



Implementing the Refugee Appeal Division (RAD) without further delay

The Canadian Council for Refugees is asking for **your support for the introduction and speedy passage through Parliament of the RAD bill**, so that refugees can finally have access to the refugee appeal approved by Parliament in the 2001 *Immigration and Refugee Protection Act*.

The last Parliament voted to force the implementation of the Refugee Appeal Division. Both the House of Commons (in 2007) and the Senate (in 2008) approved Bill C-280, An Act to amend the Immigration and Refugee Protection Act calling for the implementation of the Refugee Appeal Division. However, the bill has not yet become law because the House still needed to approve the amendments made by the Senate when the 2008 elections were called.

This bill, as amended by the Senate, should be quickly reintroduced and passed without further debate.

What is the Refugee Appeal Division?

The Refugee Appeal Division was created within the Immigration and Refugee Board (IRB) as part of the *Immigration and Refugee Protection Act (IRPA)*, approved by Parliament in 2001. Once implemented, it will give refugee claimants a right to review on the merits of the case.

Why is implementing the Refugee Appeal Division necessary?

- *Refugee lives are in the hands of a single person* – In 2002, the government went ahead with sections of the IRPA that reduce the number of board members hearing a claim from two to one member. This means that a single person decides the fate of a refugee claimant, even though a wrong decision may mean that a claimant is sent back to face persecution, torture and even death.
- *Decision-making is inconsistent* – Refugee determination is inherently difficult and complex. Different decision-makers do not always come up with the same decision when faced with similar cases, leading to serious inconsistencies. An appeal level helps a system to be more consistent because precedents established at the appeal level must be followed at the lower level when the facts are the same.
- *Any decision-making process will make mistakes* – As human beings, we are all bound to make mistakes from time to time, however hard we try. An effective system, which includes a refugee appeal, recognizes this and provides a mechanism to correct errors.
- *Refugee claimants* are often poorly represented, leading to inconsistencies and errors resulting from inadequate legal representation. An appeal would allow the re-examination of errors and provide the opportunity for their correction.

Is the question of an appeal best reviewed in the context of a reform of the refugee determination system?

Ever since 2002, when the implementation of RAD was postponed, successive Ministers of Citizenship and Immigration have said that they are studying alternatives. The government is of course always free to consider possible future reforms, but in the meantime the law already passed by Parliament needs to be respected.

Aren't the Senate amendments to the RAD bill of concern?

The Senate amendment delaying the implementation of RAD for a further year is most unwelcome. However, since the Senate approved the bill in this form, passing this version is likely the fastest route for Parliament to force implementation of the RAD.

For more information:

Refugee Appeal Division Backgrounder at www.ccrweb.ca/RADbackgrounder.pdf

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