IN THE HIGH COURT OF THE DOMINION OF CANADA

ON APPEAL FROM THE FEDERAL COURT OF APPEAL

BETWEEN

Aya Morez

Appellant

AND

Canada

Respondent

FACTUM OF THE APPELLANT

TEAM

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PART I – OVERVIEW

[1] The Appellant claims that sections 11(1.1), 20.2(1), 24(5), 25(1.01), and 31.1 of the *Immigration and Refugee Protection Act* (the "Restrictions") discriminate on the basis of national origin contrary to section 15(1) of the *Charter* and cannot be saved by section 1.

> Bill C-4, *Preventing Human Smugglers from Abusing Canada's Immigration System Act*, 1st Sess, 41st Parl, 2011, cls 4-5, 7-9 [*2007 IRPA Amendments*].
> *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*].
> *Canadian Charter of Rights and Freedoms*, ss 1, 15, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*].

[2] The Restrictions preclude "designated foreign nationals" from travelling outside Canada until five years after being granted refugee protection. A designated foreign national is a foreign national who, without a visa or other document, "irregularly" arrives to Canada; an irregular arrival occurs upon reasonable suspicion that a person, for profit, has helped another arrive to Canada in contravention of the *IRPA*, or where examinations of the arriving group cannot be conducted in a timely manner. Each Restriction blocks access to a status, process, or document through which international travel could otherwise occur:

(i) sections 11(1.1) and 20.2(1) restrict designated foreign nationals from applying for permanent residence;

(ii) section 24(5) restricts designated foreign nationals from requesting a temporary residence permit;

(iii) section 25(1.01) restricts designated foreign nationals from making a claim on humanitarian and compassionate grounds; and

(iv) section 31.1 restricts designated foreign nationals from receiving a refugee travel document, notwithstanding Article 28 of the *Refugee Convention*.

> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.
> *Convention relating to the Status of Refugees*, 28 July 1951, 189 UNTS 150 at 28 (entered into force 22 April 1954, accession by Canada 4 June 1969) [*Refugee Convention*].

PART II – STATEMENT OF FACTS

[3] Twenty-one year-old Aya Morez fled her native country of Mucno in March 2007 after its totalitarian regime murdered most of her family. The military executed her uncle, aunt, paternal grandparents, and four cousins on March 4, 2007; soldiers beat and shot her parents and younger sister one day later. Only the fate and whereabouts of Ms. Morez's brother remained uncertain, although she assumed he had been taken by soldiers.

Official Problem, the Wilson Moot 2012, at paras 1-3 [Official Problem].

[4] The deaths were retaliation for the Appellant's uncle having fought against the regime, which is widely recognized for its appalling human rights record. The people of Mucno are prohibited from travelling abroad, and the regime does not issue identity documents.

Official Problem, *supra* para 3 at paras 1-2.

[5] Fearing for her life, and defying Mucno's travel ban, Ms. Morez walked for weeks, always under the cover of darkness, and eventually reached the neighbouring country of Aflot. During her journey, she overheard that there was a bounty on her head and that her uncle's assassins had received a bonus of two years' salary and a commendation.

Official Problem, *supra* para 3 at paras 4-5.

[6] Ms. Morez remained in danger in Aflot. The country is Mucno's chief ally, and news of the bounty on her head was well-known; there were no offices from which she could have applied for refugee status. Having heard that a local man planned to take a fishing boat across the Atlantic Ocean to Canada, Ms. Morez secured passage on the vessel in exchange for family jewellery and her domestic services. She was joined on board by 38 Aflot nationals, two of whom did not survive the journey.

Official Problem, *supra* para 3 at paras 6-8.
Clarifications to the Official Problem 2012, at para 4 [Clarifications].

[7] The group's arrival to Canada on July 31, 2007 was designated irregular pursuant to subsection 20.1(1)(b) of the *2007 IRPA Amendments* because the Minister had reasonable grounds to suspect that a person, for profit, had aided the group's arrival to Canada in contravention of the *IRPA*. Ms. Morez became a designated foreign national for having failed to produce a visa or other identity document. In addition to Mucno's policy against issuing identity documents, its citizens are not exempted from obtaining visas prior to entering Canada.

Official Problem, *supra* para 3 at paras 10-11.
Clarifications, *supra* para 6 at para 5.

[8] Ms. Morez remained in custody for 18 months until a hearing before the Refugee Protection Division concluded that she was a Convention refugee. Released in February 2009, she has since obtained employment at a retirement home and become financially independent. Her supervisor describes her as dependable, hardworking, and trustworthy. She also volunteers at a women's shelter and at a settlement agency.

Official Problem, *supra* para 3 at paras 13-17, 19.

[9] Despite her progress in Canada, Ms. Morez continued to mourn the loss of her family, and desperately wanted to know what happened to her brother. After much searching, she discovered in February 2011 that France had accepted her brother as a refugee, and that he was suffering from an illness that would kill him within two years. As her brother was too ill to travel to Canada, Ms. Morez became determined to visit him in France.

Official Problem, *supra* para 3 at paras 19-21, 23.

[10] As a designated foreign national, Ms. Morez was not yet able to apply for residency or travel documents. Her March 2011 application to the Minister for permanent residence, coupled with a request that she immediately receive travel documents, were both denied in spite of her brother's illness. In her application for judicial review, she sought an order

declaring that the Restrictions violate section 15(1) of the *Charter*, and requested an order in the nature of mandamus requiring the government to grant her travel documents.

> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.
> Clarifications, *supra* para 6 at para 2.
> Official Problem, *supra* para 3 at 3.

[11] Justice Keire held that the Restrictions did not violate section 15(1), concluding that they "draw a distinction based on the manner of arrival to Canada." However, if she were incorrect, she further concluded that the Restrictions could not be saved by section 1, because "[d]elaying access to ... travel documents to a 'designated foreign national' who has been found to be a legitimate refugee is not rationally connected to the government's stated objectives of reducing false refugee claims and deterring human smuggling/trafficking." Had she "found a violation of section 15(1) in this case, the provisions would have failed at all three stages of the section 1 proportionality analysis."

> Official Problem, *supra* para 3 at 6-8.

