



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **APPLY WITHOUT FEAR: SPECIAL IMMIGRATION MEASURES FOR NATIONALS OF HAITI AND ZIMBABWE**

## **Report of the Standing Committee on Citizenship and Immigration**

**Borys Wrzesnewskyj  
Chair**

**MAY 2016**

**42<sup>nd</sup> PARLIAMENT, 1<sup>st</sup> SESSION**

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# **THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION**

has the honour to present its

## **FOURTH REPORT**

Pursuant to its mandate under Standing Order 108(2) and the motion adopted by the Committee on Tuesday, February 23, 2016, the Committee has studied the Situation Facing Nationals of Haiti and Zimbabwe and has agreed to report the following:



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# PREAMBLE

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On 23 February 2016, the House of Commons Standing Committee on Citizenship and Immigration agreed to “study the situation of Zimbabwean and Haitian nationals in Canada; that the study include an examination of the temporary suspension of removals order; that the study consider the six month window for permanent residence applications and the resources made available to support applications; that the Committee report its findings to the House; and that, pursuant to Standing Order 109, the government table a comprehensive response thereto”.<sup>1</sup> The Committee set aside two hours to hear from witnesses on this study; one for officials from Immigration, Refugees and Citizenship Canada and one for other witnesses. A written submission was also received from the Office of the United Nations High Commissioner for Refugees.

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1 House of Commons Standing Committee on Citizenship and Immigration, [Minutes of Proceedings](#), 23 February 2016.



# APPLY WITHOUT FEAR: SPECIAL IMMIGRATION MEASURES FOR NATIONALS OF HAITI AND ZIMBABWE

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## A. Context

Normally when a person does not have legal immigration status in Canada, a removal order is issued against him or her and they either depart voluntarily or with the assistance of the Canada Border Services Agency (CBSA). Those facing removal from Canada include people who travelled to Canada to make a claim for refugee protection, were denied and have exhausted all appeals, those who have overstayed the duration of their temporary residence visa or permit, or those who entered Canada without proper authorization in the first place.

However, Canada does not carry out all removal orders; in certain situations removals may be suspended or deferred. The Minister of Public Safety and Emergency Preparedness, for example, may announce a temporary suspension of removals to a particular country after a review of country conditions, conducted with the Minister of Immigration, Refugees and Citizenship, determines there is a generalized risk to the population as the consequence of natural disasters, civil unrest or armed conflict. A temporary suspension of removals is currently in place for Afghanistan, Democratic Republic of the Congo, and Iraq.<sup>2</sup>

On account of improved country conditions, the ministers concerned announced on 1 December 2014 that the temporary suspension of removals to Zimbabwe and Haiti was lifted.<sup>3</sup> The temporary suspension of removals to Zimbabwe had been in place since 2002 and for Haiti since 2004. During the years when people could not be removed to these two countries, affected individuals became established in Canada, despite encountering numerous difficulties related to their temporary immigration status.

### 1. Impact on the Haitian Community of the Temporary Stay of Removals

Witnesses who appeared before the Committee shared some of the difficulties faced by Haitian nationals subject to a temporary suspension of removals, but also spoke of the community's resilience in the face of adversity.

Representatives of the Haitian community who appeared before the Committee, such as Ms. Jocelyne Simon and Mr. Pierreson Vaval, indicated that living with a temporary suspension of removal from Canada has created considerable instability for families. Having work permits of short duration (six months or one year) that must be renewed at a cost of \$255 was identified as "a hassle" that at best was an inconvenient

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2 Immigration, Refugees and Citizenship Canada (IRCC) Operations Manual [ENF 10 Removals](#), paragraph 13.5.

3 Government of Canada, [Archived - Temporary suspension of removals lifted for Haiti and Zimbabwe](#).

loss of time and money and, at worst, cost people their jobs.<sup>4</sup> Because it takes Immigration, Refugees and Citizenship Canada (IRCC) three to four months to process a work permit renewal request, they informed the Committee that people are often caught in a cycle of applying for and renewing work permits.

Difficulty with acquiring and renewing work permits was raised as a concern not only for adults, but also for young people who wanted to work or attend school. According to Simon and Vaval, those with valid work permits can attend post-secondary institutions, including cégep, college, and university while paying regular tuition.<sup>5</sup> Those without a valid work permit had to pay international student rates to attend higher education, at \$6,000 for cégep and \$10,000 for university.<sup>6</sup>

Simon and Vaval also identified access to health care as an issue, despite the fact that people subject to a temporary suspension of removals are entitled to benefits under the federal government's Interim Federal Health Program (IFHP). They described the administrative burden on families that have to renew individual family member benefits on different days, and of the reluctance of many medical service providers to accept the IFHP certificate. Further, Mr. Vaval informed the Committee that in Montreal, only the Hospital Santa Cabrini would accept IFHP certificates, meaning that people had to travel from across the city to reach this sole service provider.<sup>7</sup>

In addition to these concerns, the earthquake that struck near Port-au-Prince, Haiti, on 12 January 2010, killing more than 300,000 people and devastating local infrastructure had a significant impact on Haitians in Canada as well. At the time the federal government put in place special immigration measures, which included temporary resident visas for more than 1,700 people and more than 500 temporary resident permits.<sup>8</sup> The earthquake galvanized the Haitian-Canadian community, who raised funds and formed organizations to help those in Haiti and those who came to Canada having lost everything.

