

REFUGEE UPDATE

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SPRING 2012

NEW IMMIGRATION BILL WILL SEPARATE FAMILIES

BY COLLEEN FRENCH
CANADIAN COUNCIL FOR REFUGEES, CCR

Note: On February 16, 2012, the Conservative Government launched Bill C-31, "an Act to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act, the Marine Transportation Security Act and the Department of Citizenship and Immigration Act".

The federal government has proposed a new bill that will keep refugee families apart, even if they need Canada's protection. This new legislation would give the Minister of Public Safety broad powers to 'designate' groups of two or more foreign nationals seeking refugee protection in Canada, if he suspects that smugglers have been involved.

What does this mean? If the Minister decides that these asylum seekers are 'irregular arrivals', these are the consequences:

1- They will be put in detention for at least a year, if they are 16 or older.

2- Children under 16 who accompany their parents will have to face an impossible choice: be placed in foster care in a new, foreign country or join their parents in detention.

3- Even if accepted as refugees, they will be denied permanent resident status for at least five years, prohibiting them from applying to be reunited with their spouses and children and from travelling outside Canada for any reason.

Now imagine that you are Rosa, or Rahima or Ruth. With the help of friends who paid a smuggler, you are able to escape death threats from a gang in your country, but you have to leave your children, ages 3 and 5 years old, behind. The trip is too dangerous for young children and they will be safe with your parents. You arrive at the Canadian border with a small group of strangers who are also smuggled, and you all request protection as refugees in Canada.



Continued on page 2

"Anyone who is concerned about these proposed changes to Canada's immigration law should contact their Member of Parliament and communicate their opposition to this refugee bill, known as Bill C-31."

If this new bill passes, you and the people you were smuggled with could be a 'designated' group. You and the others will all be put in detention for at least a year.

It may be that you are accepted as a refugee in Canada for reasons that you will have to describe to an official. This official will judge if your story meets the definition of refugee protection in Canada. Presently, there's a 48% chance that you will. If this decision happens within a year of your arrival in Canada you will then have to wait at least another five years to apply for your children to join you in Canada. Under current family reunification processing times, it will take another two to three years before your family can be reunited.

In the meantime, your children will have started and finished elementary school. Your parents may have become sick and too weak to properly care for your children. Your children may even have become the targets of the threats and violence that you fled. If Bill C-31, presently before Parliament, passes there would have been no faster way for you and your family to all find safety and start new lives in Canada.

INSIDE:

P. 1-2: NEW IMMIGRATION BILL WILL SEPARATE FAMILIES,
BY COLLEEN FRENCH

P. 3-4: BILL C-31: FAST BUT NOT AS FAIR: MAJOR CHANGES TO CANADA'S REFUGEE SYSTEM,
BY PETER SHOWLER

P. 5: TAKE ACTION. CCR CAMPAIGN UPDATES AND ACTIVITIES

P. 6-7: NEW IMMIGRATION BILL PUTS PERMANENT RESIDENTS AT RISK,
BY AUDREY MACKLIN

P. 8: IT SUCKS TO BE A FOREIGNER,
BY MOABE GIUDICE.

P. 9: AN EXPERIENCE WITH THE SUPERVISA,
BY GIOVANNI RICO

P. 10-11: CANADA IS HOME

But there is a faster way: the Harper government can withdraw Bill C-31 and ensure that Canada is fair to refugee families. With a government that prides itself on upholding family values, it's the right thing to do.

Anyone who is concerned about these proposed changes to Canada's immigration law should contact their Member of Parliament and communicate their opposition to this refugee bill, known as Bill C-31. The Harper government and Jason Kenney are pushing this bill through Parliament as quickly as possible. If they succeed, it could become law as soon as June 29, 2012.

Find out how to contact your Member of Parliament through the government's website at: <http://bit.ly/qE5yCU>

Colleen French
Canadian Council for Refugees

"But there is a faster way: the Harper government can withdraw Bill C-31 and ensure that Canada is fair to refugee families. With a government that prides itself on upholding family values, it's the right thing to do".