[12] On appeal, the majority of the Federal Court of Appeal adopted the reasons of Justice Keire on section 15(1), making no comment on section 1. Dissenting, Fujiwara JA held that the Restrictions violate section 15(1) of the *Charter*, that such violations could not be saved by section 1, and that he "would have been inclined to grant all the relief sought by Ms. Morez." He rejected "the notion that Ms. Morez's manner of arrival was a matter of choice [as such] a conclusion ignores her particular circumstances," and also added:

> Being undocumented, it is difficult to conceive of how else [Ms. Morez] could have made the trip from Mucno to Canada other than in the manner she did. I therefore conclude that the impugned provisions draw a distinction on the intersecting grounds of national origin and/or citizenship. If Ms. Morez came from a country in which travel to Canada through regular channels [were] possible, she could have avoided the burden of this law.

> Official Problem, *supra* para 3 at 8-9.

PART III – STATEMENT OF POINTS IN ISSUE

[13] The present appeal raises the following issues:

(i) Do the Restrictions infringe the Appellant's right to equality under section 15(1) of the *Charter*?

(ii) If the answer to (i) is yes, is the infringement reasonable and demonstrably justified in a free and democratic society?

(iii) If the answer to (ii) is no, what is the appropriate remedy?

PART IV – ARGUMENT

[14] This case is about adverse effects discrimination. The Restrictions substantively discriminate against Ms. Morez on the basis of her national origin and cannot be reasonably justified in a free and democratic society. The appropriate remedy is to strike the Restrictions and order that Ms. Morez be provided with travel documents.

Issue 1: The Restrictions infringe section 15(1) of the *Charter*

[15] The majority of the Federal Court of Appeal misapplied the legal test for discrimination under section 15(1) of the *Charter*, incorrectly pursuing formality at the expense of substance. The mere fact that the Restrictions draw a formal distinction based on the manner of arrival to Canada is not dispositive of Ms. Morez's claim, as facially-neutral schemes may still create substantive inequality. The Supreme Court of Canada has consistently held that section 15(1) protects against adverse effects discrimination.

> Official Problem, *supra* para 3 at 7.
> *2007 IRPA Amendments*, *supra* para 1, cl 5.
> *Withler v Canada (Attorney General)*, 2011 SCC 12 at paras 2, 33, 39, [2011] 1 SCR 396 [*Withler*].
> *Eldridge v British Columbia (Attorney General)*, [1997] 3 SCR 624 at paras 60-61, 151 DLR (4th) 577.
> *Ontario (Human Rights Commission) v Simpson-Sears*, [1985] 2 SCR 536 at 551, 23 DLR (4th) 321.

[16] Ms. Morez's claim satisfies the two-part test established by the Supreme Court in *Kapp* for identifying breaches of equality under section 15(1) of the *Charter*: (1) the law creates a distinction based on an enumerated or analogous ground; and (2) the distinction creates a disadvantage by perpetuating prejudice or stereotyping.

> *R v Kapp*, 2008 SCC 41 at para 17, [2008] 2 SCR 438 [*Kapp*].
> *Withler*, *supra* para 15 at para 30.

1. The Restrictions distinguish based on the enumerated ground of national origin

[17] Notwithstanding the formal distinction drawn by the legislature based on the manner of arrival to Canada, the Restrictions also substantively distinguish based on national origin.

> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.

[18] As with the other enumerated grounds in section 15(1), national origin is an indelible characteristic and not a precise legal term. National origin should not be confused with nationality or citizenship, both of which are legal statuses. Given its enumerated standing, national origin must be understood as a prime basis for discrimination.

> *Charter*, *supra* para 1, s 15(1).
> *R v Cook*, [1998] 2 SCR 597 at para 42, 164 DLR (4th) 1.
> *Withler*, *supra* para 15 at paras 2, 33, 39.

[19] Ms. Morez is indisputably of Mucno national origin. Prior to fleeing Mucno, she had spent her entire life in the totalitarian military state, which prohibits its people from travelling beyond its borders. Even if national origin is viewed through the narrowest of lenses, Mucno national origin must extend to Ms. Morez in order for the term to have any meaning within section 15(1) and not violate the interpretive presumption against tautology.

> Official Problem, *supra* para 3 at para 1.
> Driedger, *Construction of Statutes*, 2nd ed (Toronto: LexisNexis Butterworths, 1983) at 92.

[20] Refugees of Mucno national origin are inevitably forced to turn to smugglers. Mucno national origin cannot be divorced from its unique set of negative characteristics, forcing Ms. Morez and anyone else of Mucno national origin into an impossible corner. On the one hand, Mucno has an appalling human rights record, making escape to other countries a question of life or death; on the other hand, Mucno eliminates the tools through which 'legitimate' escape to other countries would be otherwise possible.

> Official Problem, *supra* para 3 at paras 1, 4-7.

A. The Restrictions create two distinctions based on Mucno national origin

[21] As Ms. Morez is of Mucno national origin, it was inevitable that she would arrive to Canada in an irregular manner and, having once so arrived, that she would become a designated foreign national. The Restrictions, although facially-neutral across all national origins, adversely discriminate against refugees of Mucno national origin.

Official Problem, *supra* para 3 at paras 1, 4-7.
2007 IRPA Amendments, *supra* para 1, cls 2, 5, 18.

[22] A system of accepting refugees, which facially applies the same rules across all national origins, discriminates against those refugees who want to arrive through proper channels, but whose national origin prevents them from doing so. By analogy, the Supreme Court held that a pension scheme, which facially applies the same rules to all contributors, discriminates against those "who want to work but whose disabilities prevent them from working" (*Granovsky*).

Granovsky v Canada (Minister of Employment and Immigration), 2000 SCC 28 at para 43, [2000] 1 SCR 703.

(i) Those with Mucno national origin will inevitably arrive in an irregular manner

[23] The Restrictions discriminate against Ms. Morez, whose national origin prevented her from coming to Canada in anything but an irregular manner. In contrast to most national origins, which do not prohibit international travel outright, the unique Mucno national origin forecloses any realistic chance of a claimant arriving to Canada through regular means.

Official Problem, *supra* para 3 at paras 1, 4-7.
2007 IRPA Amendments, *supra* para 1, cls 2, 5, 18.