## **B. The Special Immigration Measures**

Shortly before the temporary suspension of removals to Haiti and Zimbabwe was lifted on 1 December 2014, the government announced "special measures" allowing affected individuals six months to apply for permanent residence on humanitarian and compassionate grounds, during which time the CBSA would not enforce removals.

Drawing on data primarily from failed refugee claims, officials from IRCC estimate that 3,200 Haitians and 300 Zimbabweans were facing removal at the time the temporary

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4 House of Commons Standing Committee on Citizenship and Immigration (CIMM), [Evidence](#), 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Meeting no. 4, 8 March 2016, 1120 (Pierreson Vaval, Director, Équipe Rivière-des-Prairies).

5 Jocelyne Simon and Pierreson Vaval, speaking notes, p. 4.

6 CIMM, [Evidence](#), 8 March 2016, 1120 (Pierreson Vaval).

7 Ibid., 1125.

8 Immigration, Refugees and Citizenship Canada (IRCC), [End of Haiti Special Measures \(as of August 31, 2010\)](#).

suspension was lifted and potentially interested in the special measures.<sup>9</sup> However, they informed the Committee that there was no way of knowing with certainty how many people had outstanding removal orders, given that Canada does not have exit controls. Some people with removal orders may have left Canada voluntarily; others may have never applied for refugee protection and therefore would not be included in IRCC's estimate.

Officials from IRCC told the Committee that during the six-month period between 1 December 2014 and 1 June 2015 they received 1,700 applications for permanent residence on humanitarian and compassionate grounds under the special measure, covering 2,200 people.<sup>10</sup> The vast majority (742 applications and 1,038 people) were approved in principle; only 67 applications were refused. This represents an approval rate of 93%, significantly higher than the 40% of applications for permanent residence on humanitarian and compassionate grounds usually approved.

On 4 February 2016, the federal government announced that nationals from Haiti and Zimbabwe still in Canada under removal orders or out of status could apply for permanent residence on humanitarian and compassionate grounds under a second special measure, effective until 4 August 2016.<sup>11</sup> For failed refugee claimants who would normally not be allowed to submit an application on humanitarian and compassionate grounds, the Minister of Immigration, Refugees and Citizenship established a temporary public policy to facilitate this initiative.<sup>12</sup>

Using the same figures, IRCC estimates that 900 out of 3,200 Haitians (28%) and 125 out of 300 Zimbabweans (42%) have not yet applied for permanent residence on humanitarian and compassionate grounds and might apply for the recently announced second special measure.

Informing people of the special measure and correcting possible misconceptions is a high priority for the department, according to the officials' testimony. As such, IRCC was using a multi-pronged outreach strategy, including issuing a news release (targeting Quebec and ethnic media in particular), messages on Twitter and Facebook, the IRCC website, and working with stakeholders. They also planned to send letters to the last known address of affected individuals.<sup>13</sup>

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9 CIMM, [Evidence](#), 25 February 2016, 1105 (Michel Dupuis, Acting Assistant Deputy Minister, Operations, Department of Citizenship and Immigration).

10 Ibid., 1110.

11 IRCC, [Notice – Update—Additional time given to people from Haiti and Zimbabwe affected by the lifting of the temporary suspension of removals to apply for permanent residence in Canada](#).

12 IRCC, Policies, operational instructions and agreements, [Temporary public policy concerning failed refugee claimants subject to the 12-month bar on requests for humanitarian and compassionate consideration following the lifting of the temporary suspension of removals \(TSR\) on Haiti and Zimbabwe](#).

13 CIMM, [Evidence](#), 25 February 2016, 1120 (Maia Welbourne, Acting Associate Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration).

## 1. Eligibility Criteria and Application Requirements

Section 25 of the *Immigration and Refugee Protection Act*<sup>14</sup> provides the flexibility to grant permanent residence status or a permanent resident visa to certain foreign nationals who would otherwise not qualify in any class, in cases in which there are compelling humanitarian and compassionate grounds.

In deciding on applications, immigration officers are guided by department-issued policy and procedures, in addition to the legislative framework. The guidelines for factors to consider in a humanitarian and compassionate assessment include, but are not limited to, the following:

- establishment in Canada;
- ties to Canada;
- the best interests of any children directly affected by the decision;
- factors in their country of origin including adverse country conditions;
- health considerations including inability of a country to provide medical treatment;
- family violence considerations;
- consequences of the separation of relatives;
- inability to leave Canada has led to establishment; and
- any unique or exceptional circumstances that might merit relief.<sup>15</sup>

The degree of the applicant's establishment may be measured with questions such as whether he or she has a history of stable employment, has been involved in the community, has shown integration by undertaking academic studies, or has family members in Canada.

