



INCOME SECURITY ADVOCACY CENTRE
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**Submission to the Standing Committee on Citizenship and Immigration
and to the Standing Committee on Finance**

**Bill C-43 (Budget Bill), Division 5, Sections 172 & 173
Amendments to the *Federal-Provincial Fiscal Arrangements Act***

Income Security Advocacy Centre (ISAC)

November 13, 2014

The Income Security Advocacy Centre (ISAC) is a community-based legal clinic funded by Legal Aid Ontario. We have a provincial mandate to improve the income security of people living in Ontario through test case litigation, policy advocacy and community organizing. ISAC works directly with low-income people, in partnership with provincial organizations and a provincial network of over 60 local community legal clinics.

ISAC staff members are recognized experts on income security and poverty reduction as we litigate significant test cases at appellate and tribunal levels in these areas and actively undertake policy advocacy, community organizing, and public education efforts on these issues. In addition, a number of ISAC's legal cases and advocacy initiatives have involved issues of intersectionality between immigration status and income security. ISAC has played a leading advocacy and organizing role around sections 172 and 173 of Bill C-43 and its predecessor, Private Member's Bill C-585.

ISAC opposes the proposed amendments to the *Federal-Provincial Fiscal Arrangements Act* and asks the Committee to recommend that sections 172 and 173 of Bill C-43 be revoked.

The proposed amendments

Sections 172 and 173 of Bill C-43 propose to amend the "national standard" for the Canada Social Transfer (CST) contained in the *Federal-Provincial Fiscal Arrangements Act*. The transfer is directed at helping fund provincial social programs including social assistance. The national standard is a condition for the CST in that provinces cannot impose a minimum period of residency to restrict eligibility for social assistance benefits, without incurring a loss of all or part of their CST.

The proposed amendments will allow provinces to impose minimum residency requirements on certain groups of immigrants, refugee claimants and people without regularized status to limit their eligibility for social assistance, without losing CST funding. The amendments impact certain groups based solely on their immigration status.

Impact on refugee claimants and Canada's international obligations

The Bill will mainly impact refugee claimants who arrive in Canada. It affects all refugee claimants, whether or not they are ultimately successful in their claims.

Refugee claimants are a particularly vulnerable group. They leave their home countries to flee persecution, war, and civil unrest. Many are traumatized by their experiences. They have left behind their homes, belongings and livelihoods. They may not speak English or French and have to struggle in an unfamiliar environment. Many refugee claimants are additionally disadvantaged because they are women, children and/or racialized. Many have nothing more than what they came with and have no other means of support. Those eligible for work permits have to wait for them to be issued, and even then face difficulties finding employment. Others (designated as coming from "safe countries") are not eligible for work permits. In these circumstances, social assistance is critical for their survival.

Canada has human rights obligations under international law and the Canadian Charter of Rights and Freedoms.

As a signatory, Canada has obligations under the *Convention relating to the Status of Refugees (Refugee Convention)* to protect refugees. People who have made claims in Canada are legally entitled to be in Canada while accessing the refugee determination process.

Canada is also obligated under the *International Covenant on Economic, Social and Cultural Rights* to recognize the "right of everyone to social security" (Article 9) and to "an adequate standard of living ... including adequate food, clothing and housing" (Article 11), and to guarantee that these rights be exercised without discrimination (Article 2).

Section 7 of the Canadian Charter of Rights and Freedoms provides for the right to life, liberty and security of the person, Section 12 protects from cruel and unusual treatment, and Section 15 guarantees equal treatment under the law.

Refugee claimants in Canada are entitled to be treated humanely, fairly and equitably. But this Bill does the opposite. It treats all refugee claimants as potentially fraudulent, denying them access to a necessary source of income.

Immediate impacts, resulting costs, and long-term harm

Sections 172 and 173 of Bill C-43 propose to allow provinces to take away the most basic and minimal form of assistance from this very vulnerable group. By its very nature, social assistance is a last resort income program that is meant to cover the bare minimum of basic needs.

Social assistance benefit levels across Canada – the actual amounts of money that people receive from these programs – are far below any measure of poverty currently in

use in Canada. They often provide below-subsistence levels of income. In Ontario, for example, a single person receives a maximum of \$656 per month to cover his/her basic needs and shelter. This is two-fifths the current LIM-AT (Low Income Measure – After Tax) of \$1,732 per month for a one person household. A single mother with one child who receives \$1,050 per month, including provincial child benefits, lives on less than half the LIM-AT for a two-person household of \$2,450 per month. Other provinces provide comparable minimal levels of support¹.

Taking away the critical lifeline of social assistance is harmful, cruel and inhumane. Without social assistance, refugee claimants with no means of support will become destitute, facing hunger and homelessness. They will suffer the stress and desperation of trying to meet their basic food, clothing and housing needs with no income. Their physical and mental health will inevitably deteriorate. Those with health concerns will have no means to obtain the medication they need.

Refugee claimants will be forced to resort to charities and shelters, which are already over-burdened and stretched to capacity. Poor health also leads to increased use of emergency health services. And we know that it is much more expensive to house a person in a shelter than it is to provide assistance for housing. These increased costs will be downloaded to municipalities and provinces. As such, any desire to find cost savings by limiting access to social assistance will be thwarted by increased costs in other areas and borne by other levels of government.