[24] As a result of her national origin, Ms. Morez was not allowed to travel outside Mucno and was not issued identity documents, because of which she was systematically

precluded from arriving to Canada in anything but an irregular manner. The following list is illustrative:

(i) she could not have already been present in Canada, for other legitimate reasons, *prior* to making a refugee claim;

(ii) she could not have travelled directly to Canada through regular channels with the express *purpose* of making a refugee claim;

(iii) she could not have applied for refugee status from within Mucno;

(iv) she could not have applied for refugee status after escaping to neighbouring Aflot, in which no such office is present; and

(v) she could not have overtly declared an intention to flee at any time.

Official Problem, *supra* para 3 at paras 1, 5-7.
Clarifications, *supra* para 6 at para 4.

[25] Ms. Morez faces discrimination for exercising the only plausible method of escape available to someone of Mucno national origin. Given the bounty on her head, a consequence of her national origin, Ms. Morez was under constant threat of death. Had she refused the smuggler's offer in hope of a better alternative, she would have risked being murdered by the next person she met. It is discriminatory for Canada to label Ms. Morez's arrival as irregular because of an indelible characteristic outside her control.

Official Problem, *supra* para 3 at paras 1, 5-7.

(ii) Those with Mucno national origin will inevitably become designated foreign nationals

[26] In precluding Ms. Morez from arriving to Canada in anything but an irregular manner, her national origin further dictated that she would become a designated foreign national and suffer its associated penalties.

2007 IRPA Amendments, *supra* para 1, cl 5.
Official Problem, *supra* para 3 at paras 1, 5-6.
Clarifications, *supra* para 6 at para 5.

[27] A party to an irregular arrival may avoid becoming a designated foreign national by holding a visa or other document required under the regulations, but the Appellant could not satisfy this condition because of her national origin. Mucno does not provide identity documents, nor are its people exempted from obtaining visas prior to entering Canada. The bounty on Ms. Morez's head, also a result of her national origin, thwarted any realistic opportunity of obtaining such documents after having escaped Mucno.

> *2007 IRPA Amendments*, *supra* para 1, cl 5.
> Official Problem, *supra* para 3 at paras 1, 5-6.
> Clarifications, *supra* para 6 at para 5.

[28] The Restrictions substantively discriminate against Ms. Morez by failing to recognize that the way in which she arrives to Canada cannot be divorced from her national origin. In effect, the Restrictions create a different set of rules for refugees of Mucno national origin. As a result, the Restrictions impose automatic penalties based on the indelible characteristic of national origin, as expressly prohibited in section 15(1) of the *Charter*.

> Official Problem, *supra* para 3 at 8.
> *Charter*, *supra* para 1, s 15(1).

B. The comparator group of Convention refugees whose manner of arrival to Canada is not dictated by national origin helpfully illustrates the substantive inequality in the present case

[29] In *Withler*, the Supreme Court held that a claimant need not identify a mirror comparator group once a distinction has been established on one or more enumerated or analogous grounds. Nonetheless, a comparator group may still be useful if it helps to identify substantive inequality.

> *Withler*, *supra* para 15 at paras 60, 63.

[30] To further illustrate the substantive inequality present in this case, it is helpful to consider the comparator group of Convention refugees whose manner of arrival to Canada is not dictated by their national origin. Those who have a realistic choice, albeit difficult, in

how they arrive to Canada but *choose* to do so through an irregular manner and without proper paperwork, can be effectively contrasted with those like Ms. Morez whose national origin seals their fate.

> *Hodge v Canada (Minister of Human Resources Development)*, 2004 SCC 65 at para 23, [2004] 3 SCR 357.
> *Withler*, *supra* para 15 at para 49.

2. The Restrictions discriminate by perpetuating disadvantage and prejudice, and by stereotyping without regard to the actual characteristics of the claimant

[31] At the second stage of the analysis, the issue is whether the Restrictions have a discriminatory *impact* on those like Ms. Morez. This is established by showing that the law perpetuates group disadvantage and prejudice, or that the law imposes disadvantage on the basis of stereotyping. Both effects are present in this case.

> *Kapp*, *supra* para 16 at paras 16, 18, 24.
> *Withler*, *supra* para 15 at paras 34, 37, 66.

A. The Restrictions perpetuate disadvantage and prejudice

[32] Assessing a claimant's historical position of disadvantage, together with the nature of the affected interest, helps determine whether a law perpetuates disadvantage and prejudice. Both factors are to be measured according to an objective standard, with regard to the claimant's subjective experience of discrimination.

> *Withler*, *supra* para 15 at para 38.
> *Lavoie v Canada*, 2002 SCC 23 at para 47, [2002] 1 SCR 769.

(i) The Restrictions exacerbate the Appellant's historical disadvantages

[33] A law perpetuates disadvantage on the basis of personal characteristics found within section 15(1) by treating "a historically disadvantaged group in a way that exacerbates the situation of the group" (*Withler*). Examples of such treatment include withholding or limiting "access to opportunities, benefits, and advantages available to other members of society" (*Andrews*). A claimant's membership in a historically-disadvantaged group is

amongst “the most compelling factor[s] favouring a conclusion that differential treatment imposed by legislation is truly discriminatory” (*Law*).

> *Withler*, *supra* para 15 at para 35.
> *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143 at 174, 56 DLR (4th) 1 [*Andrews*].
> *Law v Canada (Minister of Employment and Immigration)*, [1999] 1 SCR 497 at para 63, 170 DLR (4th) 1 [*Law*].

[34] The Restrictions exacerbate the historical disadvantages imposed by Ms. Morez’s national origin. Although the Appellant’s overall well-being has significantly improved since arriving to Canada, the Restrictions perpetuate many of the disadvantages of her former life in Mucno. In light of her national origin and because of the Restrictions, Ms. Morez is not allowed to travel, is separated from her family, and continues to experience significant feelings of loneliness, loss, and sadness. These are the same disadvantages that she faced while in Mucno because of her national origin. Even though Ms. Morez is otherwise thriving in the Canadian context, the Restrictions prevent her from discarding her shackles of historical disadvantage.

> Official Problem, *supra* para 3 at paras 1, 17-19, 24.