Applications submitted under the special measures for nationals of Haiti and Zimbabwe have to meet the regular requirements under humanitarian and compassionate considerations. Further eligibility criteria include:

- never having been found to be ineligible to have a refugee claim referred to the Immigration and Refugee Board of Canada (IRB);
- not being inadmissible on grounds of security, human or international rights violations, criminality, serious criminality or organized criminality;

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14 *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

15 IRCC, [Humanitarian and compassionate assessment: Hardship and the H&C assessment](#).

- not having been excluded by the IRB from refugee protection under the United Nations Convention Relating to the Status of Refugees;
- not having had criminal charges dropped by the Crown to effect a removal order; and
- not having an outstanding criminal warrant.<sup>16</sup>

While some people might be excluded from applying for the special measure as a result of these criteria, all persons facing removal from Canada are eligible for a Pre-Removal Risk Assessment (PRRA), which is generally a paper review evaluating the risks that the individual would face if he or she were returned to their country of origin.

Persons submitting an application for permanent residence on humanitarian and compassionate grounds have to complete the required forms, attach photos, and provide photocopies of identity and relationship documents, such as passports and marriage certificates.<sup>17</sup> The application must also include the fee of \$550 per adult and \$150 per dependent.

## **2. Witness Testimony Concerning the Special Measures and Humanitarian Applications**

Witnesses shared with Committee members that the lifting of the temporary suspension on removals generated considerable fear in the Haitian community, even as some were optimistic about the opportunity to gain permanent resident status through the special measure. According to Ms. Simon, President of the Concertation-action des citoyens et des citoyennes d'origine haïtienne, people were afraid of being removed from Canada and sent back to Haiti, where, as she observed, they do not know what awaits them. Their friends and family may be dead, and houses and other assets destroyed. Further, she noted ongoing concern over political, social and economic instability in Haiti, and problems such as kidnapping, contagious diseases, reprisals, and locals' suspicions of returnees.<sup>18</sup>

The United Nations High Commissioner for Refugees (UNHCR) shared these concerns, informing the Committee of a letter on returns to Haiti issued jointly by the UNHCR and the United Nations High Commissioner for Human Rights (OHCHR) in June 2011, but still considered valid.<sup>19</sup> In it, the two bodies requested that governments renew, on humanitarian grounds, residence permits that have allowed Haitians to remain outside the country. Failing that, the letter put forward principles to guide any returns. Specifically, the UNHCR and OHCHR suggested that governments:

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16 IRCC, Operational manuals 2015, [Operational Bulletin 600 \(modified\) – January 23, 2015](#).

17 For the complete list of requirements, see IRCC, [Document Checklist: Humanitarian and Compassionate Considerations](#).

18 CIMM, [Evidence](#), 8 March 2016, 1135 (Marie-Jocelyne Simon, President, Concertation-action des citoyens et des citoyennes d'origine haïtienne).

19 United Nations High Commissioner for Refugees, Written Submission dated 14 March 2016, p. 2.

- “give special consideration and refrain from returning to Haiti persons with special protection needs;
- prevent situations where returns lead to separation of family members;
- verify the nationality of persons of Haitian origin when doubts arise; and
- ensure that forced returns are undertaken in a humane manner in full respect for human rights and dignity, and with adequate advance notification provided to the competent Haitian authorities so they can prepare for their reception”.<sup>20</sup>

In terms of applying for permanent residence through the special measure, witnesses suggested that the documents required in support of each application were difficult for many Haitians to obtain. Mr. Vaval explained that it is difficult, for example, to obtain baptismal certificates, identity cards and passports, adding that:

It's difficult to get all the information you need in the permanent residence application process. People are often unable to apply because the situation in Haiti has changed. The documents and people who could testify are no longer there. The more time passes, the more complicated the situation becomes, so that it is more and more difficult for these people to meet the requirements.<sup>21</sup>

The personal story of Mr. Jean-Fritz Cima, who also appeared before the Committee, revealed that applicants are not always well served by the immigration representatives hired to assist with the application process, often at high personal cost. Mr. Cima reported that his representative had completed the paperwork for a refugee claim without involving him. Discrepancies between what Mr. Cima told the IRB and what was written in his application caused the IRB member to doubt his credibility, and his refugee claim was denied. His subsequent application for permanent residence on humanitarian and compassionate grounds was refused because he had not signed the affidavit at certain places.<sup>22</sup>

On behalf of the Haitian community in Montreal, Ms. Simon offered to partner with the government in the important work of outreach to people affected by lifting the temporary suspension of removals, as well as to those whose applications were refused under the first special measure. She suggested that people might be more comfortable completing paperwork with community organizations rather than seeking advice from lawyers or consultants.

### **C. Recommendations**

The Committee would like to commend the department and other stakeholders for the success of the initial special measure for Haitians and Zimbabweans now subject to

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20 Ibid.

