REFUGEE UPDATE

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INSIDE

WORKING CLASS

SOLIDARITY WITH REFUGEES AND IMMIGRANTS

BY KEN LUCKHARDT

The power of ruling class ideology to poison and distort the minds of workers in the developed capitalist world is well established. This ideology intentionally speaks to the everyday concerns of working people and trade unionists, but in a way that, if accepted, reinforces the structures of their own powerlessness and oppression.

Commonly-voiced attitudes about immigrants and refugees are among the best examples of how a dominant ideology leads workers in the developed world to misunderstand the realities of not only immigrants and refugees...but also themselves as workers.

Courtesy of the artist, Thomas Boldt.

In our union educational programs we begin by asking our members: "when is the last time you heard something positive about immigrants, and especially refugees?" and then, "what do you hear about immigrants and refugees?" In a matter of minutes a long litany of anti-immigrant/refugee sentiment often pours out from workers who otherwise bear no such deep malice towards other workers on other issues.

Immigrants and refugees "cause unemployment" ..."crime"...they are "illegals" and "queue-jumpers"..."parasites on the public purse"...This reaction to the words "immigrants" and "refugees" is a scary symptom of the ideology of hate, fear and division that characterizes present-day Canada.

We must ask, "where do these ideas come from?" and "whose interests do they serve?" They don't serve us, and that is where ***our analysis*** must begin.

When time permits, it is always helpful to examine the legacy of Canadian nation-building to understand that "(T)he real history of immigration in Canada is a history of racist and anti-labour laws" *(The Immigrant's Handbook, A Critical Guide,* Law Union

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of Ontario, 1981). Against this pattern of injustice, the Canadian people have always had to fight for more humanitarian policies and practices.

This conclusion obviously refers to the conscious policy of the Canadian state to permanently settle this country in the late 19th and early 20th centuries with (northern) Europeans, while simultaneously exploiting the migrant labour of workers of colour from Asia and elsewhere. When workers - regardless of their origins however - organized and resisted the power of capital, they were subjected to the state's coercive policy of deporting "aliens" and "subversives" under an increasingly punitive immigration system.

That history is an uninterrupted story that best situates the working-class immigrant experiences of not only most communities of colour but also militant trade unionists of European ancestry. Canada, in short, was not beyond producing its own political refugees through red-scare-inspired deportations (after WW 1) or simply mean-spiritedness against unemployed domiciles who had not gained citizenship during the Depression years. Valerie Knowles, in her *Strangers at our Gates,* estimates 30,000 deportees were returned to Europe between 1930 and 1935; their principal crime was the failure to find a job in the midst of capitalist crisis.

We must ensure that our members and their families realize that immigrants and refugees are not the cause of unemployment, crime, "illegality." Nor are they greater users of social programs than the host population on a per capita basis.

The historical approach admittedly only answers historical questions. We must understand that history however if we are to make progress in advancing immigrant and refugee rights in the present era.

Quite honestly, many workers and union members don't make the immediate connection between then and now. Nor is it always an easy connection to make insofar as the traditional demand for (often unskilled) labour and increased settlement have ceased to be the state's priorities in this era of globalization, free trade and the larger corporate agenda.

In an era of permanently high unemployment levels and job insecurity (as demanded by capital), how can workers be expected to readily embrace demands for increased levels of immigration generally, and solidarity with refugees in particular?

Again, our job as labour educators is to answer that question with as many compelling arguments as we can muster. That is the challenge we face. For many, unfortunately, it simply is easier to fall into the ideological trap of just not talking about these divisive subjects... or at least not until "things get better". That is nothing short of a betrayal of working class interests and a sign of weakness amongst labour leadership.

No, we must ensure that our members and their families realize that immigrants and refugees are not the cause of unemployment, crime, "illegality". Nor are they greater users of social programs than the host population on a per capita basis. These myths and "big lies" can be shattered, and we must seize every opportunity to get authentic documentation to our members regardless of any initial resistance to ***our*** information.

But we must go beyond merely exposing the myth-making projects of the powerful. We must strive to make workers and trade unionists demand an involvement in determining immigration policy and levels. Who more than the labour movement has an interest in shaping the size and composition of the Canadian workforce?

Refugees and immigrants generally, when they come from a ***working class background,*** would further diversify the ranks of labour, bring an experience and level of struggle often missing and better educate Canadian-born workers to the urgent need for international solidarity against a common, global corporate agenda.

The real goal must surely be to make workers understand that the current Liberal (and former Tory) immigration policy is motivated above all by class distinctions and (their) class interests. While refugees are forced to wait interminably for their fate to be determined by faceless bureaucrats the would-be "entrepreneurial immigrants" are encouraged with every scheme imaginable to quickly come and invest.

Although these "investor immigrants" have not pitched up on Canada's borders in numbers that the state would like (reflected in a 17% decline between 1993 and 1994) shouldn't we be asking: "how did these would-be Canadian capitalists get their wealth in the first place in their original homelands?"

Could it be through the super-exploitation of workers (including child-labour) and peasants in the underdeveloped capitalist world? Are these the "new" Canadians we want or need? Do we want more exploiters walking through widely-opened doors who are met by private sector financiers promising to protect their deposits against the uncertainties of investing in small business?

While this courting process is going-on, should we not as workers demand an end to the revenue grab (better known as the "head tax") on refugees... and to the unconscionable detention of "refugee-claimants" in prison-like detention centres (that only look like motels on the outside) near Canadian airports and borders? Should we not be demanding an end to rising levels of deportations of people like ourselves - workers and political activists - who often find Canada as hostile as the country they fled?

At the very least, should we not reject the ruling class ideology that teaches workers here that they have nothing in common with workers "over there"? Put positively, let's roll up our sleeves and risk the initial wrath of our members and let them know that the working class immigrants and refugees that would like to come to Canada are most often fighting - with their lives - the very same corporate agenda that we face in our workplaces and communities!

Let's start making the connection between free trade, the IMF and World Bank orchestrated Structural Adjustment Programs (SAPs) and the rise of naked repression on the one hand, and the rise in the levels of refugees and uprooted peoples in those same

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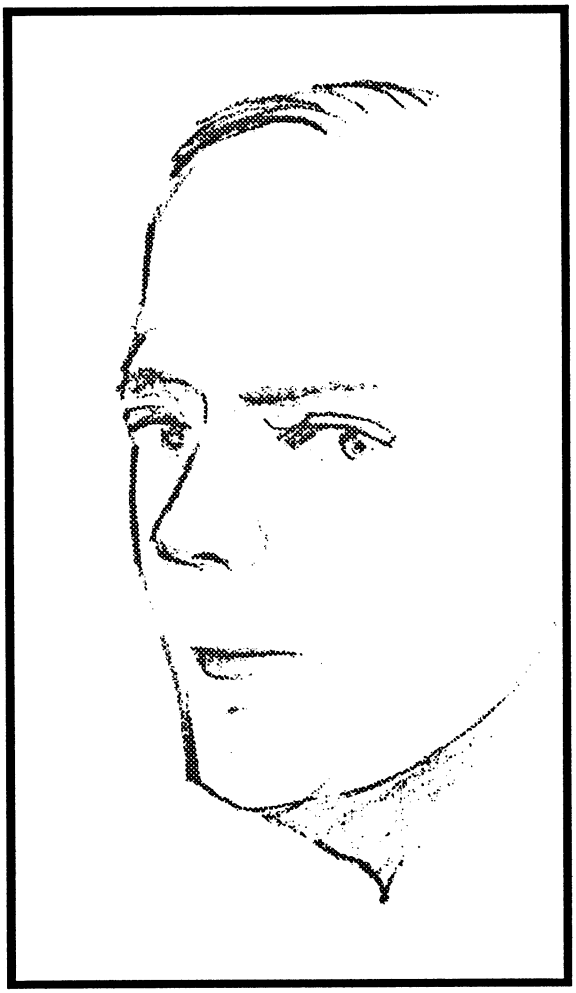


ROBERT (ROB) JOHN ADAMSON

BY SRI-GUGGAN SRI- SKANDA-RAJAH

On Sunday 20 August, 1995, Rob Adamson, 43, passed away peacefully after a valiant battle with AIDS. He had been in a coma for several days with meningitis. Typical of Rob, he kept mostly to himself the devastating effect that the disease AIDS was having on him. He never complained. Instead he continued to live life to the fullest, and was working hard at completing his hearings as a member of the Immigration and Refugee Board of Canada.