(ii) The nature of the interest affected is serious; its consequences are severe

[35] The nature and scope of the interest is also helpful in assessing whether a law perpetuates disadvantage and prejudice. The Supreme Court held in *Law* that where “all other things are equal, the more severe and localized the ... consequences ..., the more likely that the distinction responsible for these consequences is discriminatory.”

> *Withler*, *supra* para 15 at para 66.
> *Law*, *supra* para 33 at para 74.
> *Egan v Canada*, [1995] 2 SCR 513 at para 63, 124 DLR (4th) 609, L’Heureux-Dubé, dissenting.

[36] In this case, family reunification is the interest affected, the nature of which is serious, and the consequences of which are severe. Ms. Morez requires travel documents in order

to reunite with her dying brother, who is too ill to visit Canada. By precluding her from travelling outside Canada for five years, and by failing to provide an emergency procedure through which legitimate exemptions could be considered, the Restrictions extinguish any realistic possibility of Ms. Morez ever reuniting with her brother. This would be a devastating result for Ms. Morez, who has already lost 11 family members, including her parents and sister, to the totalitarian Mucno regime. Such a perverse result would undercut the *IRPA* itself, in which "[f]amily reunification [is] an important objective" (*Mavi*).

> Official Problem, *supra* para 3 at paras 1-3, 23.
> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.
> *Mavi v Canada (Attorney General)*, 2011 SCC 30 at para 1, [2011] 2 SCR 504 [*Mavi*].

[37] The blanket Mucno ban against outside travel means that the Restrictions would preclude other Mucno nationals from reuniting with their gravely-ill family members. More generally, the Restrictions would thwart family reunification in any situation where a refugee's relatives remain subjected to oppressive regimes, as it cannot reasonably be assumed that such relatives will survive the five year delay imposed by the legislation.

> Official Problem, *supra* para 3 at para 1.
> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.

[38] The importance of family reunification is further emphasized by Canada's obligation under the *Refugee Convention* to "*in particular* give *sympathetic* consideration to the issue of ... a travel document to refugees ... who are unable to obtain a travel document from the country of their lawful residence" (emphasis added). Section 3(3)(f) of the *IRPA* explicitly states that "[t]his Act is to be construed and applied in a manner that ... complies with international human rights instruments to which Canada is signatory."

> *Refugee Convention*, *supra* para 2 at 28.
> *IRPA*, *supra* para 1, s 3(3)(f).
> *Mavi*, *supra* para 36 at para 62.

B. The Restrictions stereotype without regard to actual characteristics

[39] A law imposes a disadvantage when it stereotypes in such a way that does not correspond to the actual circumstances or characteristics of the claimant or claimant group. A frequent result of such stereotyping is the perpetuation of prejudice and disadvantage.

> *Withler*, *supra* para 15 at para 36.

[40] The Restrictions stereotype against refugees of Mucno national origin by imposing uniform restrictions without regard for actual circumstances or characteristics. Unlike refugees of other national origins, for whom different personal traits inform the way in which their arrival to Canada is characterized, refugees of Mucno national origin inevitably become designated foreign nationals, irrespective of their personal attributes.

> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.

[41] Without justification, the Restrictions typecast refugees of Mucno national origin as jumping a queue of 'legitimate' refugees, erroneously suggesting that refugees of Mucno national origin have access to this queue, and that their claims are illegitimate and not worthy of Canadian assistance. In reality, refugees of Mucno national origin such as Ms. Morez face unique hardships that preclude them from arriving to Canada through 'proper' channels, and it is precisely for this reason that their claims are legitimate.

> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.
> Official Problem, *supra* para 3 at paras 1, 4-7.

[42] As a result of stereotypical treatment by the Restrictions, refugees of Mucno national origin face continued prejudice and disadvantage, similar to the experiences in their homeland. Just as there is no legitimate way to leave Mucno, there is no legitimate way to enter Canada. Refugees of Mucno national origin become illegitimate in both contexts.

> Official Problem, *supra* para 3 at paras 1, 4-7.
> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.

[43] The Restrictions further stereotype refugees of Mucno national origin as being of 'higher danger' and requiring extra 'surveillance', which in turn perpetuates many of the disadvantages experienced by the migrants while in Mucno. Even though Ms. Morez is dependable, hardworking, and trustworthy, the Restrictions to which she is subjected imply otherwise.

> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.
> Official Problem, *supra* para 3 at para 17.

[44] Whether viewed through the lens of perpetuating disadvantage or stereotyping, the Restrictions substantively discriminate on the enumerated basis of national origin, and therefore violate the guarantee of substantive equality brought about by section 15(1) of the *Charter*.

> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.
> *Charter*, *supra* para 1, s 15(1).
> *Andrews*, *supra* para 33 at 164.
> *Withler*, *supra* para 15 at para 2.

<u>Issue 2: The Restrictions cannot be justified under section 1 of the *Charter*</u>

[45] The Respondent cannot succeed under section 1 of the *Charter* because the Restrictions do not constitute "justified discrimination" (*Lavoie*). Once an infringement is established, the onus shifts to the government to prove on a balance of probabilities that the Restrictions are a reasonable limit "prescribed by law as can be demonstrably justified in a free and democratic society" (*Charter*). While the Restrictions are prescribed by law, the Respondent cannot meet the onus with respect to the other section 1 requirements.

> *Lavoie*, *supra* para 32 at para 94.
> *Charter*, *supra* para 1, s 1.
> *R v Therens*, [1985] 1 SCR 613 at para 56, 18 DLR (4th) 655.
> Official Problem, *supra* para 3 at 1.
> *2007 IRPA Amendments*, *supra* para 1, cls 2, 4-5, 7-9, 18.

[46] The Restrictions do not satisfy the two-part test set out in *Oakes* because: (1) the objectives pursued through the Restrictions are not pressing and substantial; and (2) the effects of the infringing measures are not proportional to the government's objective.

> *R v Oakes*, [1986] 1 SCR 103 at paras 62-63, 26 DLS (4th) 200 [*Oakes*].

1. The Restrictions do not have a pressing and substantial objective of sufficient importance to infringe a *Charter* right

[47] The Restrictions have two identifiable objectives, neither of which is of sufficient pressing and substantial importance to justify limits on rights: (1) to reduce budgetary or administrative strain on Canada's refugee and immigration system; and (2), to deter irregular arrivals.