21 CIMM, [Evidence](#), 8 March 2016, 1140 (Pierreson Vaval).

22 CIMM, [Evidence](#), 8 March 2016, 1140 (Jean-Fritz Cima, appearing as an individual).

removal. In the spirit of building on that success, we offer the recommendations that follow. It is our hope that as many people as possible now facing removal to Haiti and Zimbabwe will have the opportunity to make an application to remain in Canada on humanitarian and compassionate grounds, and that those deserving will receive favourable decisions.

The following recommendations address four areas related to the special immigration measures: publicity, the application process, collaboration with community groups, and the cost. Our final recommendation applies to the administrative burden faced by people living under a temporary suspension of removals.

## **(I) Publicity**

The Committee applauds IRCC's efforts to publicize the special measure for nationals of Haiti and Zimbabwe. However, it is concerned that the people who did not apply under the first measure are those more difficult to reach. The estimated 125 nationals from Zimbabwe are of particular concern in this regard, as they are more geographically dispersed across Canada than the Haitian community, 90% of whom reside in Quebec. The key message for any publicity of the special measure, the Committee believes, should be that it is safe to come forward and apply. As such, we recommend the following:

### **RECOMMENDATION 1**

**That Immigration, Refugees and Citizenship Canada redouble its efforts to publicize the special immigration measure for nationals of Haiti and Zimbabwe with a focus on:**

- **The form of media most likely to reach the intended audience;**
- **Positive messaging to address fears of coming forward, including the high approval rate on applications already submitted; and**
- **Correcting myths, such as the myth that people who already had an application on humanitarian and compassionate considerations denied could not apply again under the special measure.**

## **(II) Application Process**

The Committee heard that the application process for the special measure is arduous and not necessarily sensitive to the realities of obtaining original documents from Haiti that confirm identity and relationships. The Committee notes that the application process for all permanent resident applications on humanitarian and compassionate grounds is essentially the same as those in place for the special measure, and suggests that the federal government may wish to review them from a client service perspective.

Given the serious consequence of a negative decision on an application under the special measure, the Committee suggests that the decision-making process be more flexible. In particular, there could be benefit in allowing applicants to respond to flags in the application before a final decision is rendered. Further, as the August deadline nears, the Committee suggests the department take a flexible approach in assessing applications. So, for example, if an application is lodged, but missing some supporting documentation, that the applicant be allowed to provide it after the deadline.

In order to make the application process for the special measure easier, the Committee recommends as follows:

## **RECOMMENDATION 2**

**That Immigration, Refugees and Citizenship Canada review the process of applying for permanent residence under humanitarian and compassionate grounds, with a view to making it less onerous for applicants.**

## **RECOMMENDATION 3**

**That Immigration, Refugees and Citizenship Canada consider alternate methods of verifying identity and relationships, such as the use of affidavits, and make these alternatives available to applicants under the special measure.**

### **(III) Collaboration with Community Organizations**

Normally those who submit an application to remain in Canada on humanitarian and compassionate grounds complete the forms either on their own or pay an immigration representative or lawyer to assist them. Limited legal aid assistance is available in some provinces to defray the costs for those who cannot afford a lawyer.

For the special measure concerning nationals of Haiti and Zimbabwe, the Quebec government funded five organizations to assist people with their application: Maison d'Haïti, Service d'aide et de liaison pour immigrants La Maisonnée, Accueil aux immigrants de l'Est de Montréal, Carrefour d'intercultures de Laval, and Carrefour le Moutier.<sup>23</sup> Otherwise, no special funding was earmarked to assist applicants.

The Committee finds it is a worthwhile idea to direct applicants to community organizations for assistance with applying for the special measure. If possible, an official could be designated at IRCC regional offices to act as a resource for them. These groups have established relationships of trust with the local population, likely have employees that speak the same language, and they are well placed to reinforce the message that coming

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23 Québec, [\*Levée de la suspension temporaire des renvois vers Haïti et le Zimbabwe : période additionnelle de six mois accordée pour présenter une demande de résidence permanente au Canada.\*](#)

forward is a safe option that will not lead to immediate removal from Canada. Ms. Simons indicated the willingness of the Haitian community to work together in coalition to assist applicants. Furthermore, providing community groups with appropriate resources to help with the application process minimizes reliance on paid representatives and reduces the risk of vulnerable people being taken advantage of by unscrupulous professionals. Accordingly, the Committee recommends as follows:

#### **RECOMMENDATION 4**

**That Immigration, Refugees and Citizenship Canada identify organizations that could help with completing applications under the special measure and consider providing them with extra resources for so doing. Further, that these arrangements be well publicized so that affected persons know where to turn for assistance.**

#### **(IV) Cost**

The application fee under the special measure is \$550 per adult and \$150 per dependent. However, one witness advised the Committee that he had spent \$16,000 on multiple immigration applications.<sup>24</sup> The Committee finds that the fees are high, especially considering that many of the Haitians resident in Canada and affected by the lifting of the temporary suspension of removals came here in the aftermath of an earthquake. The testimony before the Committee concerning work permit difficulties also suggests that these applicants are likely not well off financially. In light of these realities, the Committee recommends:

#### **RECOMMENDATION 5**

**That Immigration, Refugees and Citizenship Canada examine the cost of applying for permanent residence on humanitarian and compassionate grounds, particularly for lower income applicants, and consider lowering fees or providing fee assistance where appropriate; and that IRCC ensure that this review applies to the current applicants under this special measure.**

#### **(V) Administrative burden of living under a temporary suspension of removal**

While the temporary suspension of removals has been lifted for nationals of Haiti and Zimbabwe, it is still in place for nationals of Afghanistan (since 1994), Democratic Republic of the Congo (since 1997), and Iraq (since 2003).