Rob was the third son of Percy and Marian Adamson of Keene, a village about 20 kilometers South-East of Peterborough. He was particularly close to his mother Marian. It was evident to those who knew him well that she had profoundly influenced him. His childhood values formed the basis from which he approached life. Rob was a doer, not one who wanted things done for him.

Politically, Rob was a New Democrat who expressed his beliefs through quiet action rather than loud rhetoric. Rob was not fond of speaking from lecterns or raised political podiums. He preferred door to door campaigning where he was able to answer questions and explain policy to those who showed interest in democratic politics and social justice issues.

Rob was proficient in several languages including French, Spanish and Portuguese. This enabled him to work closely with the respective communities in Canada and abroad. He travelled widely, not for reasons of rest and recreation, but to be of service to the needy. Rob would deliberately choose to travel to places where the ordinary citizens faced repression by powerful groups or governments. Repeatedly he travelled to countries with abysmal human-rights records to determine the facts for himself, often putting himself at risk by going to the aid of people in danger. Rob never sought credit or recognition for these courageous humanitarian deeds. On his return from these trips he would often inform and thus educate the refugee-serving community.

Prior to Rob's appointment to the Refugee division in October 1994, he was the UNHCR's legal officer attached to the Toronto office of the I.R.B. During the course of his appointment Rob also carried out assignments in the former Yugoslavia, at considerable danger to himself. He worked diligently in hazardous circumstances providing for and negotiating with warring factions for the safety of affected citizens. Typical of Rob he avoided any publicity of his role. But he wrote at length to his closest friends revealing his thoughts and feelings about happenings.

Before taking duties as the UNHCR's legal officer, Rob worked in the legal-aid clinic system, first as a community legal worker and later, after being called to the bar, as a staff lawyer. Rob served the clinic's clients and the community in innovative ways.

On a personal note, it was a privilege for me to be one among his many friends. Rob and I were part of the legal clinic system and the accompanying political activism. I know not of many who were capable of better factual political analysis of a situation than Rob. His considerable knowledge of international instruments, protocols, agreements and arrangements were of invaluable assistance in finding the right answers to difficult refugee and immigration issues. I know from talking to his many colleagues, refugee advocates, settlement and service providers, immigration and refugee lawyers and consultants, and academics, how diligently he worked at providing them with appropriate assistance and information.

Rob was a quietly religious man. He maintained his religious connections through the Keene United Church - a church that had played a considerable part in his spiritual and personal growth. Rob always returned to his roots, his family, and his simple rural community whenever he felt in need of spiritual renewal.

Rob Adamson will be sorely missed by all who knew him. I know, however, that he would want us all to do our little bit in the service of those in need of our assistance. Rob would want us to do so without complaining.

Sri-Guggan Sri-Skanda-Rajah is a former member of The Immigration and Refugee Board.

HEAD TAX STRATEGIES

BY ANDREW BROUWER

Refugee advocates have attacked it.
Faith leaders have spoken out against it.
Women's groups, labour and social justice organizations have squared off against the government on the issue.
International bodies have expressed concern about it.
And thousands upon thousands of Canadians have sent post-cards, signed petitions or marched against it.
But eight months after it was implemented, the head tax is still here.

When Finance Minister Paul Martin introduced the $975 head tax (also known as the Right of Landing Fee) in the February budget, people who work with refugees and immigrants were outraged.

Because the head tax was so blatantly unjust, many in the NGO community were initially optimistic about the chance of having it rescinded. Voices had been raised in protest around the country, and it was rumored that the Minister of Immigration himself was uncomfortable with the fee. The battle seemed "winnable."

Around the country, community agencies and social justice groups joined forces to fight the head tax through post-card campaigns, petitions, demonstrations, letters, press releases and lobbying.

In September, representatives of the Toronto-Based Ad Hoc Coalition Against the Head Tax met with the Minister to discuss the issue. What we heard was not encouraging.

The Minister was obviously smarting from the public outcry against the head tax. Yet he was apparently unmoved by the serious problems and inequities caused by the head tax. When we related the experiences of people in our communities who had been denied head tax loans, we were told that anecdotal evidence was not enough: he wanted *statistics*. When we asked what would be done about the impending crisis when the loan fund hits the ceiling (probably within two years), he admitted, unperturbed, that he had no idea.

Though Mr. Marchi claimed to be sympathetic to reports of hardship as a result of the head tax, he insisted that rescinding the head tax was simply out of the question. The Minister of Finance sets the budgets, he told us, and other ministers scramble to implement them. There are no "sacred cows"; no program is untouchable. The only guiding principle is Deficit Reduction - at any cost, and primarily through spending cuts (how the government can justify waging its deficit war on the backs of refugees while maintaining a "meals and entertainment expense"tax break for business is inconceivable. The head tax is expected to pull in under $150 million* while the business tax break costs the government $357 million!).

Needless to say, we left the meeting somewhat subdued. So far, at least, protests didn't seem to be having much of an impact on the government. Two months later, little has changed.

It is becoming clear that our strategy needs to be broadened. We need to start proposing alternatives. If justice-seeking agencies want to be taken seriously, we need to show Canadians and the government that there are other ways of doing things. And we as NGOs need to speak together with a unified voice. This is especially important now that we have so few allies in Parliament to carry our concerns into the House of Commons.

The head tax is a case in point. In our analysis of the head tax, we should recognize it as a flash-point, a single element among many others like it in a federal budget that turns its back on the poor and the vulnerable. The massive cutbacks to foreign aid and social programs are part of the same package and motivated by the same values (or lack of values). As refugee advocates we need to take that seriously and start working much more closely with domestic anti-poverty groups and international develop organizations to develop a coherent critique of government policy and a creative alternative vision for the future.

A good place to start might be in the federal budget process. Refugee groups could join with other social justice organizations in making federal budget proposals to the House of Commons

Standing Committee on Finance. We could also get involved in developing the Alternative Budget produced every year by Winnipeg-based CHO!CES and the Canadian Centre for Policy Alternatives.

This is not to say that efforts at public opposition have failed: far from it! The grass-roots movement against the head tax is gaining momentum - as was shown by the nation-wide demonstrations that took place over the Summer and Fall of this year. Internationally, the United Nations High Commission for Refugees (Regional Bureau for the Americas and the Caribbean) said in October that the head tax "is of serious concern" and should be waived for refugees. As well, the International Council of Voluntary Agencies called the head tax a perversion of the idea of refugee protection and "a direct and flagrant violation" of the UN Convention on Refugees. This kind of support is critically important if we are to be heard in Ottawa.

But we have to go beyond protests. Next time we are asked, "Well, what do you propose, then?" we need to have concrete alternatives to the policies we oppose.