BILL C-31: FAST BUT NOT AS FAIR: MAJOR CHANGES TO CANADA'S REFUGEE SYSTEM

BY PETER SHOWLER

On February 16, the government tabled Bill C-31 in the House of Commons. It is a large bill that changes three different pieces of refugee legislation: the current refugee system, the new refugee system scheduled to be implemented on June 29, 2012 and Bill C-4, the so-called Anti-human Smuggling Bill. The bill is not good news for refugees. It speeds up the refugee claim process to the point where many refugee claimants will have difficulty telling their story; it creates a two-tiered claim process where some claimants will be denied an appeal, it punishes refugee claimants who arrive in groups and it reduces the security of permanent residence for all refugees. Here are the most important elements of the bill.

Unreasonable Time Limits: Everyone who makes a refugee claim at a port-of-entry will have only 15 days to deliver a written version of their refugee claim to the Immigration and Refugee Board (IRB). That is not enough time to seek legal advice and respond to the complicated legal requirements of the refugee definition. The result will be hastily drafted stories that will be more likely to be refused. The new refugee system already contains an unreasonable time limit to make an appeal – 15 working days. The combination of the two time limits will result in more valid claimants being deported to a risk of persecution.

Unrestricted Ministerial Power to Designate Safe Countries: The new refugee system, the Balanced Refugee Reform Act (BRRA), already allows the Minister of Citizenship and Immigration to designate refugee source countries as safe, but that power was carefully restricted and had minor consequences. Those safeguards have been removed in Bill C-31. The Minister will have nearly unrestricted authority to designate any country that has a claim rate of twenty-five per cent or less.

Claimants from designated countries will have only 30 days to prove their claim (instead of 60) and will have no right of appeal. Refused claimants could be deported after 45 days from the date of making their claim.

Punishment for Group Arrivals: All but one of the provisions of Bill C-4 have been retained in Bill C-31. Anyone within a group that the Public Safety Minister designates as a group arrival will be mandatorily imprisoned for up to one year. That includes everyone in the group regardless of gender, age or health condition with one exception. Now minors under age 16 MAY not be detained. That is the one change. The bill is silent on the treatment of these minors. All others in the group will be detained for up to one year with no right of judicial review, a blatant violation of the Charter of Rights and Supreme Court of Canada case law. The Minister's designation powers are broad, vague, relatively unrestricted and probably also in violation of the Charter.

The second serious punishment is long-term family separation. Successful refugees within the designated group will not be permitted to apply for permanent residence for five years after the date of acceptance of their claim. In addition to putting their own lives on hold in Canada, this will mean that they will not get to sponsor or even see their families for 6-8 years from their date of claim. Finally, claimants within a designated group will not have a right of appeal if their claim is denied which puts them at a double disadvantage since it will be more difficult to prove their refugee claim while in prison.

Potential Loss of Permanent Residence: A completely new provision, S. 19, changes the security of permanent residence status for refugees. Under the current law, once a refugee is accepted as a permanent resident, he or she cannot lose that status unless they obtained their status through

Continued on page 4

Continued from page 3

fraud, they are convicted of a serious crime or they abandon their permanent residence.

Under S. 19, the government will be able to apply to the IRB at any time for a decision that a refugee is no longer at risk in their home country. If the IRB grants the application, the refugee immediately loses both their refugee status and their permanent residence status.