> *Alberta v Hutterian Brethren of Wilson County*, 2009 SCC 37 at para 42, 2 SCR 567 [*Hutterian Brethren*].
> Official Problem, *supra* para 3 at 1.
> *2007 IRPA Amendments*, *supra* para 1, cl 5.

A. Easing budgetary or administrative strain is not pressing and substantial

[48] Canadian courts have consistently rejected budgetary concerns or administrative strain as a pressing and substantial objective, absent extraordinary circumstances. The Supreme Court has only recognized budgetary concerns as being pressing and substantial in the context of an "exceptional financial crisis that called for an exceptional response" (*NAPE*). At the very least, a cost cutting objective "is suspect" (*Health Services*).

> *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 SCR 3 at para 281, 150 DLR (4th) 577.
> *Schachter v Canada*, [1992] 2 SCR 679 at para 62, 93 DLR (4th) 1 [*Schachter*].
> *Singh v Canada (Minister of Employment and Immigration)*, [1985] 1 SCR 177 at para 70, 17 DLR (4th) 422 [*Singh*].
> *Newfoundland (Treasury Board) v Newfoundland and Labrador Assn of Public and Private Employees (NAPE)*, 2004 SCC 66 at para 97, [2004] 3 SCR 381 [*NAPE*].
> *Health Services and Support – Facilities Subsector Bargaining Assn v British Columbia*, 2007 SCC 27 at para 147, [2007] 2 SCR 391.

[49] The Respondent has not led evidence that a budgetary crisis existed in 2007. Although individuals arriving in the same manner as Ms. Morez may require additional resources to

process, budgetary considerations "cannot normally be invoked as a free-standing pressing and substantial objective for the purposes of s. 1 of the *Charter*" (*NAPE*).

> *NAPE*, *supra* para 48 at para 97.

[50] There is no evidence that irregular arrivals create strain on Canada's refugee system. Although Canada has seen an increase in the number of mass arrivals of refugee claimants at its borders, the Respondent has not demonstrated a material increase in the total number of refugee claims received in a given year. In *Martin*, the Supreme Court held that maintaining the viability of an accident fund was not a pressing and substantial objective because the alleged strain was not supported by evidence. Further, high profile arrivals should not be equated with arrivals creating strain on the system.

> Official Problem, *supra* para 3 at para 29.
> *Nova Scotia (Workers' Compensation Board) v Martin*, 2003 SCC 54 at para 109, [2003] 2 SCR 504.
> Alex Neve & Tiisetso Russell, "Hysteria and Discrimination: Canada's Harsh Response to Refugees and Migrants who Arrive by Sea" (2011) 62 UNBLJ 37 at 40.

[51] Even if the evidence did indicate administrative strain, the appropriate response is to reallocate resources to address the strain in a responsible and non-discriminatory manner. As the Supreme Court held in *Singh*, "the guarantees of the *Charter* would be illusory if they could be ignored because it was administratively convenient to do so."

> *Singh*, *supra* para 48 at para 70.

[52] Once the Restrictions are held to discriminate on the basis of national origin, an objective of prioritizing applications of non-designated foreign nationals over designated foreign nationals cannot be pressing and substantial, because such an objective is inherently discriminatory. It would be an impermissible purpose to ease the alleged administrative strain by restricting designated foreign nationals' access to the affected processes for five

years, in order to prioritize the claims of others. As the Supreme Court noted in *Big M*, a "law cannot be justified on the very basis upon which it is being attacked."

> *R v Big M Drug Mart Ltd*, [1985] 1 SCR 295 at para 130, 18 DLR (4th) 321 [*Big M*].
> *Halpern v Canada (Attorney General)*, [2003] 65 OR (3d) 161 at para 119, 225 DLR (4th) 529.

B. Deterring refugees from arriving to Canada in the only manner available to them is an impermissible objective

(i) The relevant objective is that of the Restrictions, not the 2007 IRPA Amendments as a whole

[53] It is incorrect to identify the objective of the Restrictions broadly as being to combat human smuggling, or even as the name of the *2007 IRPA Amendments* suggests, to "prevent human smugglers from abusing Canada's immigration system." The relevant objective must be that of the Restrictions, not of the *2007 IRPA Amendments* as a whole, because it is only the Restrictions that must be justified. The objective pursued by the Restrictions must be identified specifically because a "vague and symbolic" objective "almost guarantee[s] a positive answer" to the justification test (*Sauvé*).

> *2007 IRPA Amendments*, *supra* para 1, cl 1.
> *RJR-Macdonald Inc v Canada (Attorney General)*, [1995] 3 SCR 199 at para 144, 127 DLR (4th) 1 [*RJR-Macdonald*].
> *Sauvé v Canada (Chief Electoral Officer)*, 2002 SCC 68 at para 22, [2002] 3 SCR 519 [*Sauvé*].

[54] The true objective of the Restrictions is not to combat human smuggling but to deter all foreign nationals, including refugee claimants, from arriving to Canada in an irregular manner. Combating human smuggling is a valiant goal, but is not an objective of the Restrictions, which do not target human smugglers. The Restrictions apply to all designated foreign nationals, including those who are not the objects of human smuggling but whose examinations cannot be conducted in a timely manner.

> *2007 IRPA Amendments*, *supra* para 1, cl 5.

(ii) Properly construed, the objective is impermissible

[55] The objective is offensive because it deters arrivals of refugees on the basis of their national origin. Since a refugee with Mucno national origin can only arrive to Canada in an irregular manner, the Restrictions deter this group from seeking refuge in Canada.

2007 IRPA Amendments, *supra* para 1, cl 5.

[56] Canada has committed to "apply the provisions of [the *Refugee Convention*] to refugees *without discrimination* as to race, religion or *country of origin*" (emphasis added). The Supreme Court has held that Canada's international human rights obligations should inform the interpretation of what can constitute a pressing and substantial objective.

Refugee Convention, *supra* para 2 at 3
Slaight Communications Inc v Davidson, [1989] 1 SCR 1038 at para 23, 59 DLR (4th) 416 [*Slaight Communications*].