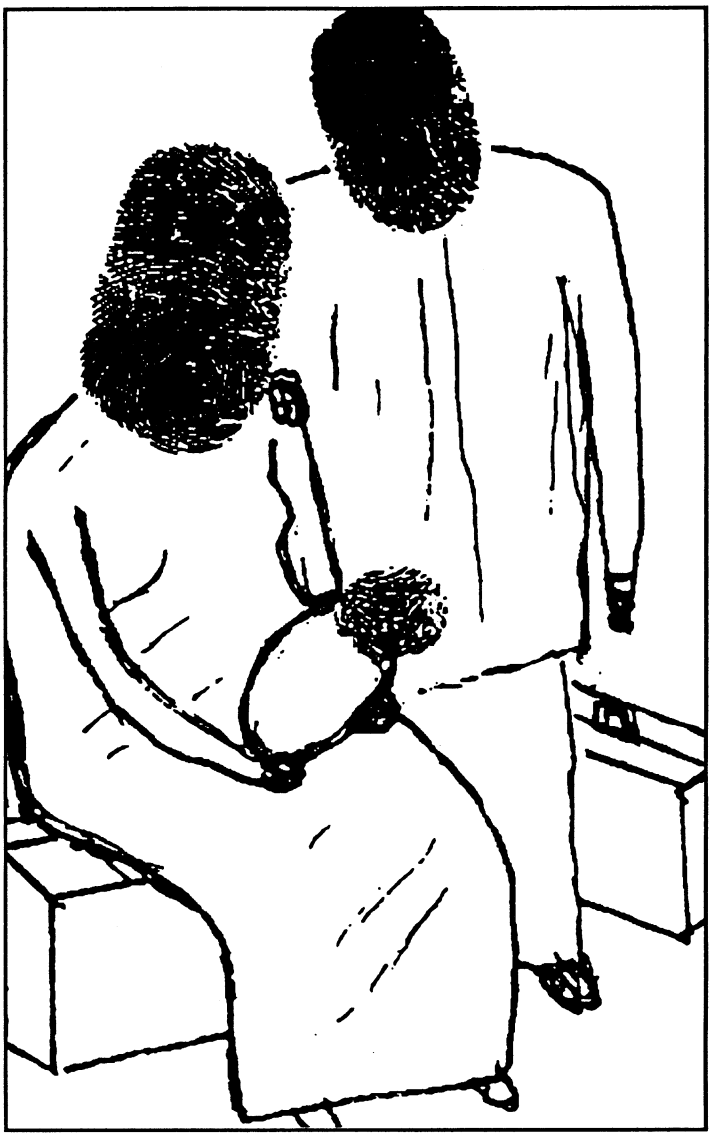
** Paying for Canada Coalition, 1995.*

Andrew Brouwer is Communications Director for Citizens for Public Justice, and is a member of the Toronto-based Ad Hoc Coalition Against the Head Tax.

ILLUSORY APPEAL:

THE CASE OF UNHCR REFUGEE DETERMINATION PROCEDURE IN TURKEY

BY DELJOU ABADI



In order for an appeal to be meaningful and effective, certain safeguards must be in place. In its 1990 recommendations to the Hong Kong Government, UNHCR has mentioned that the notion of "appeal for a formal reconsideration" should include some basic principles of fairness applicable equally to judicial or administrative reviews. These are the possibility for the applicant to be heard by the review body and to be able to obtain legal advice and representation in order to make his submission; for reconsideration to be based on all relevant evidence; and for a consistent and rational application of refugee criteria in line with the guidelines established in the UNHCR Handbook. UNHCR believes that the notion of fairness also requires the review body to provide the grounds for its decision. (UNHCR, notes on the subject of role of UNHCR in the Hong Kong procedure for refugee status determination, 1990).

Ironically, the above criteria have proven the most difficult for the UNHCR to apply when the organization has been faced with the task of determining refugee claims. UNHCR has determined refugee claims in a number of signatory and non-signatory countries to the 1951 UN Convention Relating to the Status of Refugees. For example, until February 1, 1988, UNHCR was the authority in Belgium which decided whether an asylum seeker's application was well-founded.When an application was rejected, the UNHCR representative had the authority to reopen a case and seek the advice of UNHCR headquarters. However, the claimant or his/her lawyer did not have complete access to the file on which the decision was based. Nor did the representative give reasons for a negative decision. Such a negative decision leading to an expulsion order could still be quashed in the Belgian Civil Court.

The situation is different in Turkey. Turkey has a geographic reservation attached to its accession to the UN Refugee Convention, recognizing as refugees only those who have fled from Europe. Iranians and Iraqis are the two largest groups of asylum seekers in Turkey who are excluded. Unlike Belgium, UNHCR's determination system in Turkey has been the cornerstone of international protection afforded to non-European asylum seekers. Until July 1994, UNHCR had been the sole authority deciding refugee eligibility of non-Europeans. Based on an agreement with the Turkish authorities, applicants who received a final rejection by the UNHCR Office should have been deported to their countries of origin. After this date, the government has assumed the task of identifying "genuine refugees" and referring them to UNHCR for resettlement. However, UNHCR would reject a case for resettlement if it is not a "worthy case" by its standards. Similarly, when an applicant is not considered a "genuine refugee" by the government and therefore issued a deportation order, UNHCR would "consult" with the government only if it is a "worthy case". In either of these circumstances, Turkey's domestic law does not provide the asylum seeker a right of appeal against the rejection. Nor could asylum seekers rely on Article 1 of the International Covenant on Civil and Political Rights, which confers a right of review of a decision to deport an alien and a right to be represented for this purpose before the competent court. Turkey is not a party to the Covenant.

In view of the grave consequences of an incorrect decision by the UNHCR, it is reasonable to expect that the UNHCR Office in Turkey will stringently implement the safeguards it considers as fundamental for a meaningful and effective

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appeal. In reality, however, the appeal procedure has lacked the safeguards which are highlighted above.

Rejection of a case by the UNHCR Branch Office in Turkey has been in either of the following forms: rejection with an opportunity for a review or a closed case without an opportunity for an automatic review. In the latter case, an "information notice" would explain that one's case was rejected as "manifestly unfounded" or as "abusive of the procedures". If the decision is negative with the opportunity for a review, the applicant is informed in a form letter that s/he can write an appeal letter. An interview is not always granted but a different legal officer makes a second review of the case. For cases that are closed, although a re-opening is possible, there is no formal procedure to lodge an appeal. The process is open ended and in some cases takes as long as a year. A request for a re-opening is granted only based on introduction of "new information or documents".

UNHCR legal officers in Turkey do not provide reasons for their conclusions. As a result, asylum seekers are severely handicapped not knowing the grounds upon which they can base their challenge in an appeal. They are uncertain what they can accomplish in such an appeal. Grounds for decisions are also not provided after review. Thus the applicant whose case is rejected on review is never reassured that s/he has had a fair hearing and that the criteria have been applied properly. Nor can an applicant have access to her/his file because of the agency's confidentiality rules. Considering the Office's available interpretation facilities, which lacks standardized selection criteria and training of interpreters and that interview notes are not read back to applicants for acknowledgement of accuracy and completion, the right to access files is not just a question of fairness, it is the only opportunity for an applicant to rectify errors such as mis-interpretation. In these circumstances, the right to appeal becomes meaningless.

Despite UNHCR's emphasis on the need for legal advice and representation, such assistance has not been available to asylum seekers. Once an applicant receives a negative decision, the only instruction s/he receives for preparing an appeal letter is that the letter "SHOULD NOT EXCEED TWO PAGES". To request a re-opening of one's case, one is instructed only to provide "new information and documents".

The procedure has also been designed in a way that does not allow any meaningful involvement of representatives or advocates at any stage of the process. Representatives have been barred from accompanying asylum seekers to the interviews. They have also been denied access to files and any relevant information about an asylum seeker's case. Submissions in support of asylum cases have been generally not replied to and it is never clear if they are included in assessment of a claim. It has also been very frustrating to advise asylum seekers, because there is no information available on how refugee criteria are applied and whether the burden of proof applicants are required to meet are consistent with the guidelines established in the UNHCR Handbook.

