a result.

LGBTQ+

The Trump administration's policies on asylum seekers have caused disproportionate suffering for LGBTQ+ people seeking protection from persecution based on gender identity and sexual orientation.

According to US government data collected by Immigration and Customs Enforcement (ICE), LGBTQ+ refugee claimants in detention in the United States are significantly more likely than others to experience sexual assault in detention. While LGBTQ+ people represent only 0.14 percent of the people detained for immigration purposes in the United States in 2017, they were subjected to 12 percent of the reported incidents of sexual assault in detention that year – if substantiated, this makes LGBTQ+ people 97 times more likely to be sexually assaulted in detention than non-LGBTQ+ people in detention.[10]

There are documented reports of trans people and particularly trans women facing harassment, assault and mistreatment by US immigration enforcement officials, and being held in detention for twice as long as other asylum seekers.[11] Some trans women are held in male facilities, and 13% of trans detainees were held in solitary confinement.[12] LGBTQ+ migrants who were in solitary confinement more than 14 days were confined, on average, for 52 days.[13]

[10] Center for American Progress, *ICE's Rejection of Its Own Rules Is Placing LGBT Immigrants at Severe Risk of Sexual Abuse*, May 30, 2018, accessed at https://www.americanprogress.org/issues/lgbt/news/2018/05/30/451294/ices-rejection-rules-placing-lgbt-immigrants-severe-risk-sexual-abuse/

[11] Ibid.

[12] Letter to Homeland Security Secretary from Rep. Kathleen Rice and 36 members of the U.S. Congress, dated May 30, 2018, accessed at: https://kathleenrice.house.gov/uploadedfiles/2018.05.30_lgbt_immigrants_in_ice_detention_letter_to_sec_nielsen.pdf. While ICE stated that some trans detainees were confined for their own protection, at their request, the UN Special Rapporteur states that resorting to the use of solitary confinement to protect an individual's safety can represent a significant infringement on the fundamental human rights of an individual: UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, 5 January 2016, A/HRC/31/57, available at: https://www.refworld.org/docid/56c435714.html [accessed 6 May 2019], at para. 35.

[13] Letter to Homeland Security Secretary from Rep. Kathleen Rice and 36 members of the U.S. Congress, dated May 30, 2018.

A recent report by Amnesty International concluded that LGBTQ+ refugee claimants who are deported from the US face disproportionately high risks to their lives and safety when they are returned to their home countries.[14]

Faced with these sorts of detention policies and practices, there are legitimate reasons why LGBTQ+ claimants have either abandoned their claims or had their claims rejected in the U.S. while they were detained. LGTBQ+ claimants should not be punished in Canada with an inferior refugee determination process as a result.

8. *Conclusion re s. 306 of the BIA*

The right to fair hearing is a bedrock of natural justice. In the refugee context, it is the tenet that we will not return someone to persecution, torture, or possible death unless we have, at a minimum, provided a fair opportunity to hear their story and assess their need for protection. The PRRA process does not allow for such a hearing and as such cannot substitute for the RPD.

Not only will the BIA amendment harm many refugees with well-founded fear of persecution, including in particular women and LGBTQ+ claimants, it will not achieve any legitimate government objective. It will not make the refugee determination system more efficient or cost-effective. Instead it creates a bifurcated refugee determination process where some claimants are granted a fair hearing before the Immigration and Refugee Board, while others are relegated to a separate PRRA process. This is inefficient, unwieldly, and unfair. Those in the PRRA stream will have increased wait times, be denied basic health care resulting in greater emergency room costs, and spend longer in the appeals cycle due to the substandard quality of decision-making by PRRA officers. These consequences all have the inevitable effect of prolonging the process and increasing costs.

CARL urges the Committee and all Members of Parliament to reject the proposed amendment to access to the RPD. At the very least, the amendment should be struck from the BIA and introduced as a stand-alone bill with proper and full opportunity for informed debate, amendment, and a free vote by MPs.