[57] In *Big M*, the Supreme Court held that once the purpose has been classified as offensive, then the legislation cannot be saved by its permissible effect. Similarly here, the Restrictions have an impermissible purpose, that of deterring refugees from seeking asylum in Canada in the only available way.

Big M, *supra* para 52 at para 130.

2. The effects of the Restrictions are disproportionate to the objective pursued

[58] Even if the Court finds a pressing and substantial objective, the impact of the Restrictions is nevertheless disproportionate to their goal. Proportionality requires that: (1) the limiting measure be rationally connected to achieving the objective; (2) the means chosen minimally impair the right; and (3) the deleterious effects be outweighed by the salutary effects.

Oakes, *supra* para 46 at paras 62-63.
Dagenais v Canadian Broadcasting Corp, [1994] 3 SCR 835 at para 99, 120 DLR (4th) 12 [*Dagenais*].

A. The Restrictions are not rationally connected to their objective

[59] The Respondent has not demonstrated, through evidence "buttressed by experience and common sense," that the Restrictions will advance any identifiable objective (*Sharpe*).

> *R v Sharpe*, 2001 SCC 2 at para 94, [2001] 1 SCR 45 [*Sharpe*].

(i) The Restrictions do not address any alleged strain caused by designated foreign nationals

[60] As the Restrictions do not, and cannot, prevent a designated foreign national from making a refugee claim, they do not alleviate any backlog of such claims. In *Singh*, the Supreme Court held that a refugee must have adequate opportunity "to state his case and know the case he has to meet." Even though subjected to the Restrictions, Ms. Morez made a refugee claim within weeks of arriving to Canada. The Respondent did not provide any evidence demonstrating strain on the particular processes addressed by the Restrictions (i.e. permanent residence, temporary residence permits, claims on humanitarian and compassionate grounds, or refugee travel documents). There is no evidence that refugee claimants who arrive en masse are more likely to advance false refugee claims and be barred from the restricted processes. The Restrictions apply not only to mass arrivals, but to arrivals of groups as small as two people. Further, other provisions in the *2007 IRPA Amendments* would address any alleged administrative difficulties caused by the initial processing of irregular arrivals.

> Official Problem, *supra* para 3 at paras 12, 25, 29.
> *Singh*, *supra* para 48 at para 60.
> *2007 IPRA Amendments*, *supra* para 1, cls 10-11.

(ii) Refugees deciding how to travel to Canada are not aware of the Restrictions

[61] It is unreasonable to suppose that prospective refugees would have any knowledge of the Restrictions. To be rationally connected, the Restrictions must not be "arbitrary, unfair, or

based on irrational considerations" (*Oakes*). Experience and common sense do not support the Respondent's position that refugees envisioning travel to Canada would have detailed knowledge of Canadian immigration law. Refugees face a "well-founded fear of being persecuted" and are in a state of flight with limited time and information (*Refugee Convention*). Ms. Morez was in no position to acquire knowledge of the Restrictions before fleeing Mucno. Those present in Mucno cannot hear about Canadian immigration law from those already abroad, as Mucno prohibits outside travel in the first place.

> *Oakes*, *supra* para 46 at para 70.
> *Refugee Convention*, *supra* para 2 at 1A(2).
> Official Problem, *supra* para 3 at para 4, 7.

(iii) The Restrictions do not dissuade refugees from travelling to Canada in an irregular manner

[62] The Restrictions enable smugglers to abuse Canada's immigration system through its most vulnerable users. Refugees who, because of their national origin, do not have access to a regular manner of travel to Canada, will not be deterred by the Restrictions. Absent deterrent measures that address the conditions a refugee is fleeing, a refugee with no other available method of travel will rely on human smugglers.

[63] Although the Restrictions may deter false refugee claimants from travelling to Canada in an irregular manner, there is no evidence to suggest that individuals arriving in an irregular manner are more likely to advance false refugee claims.

> Official Problem, supra para 3 at para 29.

(iv) The Restrictions may undermine the objective by encouraging reliance on human smuggling

[64] The Restrictions may have the perverse effect of increasing reliance on human smuggling. A limitation that "has no impact …, or in fact works in opposition" to Parliament's objectives is not rationally connected (*Keegstra*). By denying refugees the ability to apply for permanent residence for five years, which is a prerequisite to

sponsoring family members to immigrate to Canada, the Restrictions bar a legitimate means of travel to Canada by preventing designated foreign nationals from sponsoring their relatives. Should families become aware of the Restrictions, they may choose to travel together in an irregular manner out of fear that they may be unable to reunite. In the past few years, Canada has seen an increase in the number of mass arrivals of refugee claimants at its borders, in spite of the Restrictions.

> *IRPA*, *supra* para 1, s 13.
> *R v Keegstra*, [1990] 3 SCR 697 at para 99, 117 NR 1.
> *R v Morgentaler*, [1988] 1 SCR 30 at para 58, 44 DLR (4th) 385.
> Official Problem, *supra* para 3 at para 29.

B. Less impairing means exist to advance the objective pursued

(i) Deference should not be accorded in this case

[65] Legislation aimed squarely at penalizing vulnerable refugees should not be afforded deference. In *Dunmore*, the Supreme Court held that even where legislative action involves complex values and policy considerations, deference is inappropriate where the legislature is balancing the interests of two separate vulnerable groups. As section 15 "is designed to protect those groups who suffer … disadvantage in our society, the burden resting on government to justify the type of discrimination against such groups is appropriately an onerous one" (*Andrews*). Instead of defending a vulnerable group, the Restrictions penalize refugees who are unable to travel to Canada through 'proper' channels, unnecessarily preventing the assimilation and naturalization of refugees in Canada, and delaying the path to citizenship.

> *Dunmore v Ontario (Attorney General)*, 2001 SCC 94 at paras 57-58, [2001] 3 SCR 1016 [*Dunmore*].
> *Andrews*, *supra* para 33 at para 10.

