



November 16, 2010

Via email: Brenna.MacNeil@cic.gc.ca

Brenna MacNeil
Director, Social Policy and Programs, Immigration Branch
Citizenship and Immigration Canada
365 Laurier Avenue West
Ottawa, ON K1A 1L1

Dear Ms. MacNeil:

Re: Proposed Amendments to s.133 of the IRPR

Thank you for your letter of October 18, 2010, providing the Citizenship and Immigration Law Section of the Canadian Bar Association (CBA Section) with the opportunity to provide input on proposed changes to s.133 of the *Immigration and Refugee Protection Regulations*.

The objective of ss.133(1)(e) and (f) is to protect prospective sponsored family members from family violence by prohibiting those with certain criminal convictions from acting as sponsors. We understand that the proposed amendments are intended to close a gap in the regulation allowing individuals to sponsor family members even when they have convictions for serious violent offences against relatives. We strongly support this objective, and our recommendations are with a view to furthering it.

The key element of the CIC proposal is to expand the group of “related” victims of violent offences leading to the sponsorship bar. The proposal seeks to add a number of groups of people, including “former intimate partners.” It is our view that the proposed class of victims needs to be reconsidered.

There are two possible approaches to defining the class of victims, based on the stated objective:

1. If the data shows that convictions for offences causing bodily harm are an indicator of the likelihood to commit a violent offence against a family member, whether or not the previous victims were related to the perpetrator, there is no reason to create a class of victims. All such offences should result in a ban on sponsorship, similar to the manner in which all sexual offences are included in the ban under IRPR s.133(1)(e)(i).
2. If, on the other hand, the data shows that only offences causing bodily harm committed against those with a close family connection to a person are an indicator, then the current proposal casts the net too wide. The class of victims would need to be clarified and narrowed considerably from that proposed.

In either case, CIC should proceed on the basis of reliable studies to support its approach.

If, after considering this data, the government wishes to proceed with an expanded list of victims, we have identified two potential problems. First, some of the groups in the proposed, expanded list (such as “intimate partners”) may be difficult to define and subject to challenge. Second, some may be so distantly connected to the sponsor that there is no meaningful family relationship and, in some cases, they could be strangers (such as second or third cousins and similarly remote family relationships by marriage). In that case, it would be difficult to surmise that the family relationship had any connection to the commission of the offence. We recommend the following as a list of relationships that could reasonably be perceived as having a connection:

- a) Sponsor’s current or former spouse, common-law partner or conjugal partner;
- b) A child of the sponsor or sponsor's current or former spouse, common-law partner or conjugal partner;
- c) A person under the age of 18 in the care and control of the sponsor, or the sponsor’s current or former spouse, common-law partner or conjugal partner;
- d) Sponsor’s grandparent, parent, sibling, sibling of a parent, or child of a sibling,
- e) The current or former spouse, common-law partner or conjugal partner of anyone listed in d).

In your letter, you raise the possibility of expanding the current bar to include sponsors who have been convicted of an offence against *anyone* that results in “death or grievous bodily harm.” This proposal appears to be punitive, rather than aimed at protecting sponsored family members from domestic violence. Again, this policy option should be based on research showing that general violence is a predictor of family violence. Our anecdotal impression is that while this may be the case for sexual offences, this may not be the case for offences resulting in death or grievous bodily harm.

We support the existing exceptions in s.133(2) and (3) of the Regulations. We also support the continued blanket ban in s.133(1)(e)(i) of sponsors convicted of sexual offences.

We appreciate this opportunity to comment on the proposed regulations at this early stage in the policy development. We would be pleased to discuss our recommendations with you at your convenience.

Yours truly,

(original signed by Kerri Froc on behalf of Chantal Arsenault)

Chantal Arsenault
Chair, National Citizenship and Immigration Law Section