Witnesses before the Committee suggested that the administrative burden of applying for and renewing work permits and health coverage certificates interfered with people's ability to secure and maintain employment. They suggested that the validity

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24 CIMM, [Evidence](#), 8 March 2016, 1110 (Jean-Fritz Cima).

periods for such documents be extended from 6 to 12 months to 18 or 24 months. Given that many people live under a temporary suspension of removals for extended periods, the Committee agrees that the department should consider issuing permits with longer validity periods. Given that many of these individuals become established in Canadian society and are ultimately successful in applying for permanent residence on humanitarian and compassionate grounds, it is in Canada's interests to remove barriers to their short-term integration. To this end, the Committee recommends:

#### **RECOMMENDATION 6**

**That Immigration, Refugees and Citizenship Canada consider issuing work permits and Interim Federal Health Program certificates valid for 18 months to people who have been in Canada for one year or longer with a temporary suspension of removal.**

#### **RECOMMENDATION 7**

**That Immigration, Refugees and Citizenship Canada work to ensure that healthcare providers do not refuse healthcare services to individuals covered by the Interim Federal Health Program.**

#### **D. Conclusion**

People from Haiti and Zimbabwe facing removal to their countries of origin have been living in limbo, unable to become fully integrated in Canada. The special measure provides a generous option allowing many of them to stabilize their lives in Canada and prepare for a future here. The Committee is pleased that the special measure has worked well for so many people already. We believe that the second special measure could likewise be a success, and urge IRCC to implement our recommendations for improvement. Most importantly, we urge IRCC to take advantage of the opportunity to partner with community organizations in order to publicize the special measure and encourage people to come forward without fear.

# LIST OF RECOMMENDATIONS

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## RECOMMENDATION 1

That Immigration, Refugees and Citizenship Canada redouble its efforts to publicize the special immigration measure for nationals of Haiti and Zimbabwe with a focus on:

- The form of media most likely to reach the intended audience;
- Positive messaging to address fears of coming forward, including the high approval rate on applications already submitted; and
- Correcting myths, such as the myth that people who already had an application on humanitarian and compassionate considerations denied could not apply again under the special measure. .... 9

## RECOMMENDATION 2

That Immigration, Refugees and Citizenship Canada review the process of applying for permanent residence under humanitarian and compassionate grounds, with a view to making it less onerous for applicants..... 10

## RECOMMENDATION 3

That Immigration, Refugees and Citizenship Canada consider alternate methods of verifying identity and relationships, such as the use of affidavits, and make these alternatives available to applicants under the special measure. .... 10

## RECOMMENDATION 4

That Immigration, Refugees and Citizenship Canada identify organizations that could help with completing applications under the special measure and consider providing them with extra resources for so doing. Further, that these arrangements be well publicized so that affected persons know where to turn for assistance..... 11

**RECOMMENDATION 5**

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**RECOMMENDATION 7**

**That Immigration, Refugees and Citizenship Canada work to ensure that healthcare providers do not refuse healthcare services to individuals covered by the Interim Federal Health Program. .... 12**

## APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<b>Department of Citizenship and Immigration</b> Michel Dupuis, A/Assistant Deputy Minister, Operations Maia Welbourne, A/Associate Assistant Deputy Minister, Strategic and Program Policy	2016/02/25	3
<b>As an individual</b> Jean-Fritz Cima <b>Concertation-action des citoyens et des citoyennes            d'origine haïtienne</b> Marie-Jocelyne Simon, President <b>Équipe Rivière-des-Prairies</b> Pierreson Vaval, Director	2016/03/08	4



**APPENDIX B  
LIST OF BRIEFS**

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**Organizations and Individuals**

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**Concertation-action des citoyens et des citoyennes d'origine haïtienne**

**Office of the United Nations High Commissioner for Refugees**



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 3, 4, 11 and 12](#)) is tabled.

Respectfully submitted,

Borys Wrzesnewskyj  
Chair



## Supplementary Report of Her Majesty's Official Opposition The Conservative Party of Canada (CPC)

*David Tilson, Member of Parliament for Dufferin – Caledon*  
*Michelle Rempel, Member of Parliament for Calgary Nose Hill*  
*Bob Saroya, Member of Parliament for Markham – Unionville*

Protecting the integrity of Canada's immigration system is a key priority for the Conservative Party of Canada. With this in mind, the Conservative Members of the Standing Committee on Citizenship and Immigration offer the following supplementary recommendations to the Committee's report *Apply Without Fear: Special Immigration Measures for Nationals of Haiti and Zimbabwe*.