[14] Amnesty International USA, *No Safe Place - LGBTI Salvadorans, Guatemalans and Hondurans Seeking Asylum in Mexico based on their sexual orientation and/or gender identity*, November 2017, accessed at: https://www.amnestyusa.org/reports/no-safe-place-lgbti-salvadorans-guatemalans-and-hondurans-seeking-asylum-in-mexico/

9. *Extending the bar on applications for Pre-Removal Risk Assessments and Humanitarian and Compassionate consideration for refugee claimants who apply to the Federal Court for judicial review is irrational and unfair.*

Sections 303 and 308 of the BIA punish those who exercise the right to apply for judicial review before the Federal Court of Canada. This is unfair and unworthy of Canada's refugee and immigration system.

Currently, refugee claimants must wait 12 months from the final decision on their refugee claim before they can bring new evidence of risk forward in a PRRA application.

The PRRA bar is premised on the idea that after 12 months, there may be a change in circumstances or new evidence of risk (e.g. a family member back home having been killed) which may warrant a reassessment.

However, pursuant to s. 308 of the BIA, the clock on the PRRA bar would only begin to count 12 months from the final decision on an application for judicial review at the Federal Court. In practice, this can extend the bar by six months or more. This is despite the fact the Federal Court cannot assess new evidence and only looks to the risk assessment performed by the IRB.

Issues of global security are fluid and rapidly changing. Circumstances can change overnight. It is therefore patently unreasonable to bar individuals from the ability to have potentially new, compelling evidence of risk assessed for over a year and half.

Furthermore, s. 303 of the BIA similarly extends the bar on those making an application on humanitarian and compassionate (H&C) grounds. This type of application is crucial for many who have compelling circumstances outside the refugee context (e.g. health concerns or the best interests of children).

The Government has provided no evidence to suggest that the existing 12 month bar is ineffective, or that new risks or humanitarian and compassionate circumstances generally do not arise in less than 18 months. In fact they have provided no coherent objective for extending prohibitions for those who apply for judicial review in Federal Court. The law should never penalize those who choose to exercise their legal rights.

CARL urges parliamentarians to reject this amendment.

10. APPENDIX: *Statements from refugee claimants who came to Canada were found to be in need of protection after having been denied in the U.S.*

A. Statement of Fidel Quinteros Munoz, El Salvador:

1. My name is Fidel Quinteros Munoz and I am a Citizen of El Salvador. I am married and have 3 children with my current wife, Esmeralda. Jennifer is 25 years old, Lucero 11, and Anderson is 5.

2. As you know, El Salvador has been plagued with gang violence for decades and in 2011 my family was subjected to this abuse. A few days after Christmas, my wife and I became targets of the Mara Salvatrucha after contravening a gang 'law'. Esmeralda's uncle had been killed by an MS 13 member and we attended his funeral despite the gangs' orders.

3. When my wife and I learned that the gang members were seeking their revenge, we moved with our daughters to a family members' home far from San Salvador. Then, when the gang members found us there, we realized our only option was to leave El Salvador if we wanted to continue living.

4. Therefore, at the end of January, 2012, Esmeralda and I traveled to Guatemala and left Jennifer and Lucero with her cousin.

5. Leaving my country without my daughters was one of the hardest things I have ever done. I tried to reminded myself: the gangs wanted Emeralda and I. It was better this way as we did not know where we would end up or how we would support ourselves.

6. On March 2, 2012, we illegally entered the United States in Texas. If someone spoke about making an asylum claim, we never heard anything about it. We simply followed the other migrants and worked to establish ourselves. It was only in 2014, when Esmeralda inquired about regularizing our status, did we learn we were out of time for requesting protection.

7. We communicated with our daughters regularly and Jennifer disclosed to us that a gang member was harassing her and pressuring her to be a "woman" of the gang (which everyone knows is akin to a sex slave). Out of fear, she stopped attending her University classes in February, 2015.

8. Then, on April, 15, 2015, we received a phone call that still haunts us today. The man, who identified himself as Luis and the head of the Mara Salvatrucha, ordered us to pay him 2,000 USD or he would kill our daughters. I was terrified. This man knew my name, my daughters' names and their whereabouts. I pleaded with Luis for more time to come

up with the funds, and he gave me 24 hours – yet if I failed to comply, I should not be surprised to find my daughters in a black plastic bag.

9. The following day, he sent us threatening text messages, with photos of our daughters.

10. My focus was on getting my daughters out of El Salvador as I had heard of families complying with the gang's request only to later discover that their children were murdered.

