

SUBMISSION CONCERNING THE PROTECTION OF CANADA'S REFUGEES AS IMPACTED IN BILL C-31

This submission highlights concerns, stemming from certain provisions affecting refugees in amended legislation in Canada, viz., Bill C-31, Protecting Canada's Immigration System Act. We believe key provisions undermine Canada's ability to offer fair and just treatment of refugees as relates to the rights and protections explicit in national and international agreements and conventions concerning human rights.

1. THE RIGHT TO EQUAL TREATMENT

Amendments to Bill C-31 have created a de facto discriminatory, two-tier system for refugees seeking asylum in Canada. The amended legislation has given Canada's Minister of Citizenship, Immigration and Multiculturalism the authority to take action to return ("refouler") refugees to countries designated as safe and democratic despite all indicators to the contrary. It effectively compromises the spirit of the UN Convention relating to the Status of Refugees (cf., Article 33) that states that no state shall expel or return a refugee in any manner whatsoever to the frontiers of territories where their life or freedom would be threatened. The Minister of Immigration now has the power to designate some countries for different treatment than others. Refugees from a Designated Country of Origin find themselves in different categories from others who do not come from such designated countries.

A particularly unjust practice is that of providing timelines for refugees from a Designated Country of Origin to secure legal counsel in Canada that are so short as to make it impossible to do so. It not only affects individual refugee claimants but also their families. The practice also appears to contravene the spirit of the UN Convention as regards expulsion (cf., Article 32) and the principle of unity of the family (cf., Section B).

Groups working in Canada with refugees can attest to the fact that most refugees are unable to secure a lawyer, gather sufficient documentation to complete the required refugee application form, or be able to fully explain at their formal hearing what they have experienced when the trauma they have faced is so fresh.

If their knowledge of English or French is insufficient, they will need to employ the services of competent translators who may not be readily available. Some of these refugees have been tortured and have to rebuild trust before they will feel free to share their stories before members (complete strangers) of the Immigration and Refugee Board. Women and men who have experienced sexual violence and LGBT persons may be among the most vulnerable.

Recommendation

That Canada's refugee determination system be a fair, timely and independent process to decide who is a refugee, based on the facts of their individual case and regardless of their country of origin.

2. THE RIGHT TO FAIR PROCESS

Bill C-31 has created a new category of refugee. The Minister of Public Safety now has the discretion to designate two or more refugees as “irregular arrivals”. They are to be detained for up to one year before their refugee claim is adjudicated. If there are children under 16 years of age, they will be separated from their families and put in care. Even if they are successful in their refugee claim, in certain circumstances their permanent residence status can be revoked for up to five years. This can lead to arbitrary arrest and detention (cf Article 9) which violates the rights of irregular arrivals to be treated as equal before the law (cf Article 7).

Recommendation

That the Canadian government rescind the power granted to the Minister of Public Safety to declare refugees to be “irregular arrivals”.

3. THE RIGHT TO FAMILY LIFE

The trauma of fleeing one’s own country while leaving behind family is already a harsh reality being faced by refugee claimant. The government’s measures, intended to assist these people under Bill C-31, will only punish refugees further.

The one year detention imposed upon those refugees designated by the Minister of Public Safety as irregular arrivals: separates them from their families, prevents them from leaving Canada and results in their families remaining at risk in their countries of origin.

These claimants are not only denied the right to family reunification but the right to travel abroad for over five years (cf Article 13). There are many reasons why a person could be forced to flee to Canada without his/her family and therefore, humane approaches should be made to accommodate these situations.

Recommendation

We re-affirm and request the immediate and full implementation of the 2009 UPR recommendation, accepted by Canada, which reads: “Launch a comprehensive review leading to legal and policy reforms which protects the rights of refugees and migrants to family reunification.”

4. THE RIGHT TO HEALTH CARE

Access to medical coverage has long been difficult for many refugees and refugee claimants in Canada as a result of the long-standing limitations of the Interim Federal Health Program (IFHP). Since June 30, 2012, the situation has become much worse, following devastating cutbacks to the IFHP. Some people are eligible for only very limited coverage, others have ABSOLUTELY NO health care. The situation is also very confusing, with many people, both those needing health care and those providing it, unclear about who is eligible for what services. Since everyone has a right to health care in Canada, many health care providers continue to serve refugees. To put vulnerable people at risk because of cuts to health services is a major concern to all Canadians. The seriousness of this situation is aggravated by the manipulation of figures which results in attributing the minimal financial cost of health care to refugees as the reason to deny justice to refugees.