The failure of the system in providing an effective appeal process is also shown in the fact that appellants are asked to produce new information and documents in support of their claims. This limits the review to only errors or deficiencies in an applicants presentation of her/his case and disregards entirely the possibility of mistakes in a decision maker's conclusion. It does not consider the possibility of procedural flaws and irregularities. By restricting the review to new facts, the new decision maker would not make an independent evaluation of the facts already presented in the case. This denies the claimant a reconsideration of the claim based on all relevant evidence.

There are currently hundreds of Iranian and Iraqi, mainly Kurdish, asylum seekers who are subject to deportation by the Turkish authorities due to their cases being closed by the UNHCR after an appeal. Some have lingered in Turkey for several years, hiding in squalid slums.

In my own survey of closed cases, I have found many compelling cases of persecution. An illustrative example is the case of Mrs. H., an Iranian national, who fled to Turkey with her three children close to two years ago. Both she and her husband were political activists and imprisoned by the Iranian government. Her husband was executed and she was released because at the time no evidence was found against her. She then faced serious threats, including losing the custody of her children, and had to flee her country due to revelation of her political activities after her husband's execution. She has provided documentary evidence with respect to her husband's execution and the custody issue.

While according to the UNHCR Office, Mrs. H. has "failed to establish a credible claim", Mrs. H's description of the procedure pursuant to which her case was denied, raises issues which challenge fairness of the procedure. According to her, the scope of the inquiries at both her interviews has been limited to her political activism, disregarding other valid grounds for persecution, including impingements on her right as a parent and her right to personal security. Nor were the children included in the claim, despite the fact that they may also have a valid persecution claim due to the custody issue. On the issue of credibility, Mr. H's narrative of her interviews conveys unreasonable and irrelevant tests.

UNHCR has undertaken a difficult and unique task in operating a full scale refugee status determination procedure in Turkey. There are, of course, financial constraints, problems arising from inherent lack of co-operation from the Turkish authorities and political considerations. While the appeal is not in itself a deportation hearing, its outcome could lead directly to a person being expelled to the country of persecution. The need to ensure that fundamental requirements are present must therefore remain paramount.

Deljou Abadi is the Coordinator of Iranian Refugees' Alliance, a non-profit organization in the US assisting and advocating on behalf of Iranian refugees. She has worked closely with Iranian asylum seekers in Turkey for close to three years.

"DEFERRED REMOVAL ORDERS CLASS"

BY KRISTIN MARSHALL

On November 4, 1994, some of the uncertainty around the Class was clarified through the amendment to the *Immigration Regulations* which defined "member of the deferred removal order class". Part of the Department's rationale for the creation of the Class was to address the situation of many failed refugee claimants who had made Canada their home over the years, forming attachments without obtaining any status or security. In many cases, the removals were not being executed because there was a moratorium on removals to certain war-ravaged countries. Somalia and Sri Lanka were listed, as well as other countries where there was reason to believe the person deported would suffer human rights abuses if returned, such as the People's Republic of China and Iran. In other cases removals could not be carried out because the failed refugee claimants had applied to the Federal Court for a review of their negative refugee decisions, which stayed the removal.[1] With the announcement of the DROC, moratoriums on removals to certain countries were lifted and Immigration stepped up expulsions, with the emphasis on those with criminal records and refugee claimants most recently rejected.

To be eligible for membership in the DROC, a claimant must have made his or her claim to be a Convention refugee on or after January 1, 1989. The person must be in Canada and be subject to a removal order[2], and at least three years must have passed since the latest of:

- the making or issuance of any removal order; or,
- the date on which the refugee claim was rejected by the Immigration and Refugee Board (IRB), or the person was found not to have a credible basis to their claim at inquiry under the old section 46.03(5) of the *Immigration Act*.[3]

Members of the refugee "Backlog" who made their claims prior to January 1, 1989 are excluded from the Class, even though these individuals have been settled in Canada for longer than people who are included. Others are excluded if they were never issued a removal order, even though it may have been three years since their claims were rejected. For example, someone who came to Canada on a visitor's visa and made a refugee claim while their visa was still valid would not be eligible for DROC, even though it had been three years since his or her claim was rejected.

In addition to the eligibility requirements, there are other hurdles which must be cleared before applicants can be landed under the DROC program. Canada Immigration originally took the position that applicants would have to have a work history under a valid employment authorization for at least six months to be included in the Class. After extensive lobbying, the government changed its position to enable applicants fulfil the employment requirement after they had met the other eligibility criteria. The hardship for applicants who were never issued an employment authorization was lessened by this amendment. As it now stands, applicants who have been found eligible for DROC can obtain work permits. In my experience, after applicants are found eligible the Department gives them approximately nine months to fulfil the six month work requirement. They also have to meet other landing requirements such as passing medicals and obtaining identification, within this time period. It is important to note that the six months need not be consecutive and can include volunteer or part-time work or self-employment, as long as the work was performed under a valid employment authorization. Although generous in some respects, the employment landing requirement still presents a problem for women who are caring for their children and cannot get daycare in order to find employment, and others who simply cannot find employment.

DROC applications must be submitted within 120 days of eligibility and Canada Immigration is inflexible about the deadline. Routine fees are applicable to DROC applications, that is, a $500 processing fee and the $975 Right of Landing fee. These fees pose a hardship for people in low income bracket who are otherwise eligible for favourable consideration.

Finally, although the DROC program is not time limited, it seems clear that there will be fewer and fewer people eligible for DROC over time. The guidelines discriminate against claimants who applied to the Federal Court on or after July 7, 1994. For those failed claimants the three years is counted from the date the stay of the removal order expires or the date the Federal Court renders its decision, not the date their refugee claim was rejected. The combination of this requirement and Immigration's stepped-up removals policy will make the Class inaccessible to most failed claimants except those from countries to which Immigration may declare a moratorium on removals.

Kristin Marshall is an Immigration and Refugee lawyer practicing in Toronto.

1 Immigration Act, R.S.C. 1985, C. 1-2, S.49(1)(i). [herein after Immigration Act].

2 as these were defined in the Immigration Act before February 1, 1993.

3 Immigration Act supra note 14 at s. 46.03(5).

UPCOMING CHANGES

TO THE REFUGEE BOARD: THE BOARD OF INQUIRY MODEL

BY RAOUL BOULAKIA

The Board has recently held press conferences and addresses to lawyers and NGOs across Canada to announce the details of its new"Board of Inquiry" model.

The main issue which these changes deal with is the perception that members do not get enough information about claimants. This concern was discussed in the Hathaway report, which said that if members had more information on claimants they would be more confident decision-makers since they could feel assured that they knew if claimants were lying, particularly about exclusion issues.

When the Hathaway report was commissioned, it was in reaction to media concern over Board members having off-record talks with RHOs where they were believed to be discussing cases without the knowledge of the claimants. The Board held consultations across the country before and after the report was written. Hathaway recommended that RHOs should continue to do research, and should do some case preparation - but they were not needed in hearings. He felt that they had become too clearly adversarial in hearings, and that it would be better if members took sole responsibility for questioning claimants.

The Minister of Immigration accepted this proposal as a way to save money. Then the Toronto Sun campaigned for the RHOs, claiming that they are like a state prosecutor defending the public interest. The Sun argued that without RHOs irresponsible Board members would let anyone get refugee status. At the last minute Marchi changed his plans, cutting Board panels down to one to make up for the cost he had planned on saving with RHOs.

