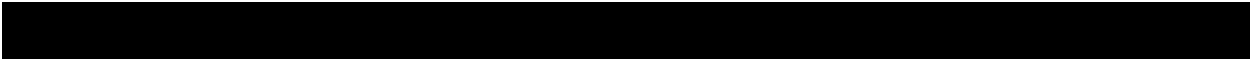




'Bill C-31: An 'Immigration and Refugee Protection Act'

**A Sectoral Response by the
Affiliation of Multicultural Societies
and Service Agencies of BC
(AMSSA)**

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About AMSSA

AMSSA is a province wide coalition of 80 agencies and associations providing multicultural and immigrant settlement services in British Columbia. Our mission is to promote a harmonious, just, and equitable society that values the diverse mix of the many cultures and peoples calling Canada their home. A list of AMSSA member agencies is attached as Appendix A.

AMSSA's *Immigrant Integration Coordinating Committee (IICC)* is committed to improving immigrant integration services; ensuring community-based and client-centred policy; ongoing collaboration and communication; supporting research and information sharing; advocating for improved funding and programs; strengthening regional voices through consultation; and developing professional standards in service delivery.

AMSSA's *Anti-Racism and Human Rights Committee* acts as an advocate by supporting government and non-governmental organizations in developing and implementing policies and practice that promote anti-racism and human rights. The Committee educates and sensitizes the broader community on these issues and takes a pro-active stance in fighting racism.

The following comments reflect a consensus of opinions expressed through these two committees relating to *Bill C-31, the proposed "Immigration and Refugee Protection Act."*

A "Framework" Legislation

It is anticipated that Bill C-31, the proposed "*Immigration and Refugee Protection Act*", will have a far-reaching impact on immigrants and refugees settling in this country. However, while the Bill proposes various measures and policies, it is our understanding that much of the actual details are to be more clearly defined within regulations. Our members have expressed concern regarding this process as it gives wide powers to change the rules without parliamentary oversight. As the **United Nations High Commissioner on Refugees** states, "*Bill C-31 is framework legislation. The supporting Regulations will be at least as important as the Bill in determining the scope and quality of protection available to refugees in Canada.*" **AMSSA therefore strongly urges a community consultation process in developing regulations for the new Act that will ensure concepts of social justice, equality and human rights are integrated into all components of the Act and corresponding regulations.**

Any new regulations must be scrutinized by the values and principles that Canadians have historically supported such as multiculturalism and human rights and by all international standards that Canada adheres to. We are opposed to practices that are not reflective of these values and principles. For example, it is our understanding that the detention of the Chinese refugee claimants this past summer was decided by using group profiling. In our opinion, the omission of a stated obligation to adhere to human rights may give rise to similar unfortunate practices in the future. **AMSSA therefore recommends that Section 3 (3) state that the**

provisions and application of the Act adhere to the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act and international obligations.

Focus on Criminality & Security

We believe that the bill appears to have an unhealthy pre-occupation with criminality and security, without offering safeguards to protect the wrongly accused. AMSSA supports the concern expressed by the **Coalition for a Just Immigration and Refugee Policy** that “*By focusing on immigrants and refugees as ‘security risks’ and ‘criminals’, the Canadian government is demonizing vulnerable people and encouraging xenophobic and racist attitudes towards newcomers*”.

Recent public opinion polls have indicated a growing concern regarding the number of immigrants and refugees settling in Canada. There are also indications of an increase in reported incidents of racism. Compounding the impact of these public attitudes, individuals are arriving in Canada with high expectations but are lacking familiarity with this country's norms and values, have limited Canadian work experience; and lack a proficiency in one of Canada's two official languages.

For refugees, the settlement process can be even more daunting. Their migration experience, length of stay in refugee camps, trauma and separation from loved ones can affect the integration process. An exposure to intolerance makes this process even more difficult.

Legislation should not fuel sentiments of intolerance. Those most vulnerable in our society must be protected.

“Foreign Nationals”

We believe that the term “*foreign national*”, intended to encompass permanent residents, students, visitors, temporary workers, and refugee claimants, will simply exacerbate the challenge of assisting newcomers in the settlement process. Using the same term to describe those legally entitled to remain in Canada and those temporarily residing in this country will undoubtedly create confusion and lead to potential misunderstandings with potential employers, host volunteers, educational institutions, public schools, and health care facilities.