(ii) The Restrictions are insufficiently tailored to achieve their objective

[66] The Restrictions are overbroad because they affect individuals who cannot, and ought not, be deterred from arriving in an irregular manner. The minimal impairment enquiry asks "whether there is an alternative, less drastic means of achieving the objective in a real and substantial manner" (*Hutterian Brethren*) and considers "whether the legislature turned its mind to alternative and less rights-impairing means to promote the legislative goal in question" (*RJR-MacDonald*). The Respondent has not demonstrated why refugees who cannot be deterred from travelling to Canada in an irregular manner are nevertheless affected by the Restrictions. The inclusion of this group is unnecessary to give sufficient protection to the government's goal.

> *Hutterian Brethren*, *supra* para 47 at para 55.
> *RJR-MacDonald*, *supra* para 54 at para 186.
> *Charkaoui v Canada (Citizenship and Immigration)*, 2007 SCC 9 at para 85, [2007] 1 SCR 350.

(iii) Less impairing means to achieve the objective are already in place

[67] Unlike cases where courts have had to imagine less infringing measures, such measures are already in place in this case. The Restrictions are but one part of a scheme designed to protect Canada's refugee and immigration system from abuse by human smugglers. The *2007 IRPA Amendments* enable the government to detain irregular arrivals, and create strict punishments for persons who "organize, induce, aid or abet" human smuggling.

> *2007 IRPA Amendments*, *supra* para 1, cl 18.

[68] Without the Restrictions, the scheme otherwise enacted by the *2007 IRPA Amendments* would combat human smuggling without discriminating against persons of Mucno national origin. At the minimal impairment analysis, "the court need not be satisfied that the alternative would satisfy the objective to *exactly* the same extent or degree as the

impugned measures" (*Hutterian Brethren*; emphasis in original). To require otherwise would be to immunize the law from scrutiny under the minimal impairment enquiry.

Hutterian Brethren, *supra* para 47 at para 55.

C. The Restrictions cause significant deleterious effects in pursuit of a marginal benefit

[69] If the Restrictions have any salutary effects, they are marginal and are substantially outweighed by the severe infringement of Ms. Morez's section 15 *Charter* rights.

[70] At the final stage of the *Oakes* test, the analysis shifts from a focus on the objective of the infringing measures to a focus on the effects of the Restrictions. The court considers whether the benefits "are worth the costs of the rights limitation" (*Dagenais*).

> *Dagenais*, *supra* para 58 at para 99.

[71] In the present case, the salutary effects of the Restrictions, if any, are marginal. The Restrictions have at most an incidental effect on human smuggling, as they are not aimed at its perpetrators. Canada continues to see an increase in irregular arrivals.

> Official Problem, *supra para* 3 at para 29.

[72] On the other hand, the Restrictions create real and serious deleterious effects. The Restrictions violate Canada's international obligations, prevent family reunification, and will cause irreparable harm to Ms. Morez.

[73] The Restrictions violate Canada's commitment to provide travel documents to Convention refugees; section 31.1 of the *IRPA* circumvents this commitment by excluding designated foreign nationals from the category of refugees "lawfully staying" in Canada. Unlike similar restrictions placed on Articles 23 and 24 of the *Refugee Convention*, Canada did not make a reservation to Article 28. Under the proportionality analysis, "the fact that a value has the status of an international human right ... under a treaty to which Canada is a State Party" indicates a high degree of importance attached to that value (*Slaight Communications*).

> *Refugee Convention*, *supra* para 2 at 23, 24, 28.
> *2007 IRPA Amendments*, *supra* para 1, cl 9.

Slaight Communications, *supra* para 56 at para 23.

[74] The Restrictions violate the *Protocol against the Smuggling of Migrants by Land, Sea and Air* which specifically states that any efforts to combat human smuggling must accord with Canada's obligations under international law, including the *Refugee Convention*. The *Protocol against Smuggling* is to be interpreted and applied in a manner that is not discriminatory to persons who are the objects of human smuggling.

Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the *United Nations Convention against Transnational Organized Crime*, GA Res 55/25, annex III, UNGAOR, 55th Sess, Supp No 49, UN Doc A/45/49 (Vol 1) (2001) 65 at 19 (entered into force 28 January 2004, accession by Canada 13 May 2002) [*Protocol against Smuggling*].

[75] The Restrictions also frustrate an important objective of the *IRPA* in relation to refugees. Section 3(2)(f) of the *IRPA* makes explicit Canada's commitment "to support the self-sufficiency and the social and economic well-being of refugees by facilitating reunification with their family members in Canada." The Restrictions deny designated foreign nationals the ability to integrate fully into Canadian society by becoming permanent residents and reuniting with their families for at least five years longer than non-designated foreign nationals in similar situations.

Mavi, *supra* para 36 at para 1.
IRPA, *supra* para 1, s 3(2)(f).

[76] The Restrictions impose a penalty on the very individuals Canada's refugee system is meant to protect. Refugees in the position of Ms. Morez, who are unable to travel to Canada in a regular manner because of their national origin, are victimized in three ways: (1) by the persecution they face in their home country; (2) by the human smugglers who facilitate their migration to Canada; and (3) by the Restrictions, which cast designated foreign nationals into an unnecessary five-year limbo that denies equality under the law.

Neve & Russell, *supra* para 51 at 45.

[77] In Ms. Morez's case, family reunification in Canada is not possible because of the Restrictions and her brother's inability to travel; Canada should not disentitle her from access to family, a fundamental social institution. These deleterious effects are especially dire in Ms. Morez's case; the Restrictions will prevent her from reuniting with her only living relative before he passes away.

[78] Any marginal benefit advanced by the Restrictions is substantially outweighed by their deleterious effects. The Restrictions fail all three parts of the proportionality enquiry.

Issue 3: To provide a responsive and effective remedy, the Restrictions should be struck under section 52(1) of the *Constitution Act, 1982* and the Appellant should be granted travel documents under section 24(1) of the *Charter*

[79] This case is a rare circumstance where it is appropriate to provide an individual remedy in conjunction with a constitutional remedy striking the provisions. The courts have left open the possibility of obtaining both a constitutional remedy under section 52(1) of the *Constitution Act, 1982* and a personal remedy under section 24(1) of the *Charter*.

> *Constitution Act, 1982*, s 52(1), being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Constitution Act*].
> *Charter*, *supra* para 1, s 24(2).
> *Mackin v New Brunswick (Minister of Finance)*, 2002 SCC 13 at para 81, [2002] 1 SCR 405.
> *Schachter*, *supra* para 48 at para 89.