11. I was able to get my children to Guatemala where they stayed with my sister for 3 months. Jennifer then insisted on moving back to El Salvador, where she had a long term boyfriend. She said he could protect her and Lucero, and she moved cities.

12. One night; however, when she was at home alone, my daughter was violently attacked by a gang member who tried to rape her. Jennifer has not told me in detail about this attack, so I try to stop myself from imagining the worst. After this incident, my children left El Salvador for good and join us in the United States.

13. On December 24, 2015, Jennifer and Lucero crossed into Texas and were detained separately in Texas. Thankfully, Jennifer managed to be released after a few days since she was pregnant, but Lucero was kept alone for 20 days. She was only 7 years at the time.

14. When Lucero was released, we hired a lawyer to assist us with her asylum claim. The girls had been instructed to apply for asylum separately. I remember my wife and Jennifer testifying at Lucero's asylum hearing; yet in April, 2017, the judge denied my daughter's case and she was given a deportation order.

15. That was a fatal moment and we started panicking. We knew of families who had been ordered to leave and immigration agents showed up to their house to deport them. Returning to El Salvador was a death sentence, therefore, we would have to find another way.

16. While we had the right to appeal Lucero's negative decision, the legal advice we obtained was that success would be nearly impossible, due to Trump's new immigration policies.

17. We were desperate to find safety. After searching online, I learned that I could come to Canada from the US if I had a family member there, and I did, my aunt. In April, 2017 we drove from Houston to Buffalo, and made a refugee claim in Canada the following month.

18. In December of that year, my family and I were successful in our refugee claims. The

decision-maker found that my wife and I were Convention Refugees based on our imputed political opinion, being against MS 13 members, and that Lucero was also a Convention Refugee based on this ground, in addition to her being our family member and a female.

19. During the refugee process in Canada, a few things struck us as being completely different than the American system: namely its transparency and the respect with which our decision-maker treated us. I remember the decision maker in the United States scolding Esmeralda for leaving our children in El Salvador when we fled.

20. We are indebted to this country that gave us the opportunity to present our case and who recognizes the persistence of gang violence in El Salvador, especially towards woman and girls. We know there are many others with similar stories to ours, that also need this opportunity to be heard.

B. Statement of Tesfay Berhane, Eritrea

1. My name is Tesfay Berhane and I am a citizen of Eritrea. [Note: *name changed to protect privacy*].

2. My family was affected by the border war with Ethiopia and me and my siblings were displaced to a Red Cross camp in 2000. After returning to our parents in 2001, my father was taken by men I believed were associated with the Eritrean regime.

3. I was forced to complete Grade 12 in Eritrea in the military camp from June 2006 to March 2007. In March 2007, I was imprisoned for reasons I believed were due to my father's disappearance. I was held in detention until November 2007. While I was in detention I was forced into hard labour and treated like a slave.

4. I was able to flee Eritrea in April 2008, and went to Israel, where I stayed until 2015. I made a claim for refugee protection there, but it was denied as Israel does not allow for permanent protection. In late 2014, it was announced that all refugees who had stayed in Israel for more than five years had to relocate to a camp. I knew this camp was much like a prison than a camp.

5. During this time, I met a man who helped me obtain a document in order to travel to the USA where I could ask for protection.

6. In May 2015, I flew to Mexico and took a bus to the USA border. Upon arrival, I made a refugee claim. I was immediately put into immigration detention. My documents were seized, and I remained in detention for more than one year.

7. My refugee hearing in the USA was heard in December 2015, while I was still in detention. I did not have any access to a lawyer. My case was denied without written reasons. The Immigration judge found that I should have received protection in Israel, even though there was evidence that this is not possible. The judge also found that I should have made a refugee claim in Ethiopia or Sudan, even though neither of those countries are safe for refugees.

8. In July 2016, I was released from detention while the US Immigration tried to get me a passport in order to deport him to Eritrea.

9. I heard that Canada was a place where refugees were better understood and that there was a fairer system than the USA to listen to our cases. I decided to come to Canada. I decided to come to Canada also because of President Trump's election in the USA and the rising racism.

10. In May 2017, I entered Canada on foot near Emerson, Manitoba and made a refugee claim.

11. My claim was accepted in September 2018. My case was accepted through expedited process. The Refugee Protection Division found that I feared persecution by the Eritrean government for my desertion from military service and my illegal exit from Eritrea.