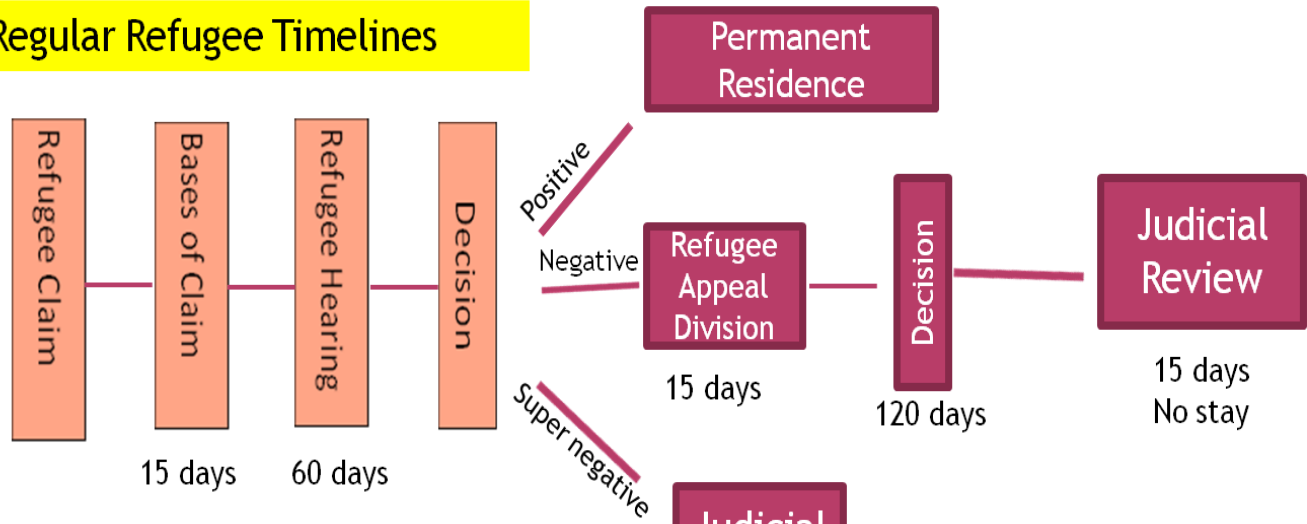
He or she has no right of appeal of the IRB decision and is immediately removable from

Canada, no matter how long they have lived in Canada. The only legal shelter for refugee permanent residents will be to become a citizen as soon as possible.

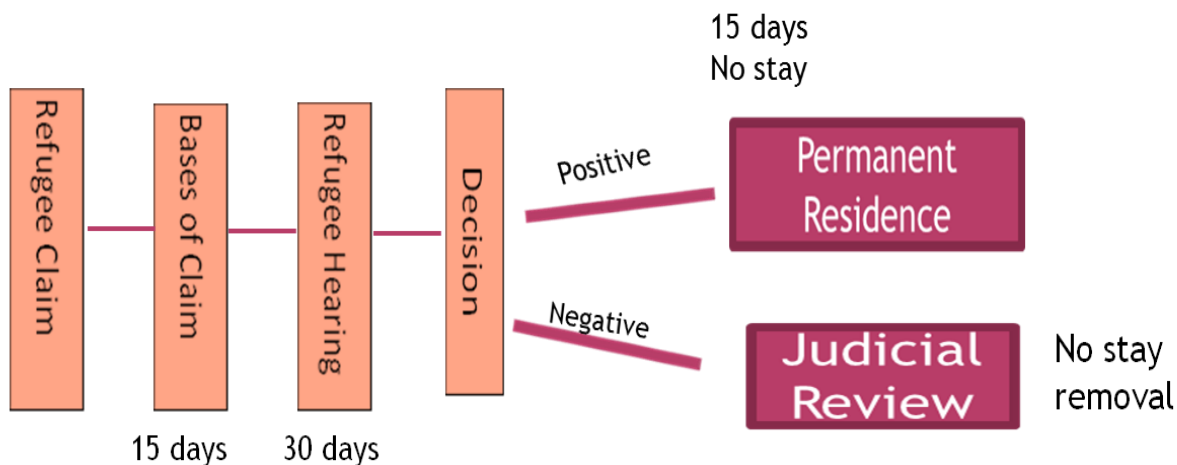
There are many technical provisions within the new law that will impede the efforts of refugees to prove their refugee claims or to get on with their lives, once accepted as a refugee. However these are the four principal policy areas that will fundamentally change the way in which refugees are able to come to Canada and to remain here.