[80] In *Ferguson*, the Supreme Court affirmed the permissibility of a section 24(1) remedy along with a section 52(1) declaration of invalidity "where additional s. 24(1) relief is necessary to provide the claimant with an effective remedy." While a retroactive personal remedy cannot be combined with a declaration of invalidity, courts can award prospective remedies under section 24(1) in conjunction with a section 52(1) remedy.

> *R v Ferguson*, 2008 SCC 6, [2008] 1 SCR 96 at para 63 [*Ferguson*].
> *Schachter*, *supra* para 48 at para 89.
> *R v Demers*, 2004 SCC 46, [2004] 2 SCR 489 at para 63.
> Vinay Shandal, "Combining Remedies Under Section 24 of the *Charter* and Section 52 of the *Constitution Act, 1982*: A Discretionary Approach," (2003) 61 UT Fac L Rev 175 at 186-187.

1. The Restrictions should be declared of no force or effect pursuant to section 52(1) of the *Constitution Act, 1982*

[81] The Restrictions should be declared invalid because "any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect."

> *Constitution Act*, *supra* para 81, s 52(1).

[82] Striking only sections 11(1.1), 20.2(1), 24(5), 25(1.01) and 31.1 would leave the *IRPA* intact, including the unchallenged provisions in place to prevent human smugglers from abusing Canada's refugee and immigration system. This remedy addresses the unconstitutionality of the Restrictions without frustrating the legislative intent behind the *2007 IRPA Amendments* and is minimally intrusive. In *Schachter*, the Supreme Court held that severance is consistent with legal principles "[w]here the offending portion of a statute can be defined in a limited manner."

> *2007 IRPA Amendments*, *supra* para 1, cls 4-5, 7-9.
> *Schachter*, *supra* para 48 at para 29.

2. A suspended declaration of invalidity is inappropriate in this case

[83] The Restrictions do not meet the test for a suspended declaration of invalidity. Severing the Restrictions would not pose a danger to the public or threaten the rule of law. The Restrictions are not under-inclusive, and a declaration of invalidity would not deprive any individuals of benefits. It is appropriate to strike the Restrictions immediately. A suspended declaration of invalidity should only be granted where necessary, because it enables legislation found to violate the *Charter* to remain in force for a period of time. In this case, it will perpetuate discrimination unnecessarily.

> *Schachter*, *supra* para 48 at paras 79, 81.

3. It is just and appropriate in the circumstances to issue an order in the nature of mandamus to provide the Appellant with travel documents

[84] Striking down the Restrictions is, alone, insufficient to remedy the violation of the Appellant's section 15 *Charter* right. Without an individual remedy, Ms. Morez will still be required to wait while her travel document request is processed and will continue to suffer the uncertainty of whether she will reach her brother before he dies.

[85] In deciding the appropriate remedy, the Court has significant discretion. Section 24(1) of the *Charter* provides that "anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances." In *Mills*, McIntyre J. acknowledged that "[i]t is difficult to imagine language which could give the court a wider and less fettered discretion" to provide a remedy.

> *Charter*, *supra* para 1, s 24(1).
> *R v Mills*, [1986] 1 SCR 863 at para 278, 29 DLR (4th) 161.

[86] Courts must craft responsive and effective remedies. The remedial provisions of the *Charter* must be interpreted in a purposive manner. The purpose of the right being protected must be promoted, and the purpose of the remedies should be furthered.

> *Doucet-Boudreau v Nova Scotia (Minister of Education)*, 2003 SCC 62 at para 25, [2003] 3 SCR 3.

[87] There is no constitutionally viable alternative in this case except to grant an order in the nature of mandamus, directing the Respondent to provide Ms. Morez with a Convention refugee travel document. Once section 31.1 of the *IRPA* is struck, the Appellant will be "lawfully staying in Canada" and will be entitled to receive a travel document under Article 28 of the *Refugee Convention*. Absent the limitation caused by the Restrictions, the Appellant would have been eligible for a travel document once accepted as a

Convention refugee in December 2008, and would have been granted the document once requested in March 2011. An order in the nature of mandamus was granted by the Supreme Court in *PHS Community Services* because other remedies would “cast [the claimants] back into the application process” and create further uncertainty and delay, yielding potentially “grave consequences.”

> *2007 IRPA Amendments*, *supra* para 1, cl 9.
> *Refugee Convention*, *supra* para 2 at 28.
> Official Problem, *supra* para 3 at 2, para 14.
> *Canada (Attorney General) v PHS Community Services Society*, 2011 SCC 44 at paras 148, 150, [2011] 3 SCR 134 [*PHS Community Services*].

[88] An order in the nature of mandamus to provide a travel document is not an unprecedented remedy. In *Abdelrazik*, the Federal Court compelled the Minister of Foreign Affairs to provide an emergency passport in response to a violation of section 6(1) of the *Charter*.

> *Abdelrazik v Canada (Minister of Foreign Affairs & International Trade)*, 2009 FC 580 at para 160, [2010] 1 FCR 267.
> *Charter*, supra para 1, s 6.

[89] The circumstances of the present case warrant an order in the nature of mandamus. The remedy is minimally invasive and respects the division of institutional competencies between the court and the legislature. It does not require legislative action because the government has in place the mechanisms to issue travel documents to Convention refugees. A more invasive request would be to issue Ms. Morez permanent residence status; however, this is unnecessary to remedy the infringement of the Appellant’s rights.

> *PHS Community Services*, *supra* para 90 at para 150.

[90] Aya Morez has been through an unimaginable ordeal, further exacerbated by the discriminatory Restrictions; to continue to deny her travel documents would be unjust.

PART V – ORDERS SOUGHT

[91] The Appellant requests that the appeal be allowed and the Court grant:

(a) an Order pursuant to section 52(1) of the *Constitution Act, 1982* declaring sections 11(1.1), 20.2(1), 24(5), 25(1.01) and 31.1 of the *IRPA* unconstitutional, and of no force or effect; and

(b) an Order in the nature of mandamus to immediately issue Ms. Morez a refugee travel document forthwith.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

PART VI – LIST OF AUTHORITIES AND STATUTES

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