Submissions to the Standing Senate Committee on Social Affairs, Science, and Technology

Bill C-44:
An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures

May 31, 2017

I. INTRODUCTION

The Metro Toronto Chinese & Southeast Asian Legal Clinic (MTCSALC) is a not-for-profit community based organization which provides free legal services to low income, non-English speaking members of the Chinese, Vietnamese, Cambodian, and Laotian communities in the Greater Toronto Area.

Established in 1987, MTCSALC is mandated to provide free legal services, conduct public legal education activities, and engage in law reform advocacy in order to advance the interests and rights of our constituent communities. Over the years, MTCSALC has served tens of thousands of clients in various areas of law. About one-third of our caseload is in the area of immigration and citizenship law.

MTCSALC has appeared before the Standing Senate Committee on Social Affairs, Science, and Technology, as well as other Parliamentary and Senate Committees on numerous occasions to present on issues that affect immigrants, refugees and racialized communities.

MTCSALC thanks the Standing Senate Committee for granting it the opportunity to comment on Bill C-44: An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures.
II. CONCERNS ABOUT BILL C-44

Division 13 of Part 4 of Bill C-44 proposes certain amendments to the *Immigration and Refugee Protection Act* (IRPA).

Clauses 304 and 305 add various exemptions to the new *Service Fees Act* for a whole host of immigration related application fees.

Specifically, the Bill exempts the following fees from *Service Fees Act* protection:

- Permanent resident visa fees;
- Fees relating to applications to remain in Canada as a permanent resident;
- Family class sponsorship fees;
- Humanitarian & compassionate application fees;
- Permanent resident travel document fees;
- Permanent resident card fees;
- IRCC examination fees under subsection 25.2(1); and
- Right of permanent residency fees.

We echo many of the concerns outlined by Andrew Griffith, former Director General for Citizenship and Multiculturalism.\(^1\) Essentially, Division 13 continues the trend established by the previous government in obtaining exemptions from the *User Fees Act* so the government can greatly increase user fees without incurring public resistance through public consultation requirements.

For example, in 2013 Immigration, Refugees and Citizenship Canada (IRCC) obtained *User Fees Act* exemptions for citizenship application fees under the *Citizenship Act*\(^2\) as well as for fees under the *IRPA* related to work permits, study permits, temporary resident visas, biometric data, and authorizations to remain in Canada.\(^3\) The exemption requests underwent minimal scrutiny in the House and Senate finance committees and none in the Citizenship and Immigration Committee.\(^4\)

The result of these rather innocuous and technocratic exemptions has been disastrous for our clients and our communities.

In the past few years, we have seen citizenship processing fees skyrocket without any reasonable justification. For example, as recently as February 2014, the citizenship

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2 RSC, 1985, c C-29 at s. 27.3.
3 SC 2001, c 27, s 28(2) at ss. 89(1), (1.1), (1.2), (2), and (3).
4 *Griffith, supra* note 1.
processing fee was $100. Now, as of the time of writing, the processing fee has jumped to $530 – an over 500% increase over the course of just a few years.\(^5\)

The Federal Government at the time justified the change to the public by suggesting that taxpayers should not bear the burden of the administration of citizenship processing. However, it should be noted that permanent residents are taxpayers too. In any case, the Canadian Government should encourage more immigrants to take up Canadian citizenship and not set up artificial barriers making it more difficult for permanent residents to become naturalized.

In terms of budget transparency, there has been no evidence offered to suggest that the additional fees collected have gone back into funding the administration of citizenship applications and not to the general coffers of the Federal Government.

Most importantly however, this change has priced citizenship out of reach for a significant portion of the population. Consider that the price tag for citizenship applications for a family of four (with two minor children) is altogether some $1,600, when including the $100 right of citizenship fee. This does not take into account additional costs such as upfront third-party language testing that is required for certain applicants under the current citizenship regime.

In fact, the massive increase in citizenship application fees has already had a significant effect. More than three years after the department obtained its exemption from scrutiny of the User Fees Act, the number of citizenship applications has plummetted — from 198,000 in 2014 to 130,000 in 2015 and 92,000 in 2016.\(^6\)

Not all Canadians have the discretionary income to come up with $1,600 easily. The current fee structure has the effect of excluding and thus disenfranchising low-income Canadians. And because marginalized groups such as women, people of colour and people with disabilities are overrepresented among low-income Canadians, they disproportionately bear the burden of these administrative fee hikes.

Further, because these fees effective block the ability of long-term immigrants to naturalize, it will further exacerbate their marginalization by blocking off their ability to vote and exposing them to the risk of deportation if they became entangled with the criminal justice system.

Exposure to disproportionate fee increases can also be especially damaging to low-income racialized communities in the context of family reunification fees and humanitarian & compassionate (H&C) applicants. For example, many of our H&C clients are women and children fleeing cases of domestic violence and have no stable


\(^6\) Ibid.
source of income. A significant increase to H&C application fees would have disastrous implications for these clients.

We recognize that there are practical and legitimate government concerns that may necessitate fee increases. We also recognize that the previous User Fees Act put forth very lengthy consultation requirements for raising fees, which is one of the challenges that the new Service Fees Act was designed to address. There is merit, for example, in allowing for fee increases tied to consumer price indices to automatically adjust for inflation, rather than hosting an entirely new consultation process for very modest increases in fees.

However, as we have seen with the citizenship fee exemption debacle, outright exemptions from the User Fees Act (now the Service Fees Act) can have terrible consequences for certain populations – often times the most marginalized populations.

It is noteworthy in this case to point out that essentially, only IRPA and Citizenship Act fees are specifically being targeted for exemptions from Service Fees Act requirements.

Yet IRCC does not have a monopoly on the financial constraints that it faces. Like all other government departments, they have service provision mandates and goals, they face budget crunches, and they have to balance higher user fees with accessibility and equity of service. Why then should their fee justification process be singled out for special treatment out of all government departments and agencies? It is not fair to other government departments and it is certainly not fair to the end users.

Therefore we propose the following recommendations to the Standing Senate Committee:

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**III. RECOMMENDATIONS**

**Recommendation 1:** Eliminate Bill C-44 Clauses 304 and 305 which exempt various fees under IRPA from the Service Fees Act requirements.

**Recommendation 2:** Reverse other Service Fees Act exemptions under IRPA and the Citizenship Act, including IRPA ss. 89(1), (1.1), (1.2), (2), and (3) and Citizenship Act s. 27.3.

**Recommendation 3:** Reverse the fees for citizenship processing to pre-2014 levels.