### **Publicity**

We commend Immigration, Refugees and Citizenship Canada (IRCC) for the success of previous outreach campaigns and are encouraged to see that level of success be built upon through the current outreach campaign. This was confirmed by Mr. Michel Dupuis (A/Assistant Deputy Minister, Operations, Department of Citizenship and Immigration) who noted, "[w]hen we look at the numbers we would say that the previous program was quite successful, when we go from 3,500 people to now approximately 1,000. We really want to continue the same thing, to make sure that we would allow as many people as possible to become permanent residents under this program."<sup>1</sup>

With this in mind we offer our support for redoubled publicity efforts for the special immigration measure for nationals of Haiti and Zimbabwe.

**Recommendation:** See committee report.

### **Application Process**

In regards to the Committee recommendation that IRCC consider alternate methods of verifying identity relationships, it is our strong belief that no changes or recommendations be made in the absence of evidence, facts or robust analysis of the potential ramifications. This includes, but is not limited to, the use of signed affidavits to verify identity and serve as a substitute for original documentation.

**Recommendation:** That the Department of Immigration, Refugees and Citizenship conduct a thorough analysis of the potential implications of using alternate methods of verifying identity relationships, including analyzing the likelihood that the new documents being produced are fraudulent, and that this analysis be conducted prior to

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<sup>1</sup> CIMM, [Evidence](#), 25 February 2016, 1105 (Michel Dupuis, Acting Assistant Deputy Minister, Operations, Department of Citizenship and Immigration)

any change being made in the application process.

### **Collaboration with Community Organizations**

Strong community relationships are of the utmost importance to the Conservative Party of Canada. Therefore, we support the recommendation that IRCC identify organizations that could help with completing applications under the special measure and that these arrangements be well publicized.

**Recommendation:** See committee report.

### **Cost**

We cannot support the recommendation that IRCC reduce the cost of applying for permanent residence on humanitarian and compassionate grounds in association with this special measure until a full analysis has been done on the financial implications of this decision.

**Recommendation:** That IRCC do a full analysis on financial implications this decision might have, namely, on Canadian taxpayers and the precedent set by reducing fees below cost-recovery levels.

### **Administrative Burden of living under a temporary suspension of removal (TSR)**

A TSR may be imposed on a country when the entire civilian population faces a generalized risk as a result of an armed conflict within a country or place; an environmental disaster resulting in a substantial temporary disruption of living conditions; or any situation that is temporary and generalized. Many individuals impacted by a temporary suspension of removals become established in Canadian society and are ultimately successful in applying for permanent residence on humanitarian and compassionate grounds. As highlighted in the committee report, “Officials from IRCC told the Committee that during the six-month period between 1 December 2014 and 1 June 2015 they received 1,700 applications for permanent residence on humanitarian and compassionate grounds under the special measure, covering 2,200 people. The vast majority (742 applications and 1,038 people) were approved in principle; only 67 applications were refused. This represents an approval rate of 93%, significantly higher than the 40% of applications for permanent residence on humanitarian and compassionate grounds usually approved.”<sup>2</sup>

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<sup>2</sup> CIMM, [Evidence](#), 25 February 2016, 1105 (Michel Dupuis, Acting Assistant Deputy Minister, Operations, Department of Citizenship and Immigration) via CIMM, [Committee Report: Apply Without Fear: Special Immigration Measures for Nationals of Haiti and Zimbabwe](#), pg 5.

Given the significantly higher approval rate of applications for permanent residence on humanitarian and compassionate grounds under the special measure, we would not support a further reduction in system processes or structure as it applies to individuals in this circumstance. We would further emphasize that a TSR is imposed due to exceptional circumstances, and corresponding special measures are not designed to be a regular immigration stream.

**Recommendation:** That IRCC continue to advertise the high approval rate of applications for permanent residence on humanitarian and compassionate grounds under the special measure while similarly advocating and protecting regular immigration streams for those wishing to immigrate to Canada.

### **Healthcare Services**

Given the intricacies of the Interim Federal Health Program (IFHP), we would not be able to support any recommendation that would change the process for receiving IFHP services in the absence of a thorough analysis of healthcare services and their accessibility.

**Recommendation:** That IRCC work to ensure that relevant individuals are aware of the services offered to them under the IFHP, including being made aware of the eligibility requirements, structure of support and availability of these services.



## Minority Report

### Special Immigration Measures for Haitian and Zimbabwean Nationals

The Standing Committee on Citizenship and Immigration (CIMM) agreed to study the Special Immigration Measures for nationals of Haiti and Zimbabwe. I would like to extend my thanks to the committee for studying this important issue and I thank the member from Longueuil-Saint Hubert for bringing the issue to my attention. I would also like to thank the member from La Pointe-de-l'Île for his interventions at the committee on this important subject.