New Timelines and Process

Regular Refugee Timelines



Designated countries of origin timelines





TAKE ACTION! CCR CAMPAIGN UPDATES AND ACTIVITIES

Join the Canadian Council for Refugees in raising public awareness of challenges to refugee rights and successful integration in Canada. Here are some areas where your actions can make a difference:



Protecting Refugees from Bill C-31

On 16 February 2012, the government issued Bill C-31 to reform Canada's refugee determination system.

The Canadian Council for Refugees is seriously concerned that the bill would create a two-tier system of refugee protection in Canada. It makes refugee protection in Canada dangerously vulnerable to political whims, rather than ensuring a fair and independent decision about who is a refugee. It also includes costly measures to detain refugee claimants and to revoke the status of refugees who are now permanent residents.

Bill C-31 must be withdrawn and replaced with legislation which is fair, affordable, and independent, and which complies with the Charter and Canada's international obligations.

Join the CCR in calling for Bill C-31 to be defeated or withdrawn. Help to raise awareness of how this new law will fail refugees and Canadians.

Check out the CCR's webpage on Bill C-31 - a bill that protects systems, but not refugees - for more information and updates: ccrweb.ca/en/refugee-reform

See this webpage for ideas on how you can continue to make a difference, including: tips on how to contact your Member of Parliament, speaking out on social media against Bill C-31 and other helpful resources on how Bill C-31 fails to protect refugee claimants, refugees and Canadian interests.



Conditional Permanent Residence: Towards vulnerability and violence

In March 2012, the government announced that it is looking for more input on its proposal for conditional permanent residence for sponsored spouses. Originally put forward in March 2011, many organizations including the CCR voiced their concern that such a measure would increase inequalities in relationships between spouses, and put women in particular at heightened risk of violence.

The government seems to have listened to some concerns. The modified proposal proposes to exempt abused or neglected partners. But abused partners face at least three obstacles that will make this exemption ineffective:

- Lack of information and language barriers
- The burden of proof of abuse is on them
- The cost of providing evidence of cohabitation and abuse. Abused partners often don't have their own resources.

For more on the CCR's continued concerns, read *Conditional Permanent Residence: Towards vulnerability and violence* at:

<http://ccrweb.ca/files/cprstoriesen.pdf>

For more information on this proposal and other issues involving violence against non-status, refugee and immigrant women, see:

<http://ccrweb.ca/en/violence-against-women>

NEW IMMIGRATION BILL PUTS PERMANENT RESIDENTS AT RISK

BY AUDREY MACKLIN*

Permanent residents who came to Canada as refugees face a new risk of being stripped of both refugee and permanent resident status, under provisions of the Harper Government's proposed refugee bill.

Under an existing rule called 'cessation', the Immigration and Refugee Board may terminate a person's refugee status if the government successfully argues that the refugee no longer needs protection.

The government may believe that the refugee's conduct demonstrates that they no longer fear persecution in their home country because, for example, they have returned there for extended stays.

Or, the refugee may have renewed and traveled on a passport from the home country. If the refugee has obtained citizenship in another country, the government may also conclude that they no longer require Canada's protection.

Cessation may also arise where the conditions in the country of origin change, such that a fear that was valid in the past is no longer valid in the present. For instance, a Chilean refugee



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from Pinochet's regime might have feared persecution in the past, but not today, because Pinochet is no longer in power and Chile is a more democratic country.

As the law currently exists, even if a person's refugee status 'ceases', permanent resident status remains undisturbed. Under Citizenship and Immigration Minister Jason Kenney's draft bill, if refugee status 'ceases', permanent resident status will be automatically taken away. The individual will be deemed 'inadmissible' and thereby liable to removal from Canada.