We share the story of Daniel Garcia Rodriguez as a case in point:

“After years of persecution by paramilitary groups in Colombia Daniel Garcia Rodriguez came to Canada in 2007. As of 30 June 2012, the Federal Government in Ottawa terminated the Interim Federal Health coverage of this Colombian refugee, as well as that of many other refugees. Daniel suffered from chronic retinal detachment and would become blind without an operation. Since his arrival Daniel had been adapting successfully to Canadian life along with his Venezuelan-born wife and their Canadian-born daughter. An eye surgeon from St. Michael’s Hospital in Toronto intervened and saved Daniel’s eyesight. Daniel now continues his successful efforts to live an honourable life in Canada.

Dr. Philip Berger, a spokesperson for “Canadian Doctors for Refugee Care,” stated, “Government should not play chicken with somebody’s vision. It is not a game. It is people’s lives. It is hideous and outrageous that the government keeps saying refugees are getting gold-plated health care, better than what Canadians get.”

Facts prove that the cost of providing health care to refugees is significantly less than the cost for Canadians. Canada’s pride as a concerned nation is eroded when justice in Canada’s Health Care system is denied.

Recommendation

That the Canadian Government provide refugees in Canada health care - a basic right for all Canadians.

5. CIVIL, POLITICAL, SOCIAL, CULTURAL AND ECONOMIC RIGHTS

The status of refugee claimants in Canada is further jeopardized by the enforcement of Bill C-31 which compromises fair and comprehensive adjudication of their claims. Many refugees, separated from their families for years, are unable to rebuild their lives as families. There are over 38,000 refugee claimants awaiting decisions under the old system. Despite the adoption of the law creating a new refugee system, no new resources have been allocated to deal with the present backlog. Canada needs a program of regularization as proposed by the Canadian Council for Refugees (CCR), allowing people who meet certain Humanitarian and Compassionate criteria to remain in Canada. Criteria would include:

* Survival of rape and torture: Persons who have survived rape or torture should normally be granted Humanitarian and Compassionate grounds to avoid return to the country of their traumatization.

*Successful Integration: Successful Integration should be assessed taking into consideration not only economic integration, but also factors such as social, cultural and familial integration (i.e. links with the communities in which people without status live, learn, work and worship).

*Length of time in Canada: Length of time in Canada is a factor in favour of granting regularization. Those who have been continuously in Canada for three years should normally be on track for Canadian citizenship. However, the fact that a person has not been long in Canada should not be an argument against landing when there are any other Humanitarian and Compassionate grounds.

*Domestic violence: Persons who have left a relationship with a sponsor because of domestic violence should normally be granted permanent residency under Humanitarian and Compassionate grounds.

*Statelessness: The fact that a person is “de jure or de facto” stateless should in itself be a deciding factor in favour of Humanitarian and Compassionate grounds.

*Rights of the individual: All applications should be reviewed against the background of Canada’s international instruments and Charter obligations in order to protect the economic, social, cultural, civil and political rights of the individual.

*Third-party sponsorship: the presence of a sponsor; for example, an employer, a labour union, faith group, community or non-governmental organization - that would be able to both vouch for the applicant, as well as support their continued integration in Canada. Immediate and extended family members could be potential sponsors.

Recommendation

That the Canadian Government implement an ‘Earned Regularization Program’ to allow people in the backlog to remain in Canada on the basis of Humanitarian and Compassionate grounds such as:

successful integration; length of time spent in Canada; experiences of rape/torture; experience of domestic violence; statelessness; human rights considerations; or sponsorship by a third-party.

ENDORSED BY:



Conférence religieuse canadienne
Canadian Religious Conference

2715 chemin Côte-Sainte-Catherine
Montréal Québec H3T 1B6
CANADA

(Representing more than 19,000 members of women and men religious congregations in Canada.)



Basilian Centre for Peace and Justice



Becoming Neighbours, a Joint Apostolic Ministry



Carty House, Ottawa



Congregation of Notre Dame – Visitation Province



Congregation of the Sisters of the Presentation

Newfoundland and Labrador



FCJ Refugee Centre



Felician Sisters of North America



Institute of the Blessed Virgin Mary (Loretto Sisters) Canada



Jesuit Forum of Social Faith and Justice



Mary Ward Centre for the Promotion of Justice and Spirituality



Mustard Seed, Fontbonne Ministries

Sisters of St. Joseph of Toronto



Order of St. Augustine, Province of St. Joseph, Canada



Our Lady's Missionaries



Presentation Brothers



Priests of the Sacred Heart



Redemptorists



Romero House



Scarboro Foreign Missions



Sisters of St. Joseph of London



The Sisters of St. Joseph of Peterborough



Sisters of St. Joseph of Ste. Marie



Ursuline Sisters of the Chatham Union



Xaviere Sisters (Toronto)