As critic for Citizenship, Immigration and Refugees for the NDP, I believe that this situation warranted examination in order to ensure that all individuals and their families potentially impacted by the lifting of the temporary suspension of removal to Haiti and Zimbabwe are not unduly displaced after they have worked so hard to rebuild their lives here in Canada. While the government has decided that these two nations are stable enough to recommence removals, there is no denying that for some people, returning to those nations would be unjust, as established families in Canada could be torn apart, and removal from Canada could still put people in potentially dangerous situations.

To assist committee members to better understand the situation for the effected Haitians and Zimbabweans nationals, I would also like to extend my sincere thanks to the witnesses who were able to attend and present to the committee on this important subject as well as those who came to observe the proceedings but were not able to secure a witness spot.

The committee had the opportunity to listen to expert testimony from three perspectives on this issue<sup>iii</sup>:

- Officials from the Department of Citizenship and Immigration provided program and policy details around the special immigration measures, outreach activities to the impacted communities, and rationale for the lifting of the temporary suspension of removals.
- Representatives Ms. Marie-Jocelyne Simon, President of Concertation-action des citoyens et des citoyennes d'origine haïtienne and Mr. Pierreson Vaval, Director of Équipe Rivière-des-Prairies provided valuable insight from the perspective of the community organizations on the ground in these immigrant communities.
- The lived experiences of and realities of Mr. Jean-Fritz Cima, a Haitian born man in Canada personally impacted by these policy decisions

In addition to those who presented, I also had the opportunity to speak with and bring to the committee for attendance, Mr. Serge Boucherau, a representative from the Action Committee for Persons Without Status, and Mrs. Oriol, an individual in Canada without status. During the committee hearing, I was able to use some of my allotted time to bring to the committee some of the issues that Mr. Bergeron and Mrs. Oreal would have raised, had they been selected as witnesses. These issues included: The difficulty in reaching out to all individuals who were impacted by the lifting of the suspension; the difficulty individuals have navigating the application processes and paperwork; the role fear has in preventing individuals in these communities from coming forward and applying for status; and their support for regularizing the status of Haitians and Zimbabweans impacted by this special measure.

The witnesses provided the committee with important perspectives surrounding this complex issue. The Committee was able to hear both from individuals dealing with these issues personally as well as from the valuable community organizations that are reaching out and working with affected communities, to the best of their ability, to ensure individuals impacted have access to the appropriate services and processes to remain legally in Canada. It was important that policy makers are made aware of the fact that there is a policy-practice gap – a difference between how a policy is developed and written versus how it is actually put in practice. This is especially true in cases where the target population is a small minority group facing high stakes. For example, the witnesses were very conscious of the fear in the community about coming forward and applying for status. Because of their experience in Haiti and Zimbabwe dealing with various levels of government with less accountability than that which exists in Canada, individuals are understandably fearful that the special measures are an attempt to find people and remove them from Canada. Policy, no matter how well intentioned, will not be able to be adequately developed if these practical aspects are not known and accounted for<sup>iii</sup>.

### **Report Recommendations:**

Based on witness testimony, the committee was able to develop six recommendations which are included in the report, and will be sent to IRCC. While these recommendations touch on very important aspects of Special Immigration Measures and I support the direction of the recommendations, I also note that on the whole, the recommendations are not action oriented. The recommendations in the main report, while acknowledging the fact that serious problems do exist, only request that these problems be examined and considered. This is deficient in my view, given the gravity of the situation. As well, we must keep in mind that these current Special Measures will expire on August 4, 2016. If appropriate action is not taken in a timely manner, there will be significant negative consequences for individuals and families. It could put people at risk, and break up families that are well established in Canada.

We heard from witnesses that the impacted individuals and families are much more comfortable coming forward and completing the applications when they are working with the organizations they know they can trust<sup>iv</sup>. This could help address the fear aspect. We also heard from an affected individual about the dangers of having poor counsel. On top of what can be considered extremely high fees, there are less than qualified individuals claiming to be immigration consultants and lawyers that are providing people with services that ultimately lead to their applications being rejected<sup>v</sup>. Beyond the monetary cost, there is a chance that these inadequate services can lead to someone being unjustly removed from Canada. One way to address this is to provide funding to well established, legitimate community organizations to offer these services to the Haitian and Zimbabwean community.

**In recommendation 4, IRCC is being advised to consider providing extra resources to the organizations working within the communities to assist people as they attempt complete the applications. We heard very clearly how important these organizations are in providing these services, and how funding is a considerable issue for them. Providing additional funding to these established, legitimate community organizations is necessary and should be recommended.**

Currently, the application fees are \$550 per adult, and \$150 per dependent. For those who have had applications rejected in the past, they have already spent a considerable amount of money. One witness informed the committee that he has spent \$16,000 on multiple rounds of applications<sup>vi</sup>. Permanent residence and citizenship in Canada should be based on merit, not income. The high fees, which have been greatly increased in recent years, need to be addressed. From the witnesses, we did not hear the fees needed to be eliminated. What we heard is that the fees should be changed, specifically to \$100.