There will be no appeal from a decision by the Immigration and Refugee Board to cease refugee status, and no opportunity to appeal the automatic loss of permanent resident status. It will not matter how many years the permanent resident has lived in Canada, whether he or she is employed, employs others, or is raising a family of Canadian children.

It will not matter whether the person has built a life here and contributes socially, culturally and economically to Canada.

"Cessation may also arise where the conditions in the country of origin change, such that a fear that was valid in the past is no longer valid in the present."

Continued on page 7

"There will be no appeal from a decision by the Immigration and Refugee Board to cease refugee status, and no opportunity to appeal the automatic loss of permanent resident status".

If refugee status is revoked because of 'cessation', permanent resident status automatically goes with it. And the next step is deportation from Canada.

Previous governments have used the cessation provision very rarely, and it did not affect permanent resident status anyway. No one can predict how often, or against whom, the Harper government will use its proposed new power to strip permanent residents of both refugee status and permanent resident status. The Minister will be free to target for cessation whomever he wishes.

If passed, this new law will apply not only to future refugees. It will also apply to all permanent residents already in Canada who were sponsored as refugees, or applied for refugee status in Canada. Tens of thousands of permanent residents who came to Canada as refugees are potentially vulnerable to cessation under this new "conditional permanent residence" provision. Citizenship cannot be taken away as a result of cessation.



Therefore, permanent residents who came as refugees should apply for Canadian citizenship at the earliest opportunity, and should also exercise caution in traveling to their home country for extended periods of time. They cannot, of course, do anything to protect themselves from the risk that Minister Kenney's bureaucrats will seek cessation because, in the government's opinion, conditions in the home country have improved to the point that it is now safe to return.

"If passed, this new law will apply not only to future refugees. It will also apply to all permanent residents already in Canada who were sponsored as refugees, or applied for refugee status in Canada. "

Anyone who is concerned about these proposed amendments to Canada's immigration law should contact their MP and communicate their opposition to this refugee bill, known as Bill C31. The Harper government and Jason Kenney are pushing this bill through Parliament as quickly as possible. If they succeed, it could become law as soon as June 29, 2012.

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"Therefore, permanent residents who came as refugees should apply for Canadian citizenship at the earliest opportunity, and should also exercise caution in traveling to their home country for extended periods of time. "

*Audrey Macklin, Professor of Law, Faculty of Law, University of Toronto

www.law.utoronto.ca/faculty/macklin

IT SUCKS TO BE A FOREIGNER

BY MOABE GIUDICE

It takes courage to live far from your country of origin because when you're away from it, giving up seems like the best way to go. Change is never easy, but to rebuild your life in a different country means not only changing places, but a lot more: it's the change in culture, climate, profession, family, friends, and nation. In fact, we need to let go of ourselves and of our pride in order to survive. However, I only discovered these truths when I arrived in Toronto, because my vision of first world countries was one of easy and serene life. The idea that circulates is that in the countries of North America the opportunities are better and the chances of getting rich are almost guaranteed, and that not much effort is needed to do so. All wrong.

Since the day I arrived in Canada life has shown itself to be contrary to all I had imagined. Graduated in journalism in Brazil, my degree didn't bring me any privilege. Working with journalism in Canada is only possible as a volunteer, but for someone who still didn't know how to communicate in another language and still needed to work to pay his bills, that option became invalid, at least for the time. So all that was left was to turn to the common jobs, those that are directed specially at us from South America: construction or cleaning.



I opted for construction, since it pays better and making money is always good, but I just didn't know that you would need to work so hard. Waking up at four in the morning and coming home at nine at night to do it all over again the next day. It was seven months of arduous work. I could only take it for that long: my body and my inability in physical labour made me step back and opt for something apparently lighter: cleaning.