Refugee claimants are already particularly disadvantaged in terms of housing and income, as acknowledged by the Senate Standing Committee on Social Affairs, Science and Technology's Subcommittee on Cities in its 2009 report, *In from the Margins: A Call to Action on Poverty, Housing and Homelessness*². Their poverty will be worsened by sections 172 and 173 of Bill C-43.

There are also long term costs. Refugee claimants are future Canadians with the potential to become contributing and productive members of society. Many refugee claimants are eventually accepted either through the refugee determination system or other immigration processes, including court appeals and humanitarian and compassionate applications. Refugee claimants already face challenges with re-settlement and social inclusion³. Social assistance plays a vital role in helping them rebuild their lives and get back on their feet. Preventing them from accessing social assistance will create additional barriers and challenges that will complicate and compromise their integration into Canadian society.

¹ See Tweddle, A., K. Battle and S. Torjman, 2014. *Welfare in Canada 2013*. Caledon Institute. November. Available at <http://www.caledoninst.org/Publications/Detail/?ID=1057&IsBack=0>.

² Senate Standing Committee on Social Affairs, Science and Technology's Subcommittee on Cities. 2009. *In from the Margins: A Call to Action on Poverty, Housing and Homelessness*. p.5. Available at <http://www.parl.gc.ca/Content/SEN/Committee/402/citi/rep/rep02dec09-e.pdf>.

³ Citizenship and Immigration Canada. 2008. *Annual Report to Parliament on Immigration, 2008*. Minister of Public Works and Government Services Canada. p.33. Available at http://www.cic.gc.ca/english/pdf/pub/immigration2008_e.pdf.

The federal government's responsibility: CST and the National Standard

The CST is the primary source of federal funding that supports provincial and territorial social programs, which are vital to maintaining a good quality of life in Canada. As noted by the Senate Standing Committee on Social Affairs, Science and Technology's *In from the Margins* report, the CST has been a major contributor to funding related to poverty reduction⁴.

As a nation state that is more than a collection of provinces and territories, national standards play an important role. The CST's national standard means that, as a nation, we believe that a minimum standard of living should be available to all residents of Canada. The national standard is a means of ensuring consistency, equity and accountability across Canada in the delivery of social assistance, towards a national goal of poverty reduction.

By eroding the national standard however, the Bill undermines equitable access to social assistance across Canada and the concept of federalism that binds us together as a country. And it proposes to increase rather than reduce poverty in Canada, despite the federal government's recognition that it has a responsibility to reduce poverty, in concert with the provinces and territories⁵. Rather than further eroding national standards in the delivery of social programs, the federal government should be strengthening them to ensure that the goals of consistency, equity, accountability, and poverty reduction are met.

Given the critical importance of the CST's national standard, any changes to it should flow from broad and transparent consultation processes with the provinces and territories, and the general public. However, as stated at the Senate committee on November 6 by Mark Davidson, the Director General of International and Intergovernmental Relations at the Department of Citizenship and Immigration Canada, no such consultation has taken place, nor has there been any request from the provinces to change the national standard.

In response to Mr. Davidson's testimony, the government of Ontario has confirmed that it did not request these amendments, that it was not consulted on this legislation, and that "the Ministry of Community and Social Services has concerns about the potential human rights implications of imposing a waiting period for a specific group"⁶.

⁴ Ibid. p.74-5.

⁵ See "Government Response to the Report of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, entitled Federal Poverty Reduction Plan: Working in Partnership Towards Reducing Poverty in Canada." Presented to the House on March 4, 2011. Available at <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5009108&File=0>.

⁶ Keung, N. 2014. 'Not Our Idea' Ontario Tells Ottawa over Controversial Welfare Restrictions. Toronto Star. November 8. Available at http://www.thestar.com/news/immigration/2014/11/08/ottawa_points_finger_at_ontario_over_refugee_welfare_reform.html.

Implementing such a significant change through the Budget Bill is an additional concern. The Budget process – especially as time allocation has been invoked – does not provide the opportunity for the degree of consultation, debate and scrutiny that such an important change deserves. In fact, sections 172 and 173 of Bill C-43 began as a Private Members Bill (C-585), another legislative process that has been criticized as being deliberately used to evade parliamentary debate and public scrutiny.

Conclusion

The amendments to the *Federal-Provincial Fiscal Arrangements Act* are being both proposed and led by the federal government and the federal government bears responsibility for their impact and consequences. By amending the CST in the way that is proposed, the federal government is in effect promoting the imposition of residency requirements on refugee claimants. These amendments erode the national standard of no minimum residency requirements and therefore represent an abdication of federal responsibility with respect not only to refugee claimants, but also to the last remaining semblance of national consistency in social program provision.

In light of these concerns, the Income Security Advocacy Centre urges the House of Commons Standing Committee on Citizenship and Immigration and the Standing Committee on Finance to recommend that sections 172 and 173 of Bill C-43 be revoked.