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Canadian Council for Refugees

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31 May 2018

The Honourable Ahmed Hussen, P.C., M.P.
Minister of Immigration, Refugees and Citizenship
House of Commons
Ottawa ON K1A 0A6

Dear Minister,

Re: Independence of Canada's refugee determination system

An independent review of refugee determination procedures at the Immigration and Refugee Board (IRB) was established last spring to examine opportunities for enhanced efficiency and productivity. To date, the results of this review have not been released. There are concerns that the government is considering undermining the role of the IRB as an independent quasi-judicial tribunal responsible for refugee determination in Canada. We are writing to insist that in any new scenario, the independence of the IRB and refugee determination system in Canada be preserved, and that the idea of eliminating the independent adjudication of refugee claims not be taken any further.

During his recent visit to Canada, the UN High Commissioner for Refugees, Filippo Grandi, emphasized the need for independence: "The board has to remain independent, this for us is very, very important." Refugee determination must remain with the IRB. It has earned the reputation around the world as a model. Many other countries turn to Canada's IRB to improve their own refugee determination systems. It is crucial that refugee determination be independent and separate from other arms of government, whose political, diplomatic or institutional priorities might taint the credibility of refugee determination

Refugees are among the most vulnerable in our society. They may have fled persecution because of their sexual orientation, been tortured because of their political opinions, or have faced racial or religious persecution. Many will face torture, imprisonment and death if returned. The issues to be decided by a member of the IRB are complex and getting it wrong has serious consequences.

We know that a core value of Canada's justice system is to have independent tribunals or courts decide serious matters related to the determination of people's rights. Similarly, refugee claims must be determined by an independent tribunal; to do otherwise would represent a setback for the administration of justice in Canada.

Such a move would also place a heavy burden on the appeal system and likely give rise to new and costly efficiency issues in our courts. Canada must avoid the temptation to follow other countries that

have opted for a non-adjudicative first level refugee determination, which by its nature is less rigorous and of lower quality, leading to a high rate of decisions overturned at appeal. For example, in the UK, 41 percent of decisions are overturned by the courts.

The IRB has been working to maximize its efficiency within existing resources. These efforts are already bearing fruit. In 2017, the rate of finalization was 37 % higher than in 2016. While there are undoubtedly aspects of the refugee determination process that could be improved, those improvements can and should take place within the context of an independent IRB.

The government of Canada got it right 30 years ago when, in response to the Supreme Court of Canada's decision in *Singh*, it led the world in creating an independent, quasi-judicial tribunal to determine refugee claims in Canada. Civil society groups that care about the rights of refugees in this country will not accept this being discarded for a process that hands first level decision-making to a non-independent agency.

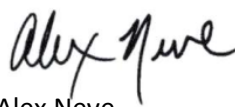
Sincerely,



Lobat Sadrehashemi
President
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Claire Roque
President
Canadian Council for
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