**In recommendation 5, IRCC is being asked to examine reducing fees associated with applying for permanent residence, and to consider lowering fees for this special measure. This was also discussed quite clearly by the witnesses. The costs of the various applications, especially when it involves an entire family, can be incredibly onerous. A family should not have to be faced with the choice of paying for permanent residence applications or paying rent.**

## **New Recommendations:**

In addition to strengthening the report's recommendations, I would also like to draw attention to a number of issues that witnesses identified as major concerns that the IRCC should address.

The Interim Federal Health Program exists to extend healthcare services to refugees, refugee claimants and certain other groups. An issue that was brought to the attention of the committee is that due to the administrative burden the IFHP places on healthcare providers, it is far easier for providers to simply refuse to provide services to individuals covered under IFHP. This is simply unacceptable. We heard at committee that there is only one hospital in Montreal, where a sizable Haitian community exists, which will provide services to those covered by IFHP<sup>vii</sup>. This could be preventing individuals from obtaining care they need and are entitled to, which in turn can add to the burden on our healthcare system because individuals are forced to wait until the health concern is unbearable and they end up in our emergency rooms. For those that do seek care, additional transportation costs and travel times can negatively impact their already precarious situations. To that end, the NDP recommends:

**That Immigration, Refugees and Citizenship Canada work to ensure that healthcare providers do not refuse healthcare services to individuals covered by the Interim Federal Health Program**

If a member of the Haitian or Zimbabwean communities submitted a standard application for permanent residence after April 4, 2013 and prior to the 1<sup>st</sup> special measure which began on December 1, 2014, there is a possibility that their application will not have a decision reached prior to the special measures ending on August 4, 2016. According to IRCC, the current processing time for humanitarian and compassionate cases is 40 months<sup>viii</sup>. For any Haitian or Zimbabwean national that submitted a standard humanitarian and compassionate case application after the 1<sup>st</sup> window closed and prior to the 2<sup>nd</sup> window opening, their case could not have a decision until May 2019.

As the acceptance rate under the special measures is considerably higher than the general acceptance rate of humanitarian and compassionate cases, it would be unjust for an individual who submitted forms at the wrong time to be subject to removal, when they would have been accepted if they applied at a different time. Additionally, part of the special measures is that individuals that have been rejected in the past - even on humanitarian and compassionate grounds - are able to apply. For an individual who applied in August 2015, it is unlikely they will have a decision prior to the special measures ending. It is unfair for this individual to be subject to removal from Canada on the basis of the timing of their application. To ensure a fair and just system, the IRCC

should identify standard cases currently in the system that are eligible for the special measures, and process them accordingly. The NDP recommends:

**That those who applied for permanent residency as humanitarian and compassionate cases either before the 1<sup>st</sup> six-month window (December 1, 2014 to June 1, 2015) or in between the 1<sup>st</sup> window and 2<sup>nd</sup> window (June 2, 2015 to February 4, 2016) be flagged in the system and moved into the special measure processing.**

Finally, it is important to draw attention to the words of the Minister of Citizenship and Immigration and Refugees, mere months ago. On January 25, 2016, in response to a question on this very issue in Question Period, Minister McCallum stated:

“Mr. Speaker, I have spoken with my Quebec counterpart. We made a firm decision to allow these people to stay in Canada. That is what we decided, and that is what will happen.”<sup>ix</sup>

Less than one month later, the Minister seems to have completely changed course, and only opened up a 2<sup>nd</sup> limited window for applications. We heard from the witnesses quite clearly that providing permanent residence to the relatively few people impacted by these measures was by far their agreed upon approach. It appears that this was also the opinion of the Minister. My recommendation therefore is:

**That, on recommendation of expert stakeholders and understanding the current realities facing individuals in both Haiti and Zimbabwe, that the Government provide the ability for all individuals impacted to regularize their status within Canada without imposing an arbitrary and unnecessarily rushed deadline.**

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<sup>i</sup> CIMM, [Evidence](#), 1st session, 42nd Parliament, 25 February 2016

<sup>ii</sup> CIMM, [Evidence](#), 1st session, 42nd Parliament, 8 March 2016

<sup>iii</sup> CIMM, [Evidence](#), 1st session, 42nd Parliament, 8 March 2016 1155 (Ms. Simon)

<sup>iv</sup> Ibid

<sup>v</sup> CIMM, [Evidence](#), 1st session, 42nd Parliament, 8 March 2016 1140 (Mr. Cima)

<sup>vi</sup> CIMM, [Evidence](#), 1st session, 42nd Parliament, 8 March 2016 1110 (Mr. Cima)

<sup>vii</sup> CIMM, [Evidence](#), 1st session, 42nd Parliament, 8 March 2016 1125 (Mr. Vaval)

<sup>viii</sup> [“Check application processing times”, Citizenship and Immigration Canada](#)

<sup>ix</sup> Edited Hansard, [Oral Questions](#), 42<sup>nd</sup> Parliament, 25 January 2016 1455 (Minister McCallum)