

November 7, 2014

VIA ELECTRONIC MAIL (CIMM@parl.gc.ca)

Mike MacPherson
Clerk of the Committee
House of Commons Standing Committee on Citizenship and Immigration
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, ON K1A 0A6

Dear Mr. MacPherson:

Re: Sections 172 and 173 of Budget Bill C-43 (period of residence)

On behalf of the HIV & AIDS Legal Clinic Ontario (HALCO) and the Canadian HIV/AIDS Legal Network (Legal Network), please accept this brief recommending that sections 172 and 173 of Budget Bill C-43 be withdrawn.

HALCO, founded in 1995, is a community legal clinic serving the legal needs people in Ontario who are living with HIV. It is the only such organization in Canada. The clinic is governed by a board of directors, the majority of whom must be persons living with HIV. In addition to providing direct legal services, HALCO engages in public legal education, community development and law reform activities. In 2013-14, the clinic responded to over 4000 inquiries and conducted numerous public legal education workshops.

Founded in 1992, the Legal Network is one of the world's leading organizations working for the human rights of people living with, and communities particularly affected by, HIV and AIDS. It is the only national organization in Canada with this exclusive focus and does so for reasons of both justice and because protecting and promoting such rights is essential to more effective HIV prevention, care, treatment and support. The Legal Network has more than 100 members, including many front-line AIDS service organizations, across Canada, and also works extensively internationally with non-governmental organizations, government policy-makers and at the level of the United Nations, where they are in Special Consultative Status with the Economic and Social Council.

If passed, sections 172 and 173 of Budget Bill C-43 will have serious implications for the health and welfare of refugee claimants and many others awaiting permanent status in Canada. The Bill would amend the *Federal-Provincial Fiscal Arrangements Act* so that provinces, without losing any of their Canada Social Transfer payments, could impose a residency requirement on people with certain types of immigration status in Canada. The Bill would therefore allow provincial governments to disentitle refugee claimants, refused

refugees, and other people without permanent resident status to social assistance income supports until they meet a minimum residency requirement.

As a result, refugee claimants and other people without permanent status in Canada could lose access to what may be their only source of income. While some people in these circumstances may be eligible for a work permit, it takes weeks, if not months, for a permit to be approved and issued. Social assistance provides a desperately needed alternate source of income during this wait period. Even individuals who hold a work permit often struggle to find a job, particularly those who are suffering from trauma and the impact of violence and persecution in their home country. Many individuals in these circumstances do not speak English or French, which further limits their access to the job market. Other refugee claimants and people without permanent resident status are categorically not eligible for work permits, leaving social assistance as their only way to survive.

Without access to social assistance, many people seeking refuge in Canada will be unable to feed, house, or clothe themselves and their families. They will be forced to turn to already overburdened charities and shelters. Many will inevitably end up on the street.

To receive social assistance in any province, one must already qualify and demonstrate great need. To then deny social assistance based on immigration status is to deny the most vulnerable in our society the crucial lifeline that allows them to survive.

Limiting access to social assistance would have severe negative impacts for refugee claimants and other people awaiting permanent resident status who are living with HIV. Undue stress and instability disproportionately impact people with HIV. HIV is a retro-virus and debilitating for the immune system. A person with a compromised immune system is much more susceptible to illness, infection and disease. Common germs, which a healthy immune system easily handles, can cause serious illness for someone living with HIV. Medical professionals have long recognized that undue stress can be a factor in the progression of HIV and weakening of the immune system. The stress of not having access to a stable income would have significant health impacts for individuals living with HIV.

When properly managed, HIV is a chronic, manageable illness. People with HIV who are receiving proper medical care may still undergo periods when they are unable to work due to particularly intense HIV-related symptoms. Limiting social assistance would leave refugee claimants and people without permanent status without income during periods when they are unable to work. People seeking refuge in Canada may not have had access to medical care in their home countries that would allow them to fully manage their symptoms. Without social assistance, these individuals would have no access to any income until their health improved and they became able to work (and again, their ability to work may be limited by the ongoing impacts of trauma, language barriers, and the wait time for a work permit, as described above).

Even in Canada, HIV is a highly stigmatized condition. It is therefore extremely important that an individual's HIV status remain confidential. Income to pay rent for an apartment means that a person with HIV has a place to store medications and keep confidential medical documents. People with HIV who are homeless may not have a safe place to store their medications and face a constant risk that their HIV status will become known. Shelters are frequently unable to provide storage space for anti-retroviral medications or confidential medical documents.

People with HIV also need proper nutrition in order to tolerate anti-retroviral medications and promote the best possible immune response. Without the safety net of social assistance, people will be forced to rely on shelters and food banks, which are often inadequate to ensure proper nutrition, especially for children.

Without a source of income, people with HIV will also be unable to afford to take public transportation to attend their appointments with doctors and HIV specialists, or to collect their anti-retroviral medication from pharmacies. The Interim Federal Health Program (IFHP) covers anti-retroviral medications; however, IFHP does not cover many of the other medications that people with HIV require, such as antibiotics to fight opportunistic infections that can be the result of a compromised immune system. Without a stable source of income, people with HIV will struggle to pay for these medications.

These are just some of the examples of the potential impact of sections 172 and 173 of the Budget Bill on refugee claimants and people awaiting permanent resident status who are living with HIV. Such treatment is not in compliance with Canada's international obligations. Removing the most basic social supports from these highly vulnerable individuals is an affront to Canada's humanitarian tradition. Ensuring that refugee claimants and others awaiting permanent resident status have access to basic social supports is also an important way that Canada can promote the successful settlement and integration of vulnerable newcomers.

The Bill would also significantly erode the last remaining National Standard for the Canada Social Transfer and therefore contribute to the erosion of the important role that the federal government plays in ensuring equal treatment across the provinces, as well as ensuring access to essential social services and supports.

We recommend that sections 172 and 173 be withdrawn from Bill C-43.

Thank you for your attention to this matter.

Sincerely,

HIV & AIDS Legal Clinic Ontario

per:



Ryan Peck
Barrister & Solicitor
Executive Director

Canadian HIV/AIDS Legal Network

per:



Richard Elliott
Barrister & Solicitor
Executive Director