I am about to complete one year of stay in Toronto and, until then, the only thing I have done is work. Studying in Canada is not easy: the fees for international students are extremely high, and when you don't have financial help from your family it becomes even more difficult, considering that access to low-cost education is exclusive to who was born here or has legal permission to live here.

For that I assert, it sucks to be a foreigner, it doesn't bring you any benefit; on the contrary, it makes life even more complicated. You become no longer a citizen with rights but an uncommon person.

I wonder that you must be asking yourself, or trying to understand why despite so many difficulties, people still keep choosing to migrate to other countries. I think the reason is courage. Because the life here is actually better, what's hard is only to overcome the barriers imposed on immigrants that come from third world countries, marked by social inequality, high levels of violence, and few growth opportunities. But it is a possible and achievable dream. And to grow, to become someone, to become able to look after yourself, pay your own bills and live with dignity is the goal of everyone that has migrated and continues to migrate to other countries. But these achievements are only possible after years of hard work. Because of luck or destiny, some people get there first; another, well after. What counts is not to give up.

AN EXPERIENCE WITH THE SUPER VISA

BY GIOVANNI RICO

On November 4th, as I was putting together a sponsorship package to be able to bring over my mother-in-law to live with us, we were hit with the news that I as a Canadian citizen and my wife a permanent resident would no longer have that right. Due to a backlog created by the millions of cuts to the immigration system the program for sponsoring parents was suspended for about two years.

This news came with the idea that this would not be an issue as Canada in December would be creating a new super visa for parents and grandparents that would give relatives the right to stay in Canada for up to two years, covering up the two years that the program would be suspended for.

This visa on paper looks like a good idea, but when it is applied it is another way the government is controlling who is allowed to come to Canada by way of where they are from and what social class they belong to.

All requirements were met as we were above the LICO, paid for the private health insurance and included more coverage than the minimum requirements; everything in the document checklist was covered and as my mother-in-law had been to Canada twice, we thought that it would not be a problem getting her the visa.

To our surprise, about a month after the application was made, my mother-in-law received a negative decision with the reasons being that she did not have a good enough reason to come to Canada. This is what is wrong with the super visa. In theory it should open the door for more family members to be able to come to Canada without having to ask for permanent residence; in reality it is another way the conservative government is using to control who can come to Canada.

When you are granted permanent residence due to a sponsorship it does not matter that you have money or that you have assets or that you need a very specific reason to come to Canada; all you have to prove is that your family member has the means to support you and that you are actually related to that family member.

This super visa will work wonders for relatives of residents who originate from developed countries like in Europe, but for all residents and citizens whose origins are from underdeveloped countries, it is just a smoke screen to not allow more migrants from the global south. It scares me to think that now, with this government and the changes they are making to the immigration system, a vast majority of the immigrants living in Canada will never have the right to bring their family to live with them, as this government seems to want to make Canada unreachable especially for those from underdeveloped countries. Minister Kenney sees these relatives as a burden, forgetting that the family members cover most of the cost of their relatives while in Canada as they have no access to social services or a pension. The burden is that Canada now views relatives as a burden when they are the backbone of how this country was built and that is something Canada should never forget.



CANADA IS HOME

31 WEEKS OF STANDING FOR EQUALITY, JUSTICE AND FAIR PLAY IN CANADA'S IMMIGRATION AND REFUGEE POLICIES, THAT WILL BENEFIT CANADIANS AND NEWCOMERS ALIKE.

Unfortunately, we marked Refugee Rights Day this year with the recognition that the rights of refugees are under attack in a way we have never seen before in Canada. The imminent passage of the omnibus Bill C-31 threatens to extinguish any vision of Canada as a haven of tolerance and freedom for vulnerable peoples around the globe.

"For refugees, the effects of this bill are literally a matter of life or death".

In its place looms the spectre of a nation that ignores equality before the law, due process, our international treaty obligations, and our Charter of Rights and Freedoms; a nation that treats newcomers as simply resources to be exhausted and discarded.