Another proposal was the Davis-Waldman report. They had argued for a new "Board examining officer" being established, who could decide on expedited cases, and state what issues should be concerns at a full hearing, but get paid less than members. These would likely be former RHOs. Davis-Waldman also wanted to save the Ministry money by cutting down panels to one, but allowing a right of internal appeal.

The Board's model increases RHOs ability to influence members,without giving them any decision-making power. The greatest change to the RHO role is that they will now meet with members throughout the refugee determination process and participate in Board member committees which set general parameters affecting research and how claims are processed, as well as member evaluation.

When a claim is referred to the Board an RHO will decide if a case is scheduled as a "priority" case, expedited or should go to a regular full hearing. Priority cases get scheduled earliest. A July 12, 1993 memo states guidelines for priority cases: "The purpose of Stream B [priority cases] is to schedule claims likely to result in a negative determination on a priority basis. In general, RHOs need to be satisfied that a two-member panel at full hearing would almost certainly find the claimant not to be a Convention refugee."

Putting supposedly weak claims ahead of claims perceived as having merit is contrary to international law obligations, and to the spirit of the Immigration Act, which both recognize that genuine refugees need prompt resolution of their cases.

Expedited cases will continue to be processed by having an RHO interview the client and decide whether to approve them. The approval will go to a senior member in charge of one team of members who are assigned to cases from a particular region. That team manager will decide to approve the case or refuse it and send it to a full hearing.

If the case is referred to a full hearing (which is the norm) the team manager will decide which RHO and which Board members will decide the case. The team manager has gone over the case and will be specifically considering why a case should be assigned to particular members.

This power could assume greater importance when the Board switches to one member panels.

The Board members and RHOs will now get a greater role in scheduling cases. The RHO is renamed an "RCO". They will be responsible for processing a certain number of cases in a limited time, but can decide how to allocate their time within that block.

If the Board members do not want an RCO present at the hearing, they have to consult with the RCO. The RCO also takes part in the regional team and in administrative committees.

The RHO and member will meet as often as they like off record to discuss the case. There are guidelines for these unrecorded meetings, suggesting that they should not discuss the merits of the case. They are supposed to discuss what their concerns are, decide the issues and what research they will do to contradict or support the claim.

Their research will include accessing the materials the Board's documentation centre has, any information available to any Canadian government agency, and doing research with outside agencies and individuals. The only safeguard on inquiries made abroad is that members are supposed to consider whether inquiries will endanger the "life, liberty or security of the person". There is no mechanism to appeal or prevent inquiries which might endanger people. The member is supposed to ask counsel for submissions before going ahead with an outside inquiry he and the RCO have decided on.

Research will increasingly include reliance on other government agencies, including foreign governments. The Board has already begun getting reports generated by external affairs to contradict claims. As some of these agencies are mandated to reduce the number of refugees coming to Canada through interdiction programmes, they reflect this in the statements they make to the Board.

Immigration "port of entry" notes will be automatically put in the Board member files, along with anything confiscated at the border. These notes are prepared by an immigration officer interviewing the claimant when he enters Canada or, increasingly, at a later date.

Claimants routinely complain that Immigration interviews are intimidating and that officers are hostile. Claimants are often told they will be put on the next plane back to their country if they do not co-operate. They are not allowed to consult with anyone before the interview. As a result, notes on the substance of a claim tend to be inadequate or unreliable. Unfortunately these will always be entered as evidence. Counsel should monitor how these notes get prepared and how they are used to test credibility.

Courtesy of the Human Rights Internet.

While the Board believes it has reason to increase its investigatory powers, it has designed and implemented its model without much consideration for fairness to claimants. The Deputy Chairperson advised us at a consultation that if we counter the new model in litigation, the Board will be replaced with a worse system. The bureaucrat's attitude seems to be that since refugees are not a powerful lobby, and they can threaten us with a more arbitrary system, they do not have to be concerned with issues we raise.

The new system will be more costly per case than Board hearings are at present, since processing will be more involved, hearings are likely to take longer, and investigations will cost more. Unfortunately the Board is allocating its resources to investigation for enforcement without maintaining its procedural strengths and independence. The type of information sought or relied on by the Board will increasingly be government generated, and specifically produced to counter refugee claims. From the port of entry notes to reports made by Immigration enforcement or foreign intelligence agencies, the Board will tend to hear more often from agencies that are mandated to reduce refugee numbers.

Claimants will increasingly feel like the passive object of the hearing, as much of the case is figured out before they attend at the Board. The sense of decision making being unfair or influenced by behind the scenes will lead to greater tensions than existed prior to the commission of the Hathaway report.

Another issue which looms over this system is the problem with legal aid funding. The Board of inquiry model is entirely premised on claimants having lawyers. Only lawyers will know how to get disclosure of port of entry notes, how to respond to the various requests for comments on research plans and immigration materials prior to a hearing, and deal with a claimant's security concerns. The calibre of counsel and his or her concern with paying attention to details during the hearing process will assume greater importance.

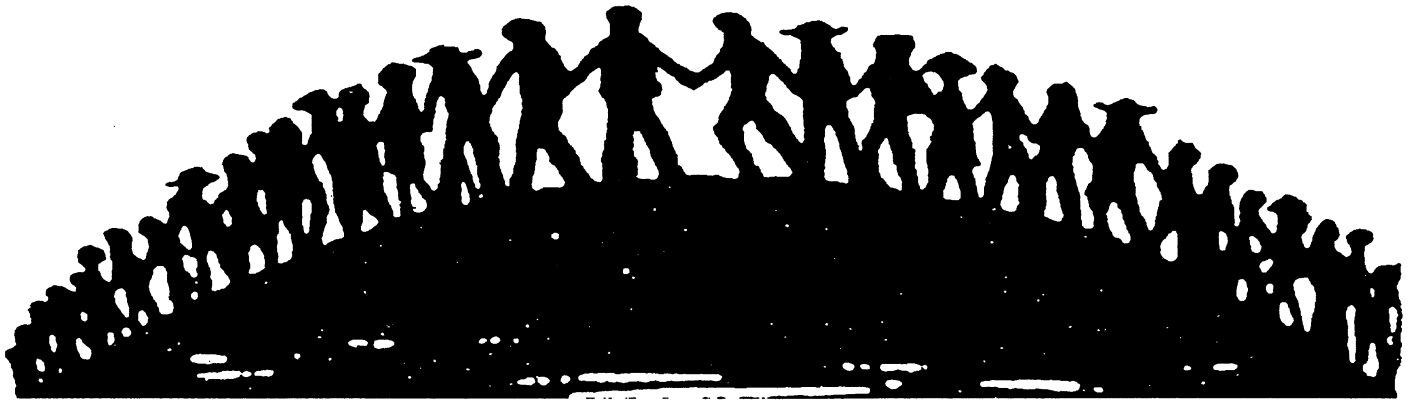
With legal aid funding diminishing, fewer lawyers will be willing to do cases or to do adequate work responding to the Board's increased demands. If people are left without lawyers, this will affect the legitimacy of the Board of inquiry process. Hearings will become increasingly unbalanced as claimants simply will not address the various demands made on them.

When Bill C-55 introduced the Board, many of the enforcement mechanisms in it were overrated and NGOs had some fears which did not materialize. This Board of Inquiry model is different in that it largely amounts to enforcement oriented modifications to an existing system. We can predict to a greater extent how these will impact on claimants as we already have similar experiences within the existing model. Although the new system emphasizes a strength in any adjudicative model, that the members should be able to determine the truth, it also compromises that objective and makes the system more cumbersome and inaccessible.

Raoul Boulakia is a lawyer in Toronto practicing refugee and human rights law.