We already struggle in our efforts to inform the public that a convention refugee who holds a Minister’s permit is considered a “legal” resident of Canada. Minister Permit holders have shared experiences that include: post-secondary institutions wanting to bill them as international students; physicians who either refuse to see them or will only see them provided they are willing to be billed directly; and Financial Aid Workers informing them that they are not eligible for income assistance when, in fact, they are. We can foresee an increased demand for Citizenship

classes so these “foreign nationals” can quickly obtain their Citizenship in order to shed their unwanted label. In our opinion, the use of a single term to define permanent residents as well as temporary residents will lead to unnecessary confusion and inequitable treatment.

The use of a single term will also marginalize permanent residents and convention refugees further. “Foreign nationals” creates a division between Canadian Citizens and foreigners - an “us” versus “them” mentality. We support the view expressed by the **Canadian Council for Refugees** in which they suggest that the term “...undermines the status of permanent residents as members of Canadian society”. It will negatively affect the process of integration and will likely foster increased intolerance towards newcomers. **AMSSA believes, therefore, that we should continue to make the distinction between Canadian citizens, permanent residents and non-permanent residents.**

Lack of an Appeal Process

The lack of an appeal process for those convicted of a "serious" crime is also of concern to our members. Over the years our agencies have employed family support and youth workers to assist families and youth in crisis. Specialized programs aimed at rehabilitating gang members have been instrumental in addressing the needs of wayward youths who have found themselves on the wrong side of the law by becoming involved in criminal activities. The new Bill proposes that if an immigrant is convicted of a "serious" crime or is sentenced to two or more years' imprisonment they will automatically be deported, without appeal or consideration of any extenuating circumstances.

A program delivered several years ago involved troubled young people who were permanent residents even though their parents/guardians had become Canadian citizens. Probation officers, police officers and judges referred these young people to this program. If Bill C-31 were enacted at that time, without any consideration of extenuating circumstances, many of these youth would have been deported regardless of the fact that their parents were now Canadian citizens. AMSSA agrees with the position of the **Canadian Bar Association** that suggests “...permanent residents not be subject to loss of status and removal without access to a legitimate process for considering all the circumstances of their case.”

Emphasis on Family Reunification

We are encouraged by several initiatives within the Bill that strengthen and promote family reunification. Our agencies work with many clients who desperately want to be reunited with their extended families. It appears the Bill would make it easier for immigrants to bring their extended families with them. Provisions to reunite extended families will mean those in Canada will have larger support networks thus helping to reduce depression, severity of culture shock and other mental health issues faced by many newcomers. In our experience, bringing a lone

convention refugee without any extended family to Canada often leads to increased incidents of depression and social isolation.

In recent years settlement practitioners have noticed an increase in the number of newcomers living on the street. We are told that many of these individuals are socially isolated, lacking a supportive family network. Maintaining the integrity of the family unit will ensure strong and supportive networks exist to complement the integration of each individual family member.

An expansion from 19 to 22 years for dependent children is also considered positive. Creating an in-Canada landing class for sponsored spouses and partners; reducing the length of the sponsorship requirements from 10 years to 3 years; and exempting sponsored spouses and dependent children from the admission bar related to excessive demand on health or social services, will greatly enhance the settlement process. The idea of being able to sponsor a brother, sister, niece, or nephew once in your lifetime is also supported.

Processing overseas families as a unit, including extended family members of refugees whenever possible, is extremely encouraging. Our agencies often work with refugees who have been separated from their families during their migration process. The lengthy delays and bureaucratic red tape to reunite these family members can often deter successful integration.

Allowing dependants of refugees, selected inland or abroad, to be processed as part of the same application for a period of one year after a refugee has acquired permanent residence status will also save tremendous time and energy by refugees soliciting support from churches to sponsor their family members.

Permanent Resident Card

We believe that the replacement of the IMM 1000 with a permanent resident card has merit. While we may share the concerns expressed by others about the increased access to personal information and what happens to an individual abroad if a card is stolen, lost or expired, we acknowledge that the proposed “*smart cards*” could offer more protection to the holder. Over time the IMM 1000 is often torn and can become unreadable. Also, many immigrants simply do not carry the present IMM 1000 form with them. The current document, as well as being open to abuse from counterfeiters, also offers more information readily available to the naked eye.