For refugees, the effects of this bill are literally a matter of life or death. Bill C-31 is named *Protecting Canada's Immigration System Act*, a fitting title for a bill that places a broken system above the interests of Canadians and newcomers.



"Under the new law, a permanent resident who has established a family, career, and community in this country can be removed from Canada without even the right of an appeal".

The bill divides refugees into tiers based on an unaccountable minister's assessment of their country of origin. Refugees will be confronted with draconian, unrealistic timelines to prepare for refugee determination hearings that will decide whether they will be allowed to stay in Canada, detained, or deported.

"Bill C-31 creates a system that is less democratic, less fair, less transparent, more expensive, and more dangerous".

Even those refugees who have attained permanent residency are being placed at risk. Permanent residency is anything but permanent under Bill C-31. Under the new law, a permanent resident who has established a family, career, and community in this country can be removed from Canada without even the right of an appeal.

Bill C-31 creates a system that is less democratic, less fair, less transparent, more expensive, and more dangerous. Inherently, this system will increase the inequalities for the people it is supposed to protect. All of Bill C-31's provisions have been tried in other countries. They failed.

As concerned individuals dedicated to serving refugees and others at risk due to their immigration status, we cannot stand by in silence while the federal government endangers and dehumanizes those refugees already here with us and those who will arrive on our shores.

Continued on page 11

Continued from page 10

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We know that Canadian communities, refugees, and those who walk with uprooted people can create a safe, fair, and welcoming Canada better than politicians in Ottawa who put ideology ahead of sound policy.

Starting April 27th 2012, and continuing for the following 31 weeks, we will be presenting a new way forward for refugees in Canada, one informed by a vision of Canada as a welcoming, safe, humane nation that we can all be proud of again.

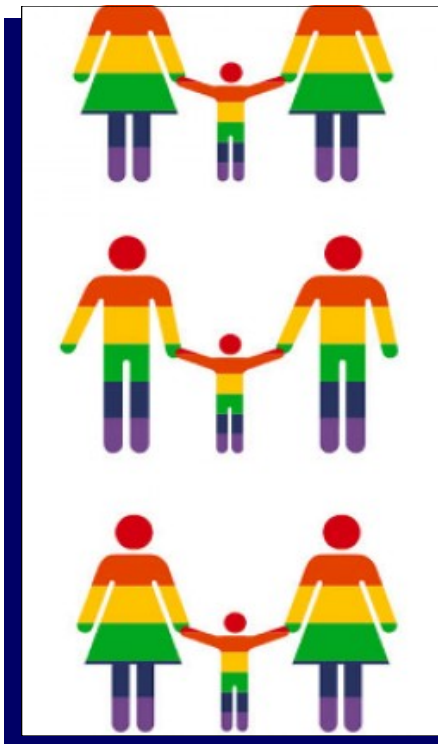
We are calling on you to join us in our peaceful stand to highlight 31 concerns with the bill and 31 ways refugees enrich Canada – all of which profoundly impact the future of our na-

tion. No longer will we allow Ottawa to make unilateral decisions about the lives of refugees and the future of our communities. Beginning next week we will suggest concrete solutions built on values of equality, justice, and fair play that benefit Canadians and newcomers alike.

"We know that Canadian communities, refugees, and those who walk with uprooted people can create a safe, fair, and welcoming Canada better than politicians in Ottawa who put ideology ahead of sound policy".

Join us April 27th 2012 at noon, at Dufferin Grove Park (an area that reflects the multiculturalism and diversity of Canada), and rejoin us each Friday for the next 31 weeks as we launch a campaign to re-launch Canada's immigration policy on principles of humanity, dignity, and freedom, guided by proven solutions that create integrated, vibrant communities.

For more information, please contact Francisco Rico-Martinez, (416)469-9754 ext. 227,



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Follow the CCR on Facebook, Twitter and YouTube:

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REFUGEE UPDATE

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