SPECIAL PROGRAM
FOR FORMER YUGOSLAVIA

BY MICHAEL CASASOLA



With little fanfare the Minister of Immigration announced on Sept. 6 a special program to respond to an emergency resettlement need for refugees from former Yugoslavia, which has come to be known as the "3/9 Program". While the program may respond to the resettlement need from former Yugoslavia, it has also raised questions regarding priorities, the future of resettlement in Canada and the use of resettlement as a refugee solution.

The special program was developed in response to a UNHCR appeal to resettlement countries on July 31 following a Croatian ultimatum. Croatia claimed to be flooded with refugees and as a result was threatening to close its doors to them unless some were resettled to other countries. The resettlement need was estimated to be 5,000, but it was noted that with the volatility of the region it could grow to 50,000. Anyone who recalls the daily upheaval in former Yugoslavia of the past summer cannot question the sincerity of the need. In fact it is likely that the need may have increased or evolved since that time.

In response to the appeal, Canada agreed to resettle its customary 10% of the population needing resettlement - in this case about 500 refugees. This commitment is an achievement considering that Canada was agreeing to resettle the refugees in addition to its annual commitment of 7,300. For many years Canada has either failed to reach its annual commitment or reduced its size. However, this movement represents the first increase in years above planned levels.

With this commitment Immigration Department saw an opportunity to bring together its objectives of resettling Bosnian refugees, rejuvenating private sponsorship, as well as experimenting with the blurring of private and government resettlement programs. After consultation with the NGO-Government Committee on Private Sponsorship, a plan was put in place to stretch the money intended for the 500 refugees by using it as a partial incentive for private sponsorship groups who might be interested in responding to the UNHCR appeal.

For interested private sponsoring groups, Canada Immigration agreed to pay the first three months adjustment assistance and the initial set up cost for unnamed refugees identified by the UNHCR as part of this appeal. The sponsoring group would be responsible for assistance for the remaining nine months or until the refugee becomes independent, whichever comes first. The good news behind this proposal was that it does not appear to be an attempt by the government to download its commitments onto the private sector, but instead provides a means by which the private sector might help to do more. Regardless of the level of interest shown by private groups, at least 500 Bosnian refugees will arrive.

The willingness of private sponsors to support this project is in recognition of the genuine resettlement need that exists out of former Yugoslavia, as well as other contextual factors. Private sponsorship has been undermined in recent years by low morale and frustration. In order for an appeal to succeed there needs to be broad public awareness of the need through extensive media coverage, as happened in the case of former Yugoslavia. Further, if groups are going to participate they need to be sure they will not face the same processing problems which have frustrated the program. Fortunately, the Canadian visa posts processing these refugees have exhibited commitment to refugee resettlement. As a result, the appeal seems well suited to encouraging public participation. The special program is a pilot project, though the deadline for participation has not yet been set.

Most individuals have responded to this special program not by questioning the legitimacy of the need but by wondering why it has been limited to former Yugoslavia. Clearly there have been humanitarian needs which match the crisis in former Yugoslavia. The most obvious comparison is Rwanda. The former Yugoslavia receives far more attention and resources than other refugee crises. Is Canada simply responding more favourably to a European refugee crisis than an African refugee crisis?

At first glance, such an analysis would be simplistic. In responding to this appeal, Canada was responding to the

UNHCR's suggestion of what should be the international priority for resettlement. Resettlement is a limited and little utilized refugee solution. As a result, with precious few spaces available for resettlement as a solution, NGOs have encouraged governments including Canada to follow the UNHCR's decisions regarding which populations need resettlement.

The question then becomes how are populations identified as needing resettlement by the UNHCR. The standard response is that resettlement is the third and least favoured solution for refugees. Before it can be considered as a solution, refugees must be unable to repatriate, or secondly, they must not be able to settle in the country of first asylum.

While this hierarchy does serve as a guideline, there are obvious problems with the first two approaches. Most refugees face too many years in uncertainty, and in some cases danger, awaiting the possibility of repatriation. Furthermore, for the refugees who have returned more and more often it is under less than voluntary situations, and increasingly it means returning to a climate of violence. The second solution - establishing in a country of first asylum - is meaningless for the bulk of refugees since most countries of first asylum will receive refugees only temporarily on the condition that they will one day return to their countries of origin.

Resettlement, which is the last solution, appears instead to be used in an ad hoc manner. It is applied for some populations and not for others. Resettlement has often been used for refugee protection when countries of first asylum threaten refugees with forced repatriation. In the case of Croatia in some ways asylum and resettlement are being used as a trade-off. Resettlement is intended to be used as a tool of protection. However, with slow processing times and the unwillingness of some countries to work with the UNHCR it is not able to achieve this goal. Currently UNHCR is evaluating its policy and practices on resettlement.

Yet, there is a resettlement bias evident in the Bosnian appeal which the UNHCR recognizes and assists. Many refugee populations that the UNHCR recognizes as needing resettlement are not given as much attention. Since the end of the Gulf War, the UNHCR has called upon the international community to address the need for resettlement of the 17,000 Iraqi refugees in Rafha camp in Saudi Ababia. Indeed, the Middle East makes up two thirds of the global population of refugees of whose resettlement needs the UNHCR is aware. However, Canada, amongst other countries, has been slow to respond. Finding countries to resettle refugees from Africa is also difficult. According to the UNHCR's *Overview of Refugee Resettlement in the 1990s,* "In general terms, African refugees, even genuine emergency cases are proving increasingly difficult to resettle."

Unfortunately, UNHCR has found itself in part perpetuating the bias of resettlement countries by presenting populations for resettlement to which they expect resettlement countries to respond. As a result, UNHCR helps provide resettlement countries with the rationale they seek by not promoting resettlement as a tool of protection equally throughout the world because UNHCR is aware of the limited interest of resettlement countries. Clearly UNHCR is less to blame than the resettlement countries.

Canada's response to refugees in former Yugoslavia is admirable and the cooperation and participation of Canadians in assisting refugees to resettle should be encouraged. Yet if Canada truly wishes to respond to resettlement need, it should ensure that a larger proportion of its resettlement levels are responding to neglected refugee populations identified by the UNHCR. With greater cooperation and willingness from resettlement countries, such as Canada, UNHCR would then be able to ensure resettlement becomes a more meaningful and equitably applied tool of protection.

Michael Casasola is the Director of the Refugee Office at the Diocese of London.

CCR NATIONAL CONFERENCE IN TORONTO

November 15-18, 1995 the Canadian Council for Refugees will be holding their fall conference and Annual General Meeting at the Howard Johnston Plaza Hotel, 475 Yonge Street, Toronto.

The CCR holds conferences every six months, moving from city to city. This is an ideal opportunity for activists and community workers in the Toronto area to get involved with the CCR without having to pay travel costs!

HIGHLIGHTS OF THE CONFERENCE:

- **Francis Deng, Keynote speaker, former Sudanese Minister of Foreign Affairs, currently U.N. Special Representative on internally displaced persons**
- **NGO-Government Consultations**
- **Settlement Renewal: Developing standards and principles**
- **Private Sponsorship of Refugees: reviewing the new sponsorship agreement**
- **Proposed reforms to humanitarian & compassionate decision-making**
- **Regional workshops on Algeria, Afghanistan and ex-Yugoslavia**
- **International perspective on: Settlement services, Migration and Resettlement.**
- **Children's issues: health and minor refugee claimants**

ANOTHER DATE TO MARK IN YOUR DATE BOOK:
Refugee Rights Night: *A Tribute to David Matas*, Sat., November 18, 1995 (immediately following the conference). $35. For further information please call the CCR office at (514)277-7223, fax (514)277-1447, 6839 Drolet, #302, Montréal, Qc, H2S 2T1.