In British Columbia, our agencies have been embarking on a series of enhanced service accountability structures. Performance measurement indicators and the development of database systems are slowly being introduced to better document client interventions. With certain safeguards including client consent and strict confidentiality guidelines, we are capturing and reporting client information including the IMM 1000 number. Having a small wallet size card with a photo would assist settlement practitioners with documenting and reporting their client interventions more accurately. At the moment, if a settlement practitioner is unable to obtain the IMM 1000 number, the service provided to the client cannot be recorded as part of the reporting requirements of our contract.

Settlement of Convention Refugees

With respect to refugee selection, we support the Government's proposed move to extend the period during which refugees are expected to establish themselves in Canada. Currently, the policy framework for refugee selection has been built around the premise that refugees must be able to successfully settle by the end of their first year in Canada. This is simply unrealistic. The move towards a 3-5 year settlement process for adjusting to Canada is much more attainable.

The move towards the selection of refugees based on protection cases - those who are truly in need of third country resettlement - is strongly encouraged. However, with this trend immigrant serving agencies are likely to require further funding for services and specialized training to deal with the complexities of increased special need and protection cases.

Expedited Family Reunification & Urgent Protection Cases

Mechanisms must be put in place to expedite family reunification in crisis situations. For example, Kosovar family members were reunited within 7-14 days thus reducing some mental health issues while creating larger circles of support for newcomers. There needs to be some highly mobile response team/resources to handle refugee crisis. Sierra Leone is a case in point where the government has not acted quickly enough to assist in the reunification of family members with relatives in Canada.

Expediting the resettlement of urgent protection cases to Canada within days is also seen as a positive move. We witnessed in last years Kosovar refugee movement to Canada that Canadians are willing to accept large numbers of convention refugees as long as they are deemed in need of protection and third country resettlement. However, these urgent protection cases will likely arrive in Canada as Ministers Permit holders. Our experience suggests, however, that working with Ministers Permit holders can be extremely frustrating - often needing a great deal of advocacy work because mainstream service providers are simply not familiar with their status.

Detention

AMSSA agrees with the **United Nations High Commissioner for Refugees** and the **Community Legal Education of Ontario** that “...alternatives to detention always be sought first, such as reporting and residency requirements, identification of a guarantor, release on bail and residence in reception centres.” We also agree with the **Canadian Council for Refugees** in opposing the proposed expansions in powers of detention. The current practice by Citizenship and Immigration Canada using group profiling to determine how an individual claim is processed causes us concern that the increased powers of designated officers will result in more lengthy

detentions.

As shown in the case of the Chinese refugee claimants, detention has many negative effects on asylum seekers. Refugee claimants in detention have less access to legal counsel and services afforded to claimants not detained. We believe that all refugee claimants should be entitled to the same treatment. The use of detention portrays to the public that these claimants are criminals, further exacerbating racism and intolerance towards all asylum seekers.

Volunteerism

The current Immigration Act restricts volunteerism to those who are legally entitled to work in Canada. Temporary residents and non-status individuals are required to obtain employment authorizations in order to volunteer. Our members see this as extremely restrictive and non-productive.

Time delays in processing an employment authorization often deter prospective volunteers from contributing in this needed area. English as a Second Language (ESL) schools often promote opportunities for volunteerism in their advertising material sent abroad. Voluntary work placements are also often required to complete academic programs offered through private, not-for-profit, and public education institutions. Refugee claimants are often encouraged to volunteer while their claim is being processed. This enables them to establish social networks and gain valuable experience in the Canadian workplace.

Unfortunately the stated process to obtain an employment authorization while in Canada appears to be inconsistent. Individuals have received conflicting messages from immigration officials and have experienced long delays that have effectively stymied their application in this regard.

Although silent in this area, Bill C-31 should support the contribution of all those wishing to volunteer in Canada. The benefits achieved through volunteerism go beyond the individual. Not-for-profit agencies, in particular, benefit from the self-less contributions made by these individuals. All levels of government recognize the value of volunteerism at the local community level. Each level of government has demonstrated its support through the provision of grants and program funding. Temporary residents are an important component in the pool of volunteers available to our agencies and the communities we serve.

Conclusion

AMSSA is pleased to provide this brief for consideration by the Standing Committee on Citizenship and Immigration. We have outlined a number of issues/concerns that we trust will inform in the development of more effective immigration and refugee protection legislation.

For more information or clarification on the issues presented in our response, please contact us at:

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Appendix A
AMSSA Member Agencies