CONTINUED FROM PAGE 2.

countries on the other.

As we make these connections to explain the desperate plight of workers in the underdeveloped world, we will of course also begin to help Canadian workers understand why job loss, wage stagnation, erosion of benefits and massive structural unemployment are permanent fixtures of the domestic economy in which they (try to) work and live.

Just as trade unionists in Canada learned more from South African trade unionists than we could ever have learned from them during the struggle against Apartheid, we must now struggle for the opportunity to assist and learn from the most politically-conscious unionists and activists that wish to find domicile as refugees in Canada. Our own labour movement and community organizations will be all the stronger with their participation.

The simple truth is that refugees are workers... and workers, when they challenge the power of capital, and governments that do its bidding, can become refugees anytime...anywhere.

The alternative to this educational and solidarity work is a script written by the likes of Preston Manning on behalf of capital...on behalf of a divided, weakened or non-existent labour movement...on behalf of a future where, as was said over sixty years ago ,"...(A)t last they came and arrested me and there was no one left to do anything about it."

Ken Luckhardt, is a staff member in the Education Department of the Canadian Auto Workers responsible for the Paid Education Leave (PEL) program, Port Elgin, Ontario. He is the author of two books on the history of non-racial trade unionism in South Africa.

CORRECTION

Reference was made in the "Navigating the Maze" article in Refugee Update # 26 to the processing fee of $125.00 for children. This fee is $100.00. Please accept our sincere apology.

VIENNA REVIEW

OF LANDMINES PROTOCOL FAILURE - WILL RECONVENE IN 1996

BY CELINA TUTLE

Despite mounting public pressure for a ban of anti-personnel mines and nearly two years of preliminary negotiations, governments failed to agree on even modest restrictions on landmine use. Delegates are laying blame for the lack of progress with other states and their "unwillingness" to move forward.

The preliminary negotiations and those in Vienna were dominated by militaries, reluctant to give up the right to use landmines even in light of their devastating impacts on civilians. Governments met in 27 September to 13 October to amend the Landmine Protocol of the Inhumane Weapons Convention, where delegates bogged down in technicalities and concerns about state's right to sovereignty and security.

The Conference Chair, John Molander, called it a "good-faith effort." The Conference will resume in Geneva 15-19 January, followed by a second session 22 April - May 3.

Several Canadian MPs have expressed outrage at the Canadian position. Canada has not legislated a ban on the export and production of anti-personnel landmines

A total ban of anti-personnel mines is the surest, most economical, way to stop the killing and maiming of innocent civilians. Partial measures are ineffective and easily circumvented. More than 26,000 people are killed or maimed by land mines each year.

If you support an international ban on the use, production, trade, transfer and export of APMs write to MPs at the House of Commons, Ottawa, ON, K1A 0A6. All other letters can be addressed to the following individuals:

- The Hon. David Collenette, Minister of Defence, 305 Rideau St. Ottawa ON K1A 0K2.
- The Hon. Andre Ouellet, Minister of Foreign Affairs, 125 Sussex Dr. Ottawa ON K1A 0G2.
- Prime Minister Jean Chretien, House of Commons, Ottawa ON K1A 0A6 (no postage necessary).
- Ms Ruth Archibald, Director, Population, Foreign Affairs, 125 Sussex Dr. Ottawa ON K1A 0G2.
- Ms Jill Sinclair, Director, Non-proliferation, Arms Control and Disarmament (address as above).
- Preston Manning, Reform, House of Commons, Ottawa, ON, K1A 0A6.
- The Hon. Lucien Bouchard, BQ, House of Commons, Ottawa, ON, K1A 0A6.
- The Hon. Jean Charest, PC, House of Commons, Ottawa, ON, K1A 0A6.
- Alexa McDonaugh, NDP, House of Commons, Ottawa, ON, K1A 0A6.

The Mines Action Canada Coalition is collecting signatures on petitions for submission to the Parliament of Canada. More than 5,000 signatures have been collected in only a few months. For information on the Coalition or to obtain copies of the petition contact MAC c/o PGS 170A Booth St., Ottawa ON K1R 7W1, tel: 613-233-1982, fax: 613-233-9028, e-mail: cppceli@web.apc.org

BOOK REVIEW

W. GUNTHER PLAUT, ASYLUM - A MORAL DILEMMA,

YORK LANES PRESS, TORONTO, 1995.

Rabbi Gunther Plaut is the God father of refugees and asylum seekers in Western hemisphere. He is among the rare personalities of our epoch who combine certain qualities: Rabbi Plaut is a former refugee with the bitter experience of persecution in Nazi Germany who is a staunch refugee advocate whose recommendations on refugee determination in 1985 helped the federal government to come up with a more acceptable policy for refugees in Canada. He is a teacher and scholar whose nineteen previous books and hundreds of articles have covered many areas and concerns.

In his *Asylum - A Moral Dilemma,* Rabbi Plaut has gone beyond the legal niceties of refugee definition to find "global strategy buttressed by moral considerations." The whole dilemma rests on the fact that, "an asymmetry exists between the rights of states and the rights of persons." Backed by sagacious arguments and authentic documentations, the book provides the reader with a comprehensive investigation about the needs of refugees in a moral context in connection with the wills and policies of the host governments.

Rabbi Plaut has taken both thematic and geographical approaches to deal with the moral dilemma of refugee protection. In the first part of the book he speaks about refugee definition, religious background, historical precedence as will as ethical, sociological, individual, community and contended rights (right to leave, return and remain). The second part deals with refugees in different continents as well as the legal and moral contexts of the sanctuary movement in United States and Canada.

Asylum - A moral Dilemma is relevant and timely work in our period of harsh economic realities when both victims and policy-makers have developed a regrettable tendency to neglect the moral aspects of policies and decisions. While victims are overwhelmed with means of day to day survival, states and policy makers are motivated by short-run, pragmatic and utilitarian achievements. In the circumstances, Rabbi Plaut has revived the biblical moral approach to the question of refugee needs and protection.

The book is written in a simple, accurate and articulate language. It could be highly useful to social justice workers and supporters including refugees and refugees advocates, and as a textbook in social and political studies.

TOWARD THE HORIZON

One day we will find our pigeons
once more,
kindness will take the land of beauty

A day when the smallest song
is a kiss,
A day when they no longer close
the door of their houses; when locks are
a myth and hearts enough for life

A day when the meaning of every
speech is loving,
so that you need not follow
every speech to catch the last word

A day when the rhythm of each word
is life,
so that I no longer have to search for
rhymes
for the sake of the last poem

A day when every lip is a song
so that the smallest song may be a kiss

A day when, once come,
come forever,
and kindness
will be one
with beauty

A day when, once more,
we scatter grain
for our pigeons

I am waiting for that day
even if it is a day
when I
no longer am.

AHMAD SHAMLU

IMMIGRATION – NGOS

ROUNDTABLE DISCUSSION

BY JANET DENCH

Since 1992, the Canadian Council for Refugees has been meeting with the Immigration Department twice a year for an exchange of views. On the agenda at these roundtables are the resolutions which relate to Citizenship and Immigration Canada adopted at the last CCR meeting, as well as other matters of current concern, as identified by the CCR. The most recent roundtable took place on September 29 and brought together 16 NGO representatives and over 20 Department officials. Discussions at the meeting covered 16 agenda items and lasted three and a half hours (without a break!).

The roundtables have over the years become a more sophisticated form of dialogue. At the first meetings, only a few officials attended and the exercise tended to take the form of a ritualistic exchange of opinions, with CCR representatives presenting the argument of the resolution, and the Department responding from their briefing notes. Since they had our text in advance, we thought it would be helpful if we could get theirs. The Department now provides written responses to (most of) our resolutions. This allows us to be more to the point in the issues that we raise and to some extent frees the time for real exchange. In addition, NGOs and government officials have come to understand each other a little better over the years. Most (though sadly not all) officials now accept that on the whole we know what we are talking about and therefore spare us the long-winded introductory speech explaining the rudiments of official policy.

From our point of view, the meetings are useful in two important ways. First, they give us opportunity to communicate our concerns directly to a captive audience of officials. Second, they are a significant source of information for us. From the roundtables we learn a lot about what has been happening within the Department, what is in the works, what the obstacles and hang-ups are that prevent resolution of problems, who is working on which dossier and with what attitude. The roundtables sometimes reveal some of the seams within the Department and officials are seen to be espousing different points of view from each other.

What follows are some brief comments on a few of the agenda items discussed at the latest roundtable, highlighting the variety of responses received.

PUBLIC INQUIRY INTO THE ENFORCEMENT BRANCH

Following the recent CBC reports of admitted forgeries committed by an immigration officer in Winnipeg, the CCR had called for a public inquiry into the Enforcement Branch, noting that the forgeries were an extreme example of widespread abuse. Before the meeting got underway, we were asked to remove the item from the agenda on the grounds that our president, David Matas, was to have a meeting with Georges Tsaï Assistant Deputy Minister, the next day. Since this was unacceptable to us, we persisted in presenting our concerns,

which we were told were taken very seriously by the Department, but they declined to comment in any other way. Minutes after the meeting concluded, the Department released to the media the announcement that Roger Tassé had been engaged to inquire into the removals procedure. Why they didn't give us this information at the meeting is unclear. One theory is that they hoped to take advantage of the fact that we were in meetings to avoid having the CCR comment quoted in the media reports.

DEPARTMENTAL COMMUNICATIONS STRATEGY

Another bone of contention concerning communications was the Department's decidedly unenthusiastic handling of the news release on the recently established special program for refugees from former Yugoslavia. The success of the program will to a large extent depend on the publicity it receives, because it relies on Canadians coming forward to offer sponsorships for the refugees.

The CCR took the opportunity of the roundtable to express (not for the first time) its dissatisfaction with the minimal effort the Department put into publicizing the program. By contrast later in the same week considerable resources went into the release of the Inkster report, dealing with removals of criminal immigrants. The Department accepted criticism on the Yugoslav release but denied the imbalance was a sign of an enforcement orientation.

It is interesting to note that at the first roundtable meeting, held in April 1992, public discourse on refugees was on the agenda. The CCR raised its concern over the tendency of the Department to promote negative images of immigrants and refugees and called for greater publicity for positive stories.

RIGHT OF LANDING FEE

The CCR restated its opposition to the fee but indicated that as long as it is in force, improvements in its application are needed. Kathryn Clout, who has responsibility for monitoring the impact of the fee on refugees, reported on statistics for loan applications (72% of refugees in Canada requesting loans are accepted). She undertook to look into refusal rates for PDRCC and DROC applicants, who appear to be judged according to different criteria and who have a much lower acceptance rate. The CCR also raised concerns about the lack of clear information for loan applicants and the fate of those who cannot get loans.

MEMORANDUM OF UNDERSTANDING (MOU)

The Department distributed a "Fact Sheet", prepared for the roundtable and for an upcoming briefing of our counterparts in the US. This confirmed a number of things that we had already heard from the Americans (including that the two governments hope to have a deal signed next February). The Department gave a number of indications that they were beginning consultations with the NGOs on the MOU at this roundtable, raising the suspicion that they were more interested in being able to say that they had consulted with us rather than actually listening to our concerns. We therefore made it clear that we didn't consider this a consultation and that we needed the draft text to be able to comment meaningfully.

SETTLEMENT MANAGEMENT INFORMATION SYSTEM

SMIS has been a regular item on the agenda of the roundtables and has often been the subject of our most frustrating exchanges. On this occasion the Department's respondent was Agnès Jaouisch who recently took over as Director General of Settlement. She announced that she had been conducting a review of SMIS, which came as news to us. The final decision, which could range from the abolition of SMIS to some form of modification, would be taken in the next few weeks.

A detailed report of the meeting is prepared by the CCR and distributed to all CCR members.

Janet Dench is the Working Group Coordinator at the Canadian Council for Refugees.

CANADIAN LABOUR CONGRESS CONDEMNS THE HEAD-TAX

What will follow is the press release isssued by the Canadian Labour Congress on October 28, 1995, the day of the nation-wide protest against the Immigration Head-tax:

HEAD TAX JUDGES IMMIGRANTS BY SIZE OF WALLET

"The recently announced head tax is fundamentally at odds with Canadian values of fairness, equality, democracy and progress," says Bob White, President of the CLC.

"In this land of immigrants we don't have to look far for an example of systemic racism and classism. The Liberal government's head tax on immigrants is one. Today, wealthy immigrants can pay the tax - but most prospective immigrants and refugees from Africa, Latin America and Asia cannot.

"This is the clearest expression of an immigration policy that favours the rich and powerful - despite the government's promise that no one will be turned away for financial reasons.

"My family immigrated to Canada from a small farm in Ireland in 1949. If this head tax were in place, we couldn't have come.

"It's ironic, given the values on which this country was built, that Canada should judge immigrants first by the size of their wallets.

"On this day of protest against the Head Tax, the CLC declares its opposition to this and every other form of systemic discrimination and classism."

UPDATE ON U.S.
CANADA MEMORANDUM OF UNDERSTANDING

BY ANNIE WILSON

Based on information provided in two briefings held within the last month with the US Department of State (Bureau of Population, Refugees and Migration and Bureau of Canadian Affairs), we understand that the two countries have now moved into a phase of active negotiations. A joint committee known as the "Asylum Working Group" was formed in June, 1995 and a sub-group began working on drafting the MOU in July. A final agreement on principles was evidently reached at the end of September, and a preliminary draft of the MOU is near completion. We are told that the document will be shared with UNHCR at the time of the ExCom meeting this fall. The MOU will then be revised based on UNHCR comments, and the text will be distributed to US non-governmental organizations (NGOs) in the late fall. The State Department anticipates holding an open meeting on the MOU in the US, following which further revisions to the document will be made if necessary. The goal is to have a "signature-ready" document by the end of the calendar year and to have a signed agreement in place by February. Implementation of the agreement will be phased in over the next couple of years.

Churches and other NGOs in Canada and the US have been following the progress of the Memorandum of Understanding with interest for several years. Should an agreement be signed and implemented, we would want to see at least the following safeguards:

- protection standards in either country must not be lowered - if anything, the agreement should strengthen protection standards throughout the region;
- negative decisions must be subject to a meaningful appeals process;
- persons "in transit" must be allowed to proceed to the other country - and a generous understanding of "transit" should be incorporated into the agreement, in recognition of those who cross the continent by land;
- family unity must be honored - and the widest definition of "family" applied, especially for unaccompanied minors;
- there must be congressional/parliamentary oversight of the MOU and its implementation. NGOs from both sides of the border should be consulted by respective governments throughout the process.

NGOs in Canada and the US must work closely together in the coming months to ensure that the agreement does not move forward without these minimal safeguards. In addition to coordinating our formal comments through the NGO consultation processes, we need to publicize the potential human costs of such an agreement. LIRS will be hosting several "share-the-cost" conference calls in which advocates can plan common strategies. Please call Annie Wilson at 212-532-6350 x327 (or FAX 212-683-1329) if you would like to be a part of these discussions.

Annie Wilson is the Program Director for Asylum Concerns at Lutheran Immigration and Refugee Service (LIRS), U.S.A.

REFUGEE UPDATE

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