REFUGEE UPDATE

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INSIDE

NEW IMMIGRATION LEVELS AND A NEW STRATEGY

On November 1, 1994, Sergio Marchi, Minister of Citizenship and Immigration, introduced his long-term immigration strategy for the years 1995-2000 as well as immigration and refugee levels for the year 1995. The announcement of the strategy was preceded by a national consultation held over eight months.

The 1994 immigration plan anticipated levels of between 190,000 and 215,000 for the coming year. This is far behind the levels promised by the Liberals during their election campaign which was one percent of the Canadian population. For the coming five years, the number will increase to a ceiling of 200,000 (excluding refugees). The drop in 1995 levels is the steepest since 1991, both in terms of levels and in terms of actual immigration intake (see the table on page 2).

Lower immigration

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YEAR	LEVELS*	ACTUAL**
1990	200,000	241,230
1991	250,000	230,781
1992	250,000	252,842
1993	250,000	254,321
1994	250,000	230,000***
1995	190,000 - 215,000	-

* From Bernard Valcourt's Annual Report to Parliament, *Immigration Plan 1991 - 1995*, November 1, 1991, p.4.

** CIC, *Facts and Figures, Overview of Immigration*, November 1994, p.2.

*** Immigration projection, CIC, *A Broader Vision, Plan 1995 - 2000*, (IM-306-10-94), p.6.

levels for 1995 may be attributed to the government's compliance with the present xenophobic trend in Canada as well as in other western countries. This was confirmed by the Minister of Citizenship and Immigration in his speech to the Empire Club and Canadian Club of Toronto on November 25, 1995: "A chill wind has been blowing on immigration for a number of months. This is not a totally Canadian phenomenon - look at the anti-immigrant voting in California recently - look at the what is happening in Europe. It's a cold, cold wind that is blowing on immigrants and immigration almost everywhere. Many Canadians are worried that strangers are taking their jobs and damaging their social programs. They fear for tomorrow and what it will bring. We must respond and address these anxieties regardless of what drives them."

SPECIFIC FEATURES OF THE PLAN

The 1995 immigration plan differs from previous ones in that it replaces fixed numbers with ranges. This newly-established model has been justified by Mr. Marchi as a move towards "meeting the objectives of the immigration program rather than achieving numerical targets." Based on the government's historical incapacity to meet its own targets, the new move could also be interpreted as an attempt by the immigration bureaucracy to cover up this systemic failure.

In addition to setting immigration levels for 1995, the plan claims to set out a policy direction that the government will pursue in the years to come. What is striking here is the absence of a clear vision for the government's program for refugee protection in the years to come. Apart from the refugee levels for 1995, there is no further plan. The five-year plan for refugee levels "will be set in consultation with the provinces, NGOs and other interested parties. It is expected that the fiscal constraints now being experienced will continue. The dynamics of any future ... program ... will be shaped by the resources available to support the services required." (CIC, *A Broader Vision*, p.19).

The plan ensures that shortfalls in one category cannot be made up in another. It is intended to save the taxpayers "millions of dollars" by placing more emphasis on economic capability, "job skills and language skills for newcomers." The corrélative of this objective is "focusing on those immigrants less likely to require public assistance."

This plan is complemented by the government's commitment to use its enforcement package "to remove foreign criminals from our soil." It is not surprising that the Bill C-44 is a component of the new strategy: "Through legislative initiatives such as Bill C-44 we are seeking to restore Canadian confidence and thus contribute to this government's broader goal of creating safe streets and safe homes." (from the Minister's Speech to the House of Commons, November 1, 1994).

Connected to this emphasis on control issues is a preoccupation with the need for immigrants to integrate into Canadian society – be more like us – in order to foster Canadian values.

This approach, as noted by the Inter-Church Committee for Refugees, "does not help to foster a more open attitude towards immigrants and refugees among Canadians."

Another specific feature of the plan is the separate management of refugee and immigration streams. While this could be a useful practice in addressing "the protection and resettlement goals of the humanitarian and refugee programs," it could also lead to new obstacles for refugee arrivals and the process of landing Convention refugees, such as delays or requirements to meet additional landing criteria.

ECONOMIC VS. FAMILY CLASS

Over the life of the five year plan, the balancing of the economic and family classes will be at the expense of the family class category, which will be dropped from its current level of 51% of the immigration levels to 44%. The economic category will increase from the current 43% to 53% of the total immigration levels. In justifying this policy direction the Minister said: "Today the country needs people who are entrepreneurial, have good language skills, and are able to adjust to a rapidly changing labour market. The criteria used to select immigrants must reflect this change." (CIC, *A Broader Vision*, p. 14).

The 1995 levels have created a two-tier family class definition comprised of: 1) immediate family members; 2) parents and grandparents. The 1995 plan anticipates the admission of 53,000 to 55,000 immediate family members and 33,000 to 35,000 parents and grandparents. The latter category will be subjected to stricter tests than spouses and children.

As well, a bond will be required from the sponsoring family to ensure compliance with the financial commitments associated with sponsorship. The government also intends to "shift a greater proportion of the settlement costs from taxpayers to those who benefit directly from these services." This could include increased settlement fees for all adults sponsored.

The family component of the immigration plan has not adequately recognized the importance that Canadians place on family. Changes to the sponsorship obligations and their more rigorous enforcement will further limit the government's ability to meet its own targets. It will be more difficult, especially for refugees, to sponsor extended family. The plan is short-sighted, driven by the dollar, and is inconsistent with the Canadian com-

mitment to humanitarian and compassionate principles.

REFUGEES

The following are the levels for the various categories of refugees for 1995:

Government assisted	7,300
Privately sponsored	2,700 - 3,700
Refugees landed in Canada	12,000 - 18,000
Dependents abroad*	2,000 - 3,000
Total	24,000 - 32,000

* Included in "Immediate Family" category in 1994
Source: CIC, Plan 1995-2000, p. 19.

It is a mistake to count on the maximum level of 32,000 for 1995 as a sign of the government's intention to accept more refugees. With the plan's focus on prevention, deterrence, control, enforcement and removal, it is doubtful that the government will meet even its minimum target of 24,000 refugees in 1995. It should also be noted that the levels of 12,000 to 18,000 and their dependents abroad refer to refugees who are expected to be landed in Canada. This says nothing about refugee arrivals or our government's intention to accept more refugees in Canada. Refugees who are expected to be landed are mainly Convention refugees - especially people in the backlog - who have been living in Canada for years.

The table below is a simple comparison between the 1995 refugee plan and the levels of the previous years.

Of note is the government's failure to meet its own plan for the resettlement of government assisted refugees in Canada. The tragic downward trend of privately sponsored refugees, especially under Mr. Marchi, is also noticeable, and this is in spite of the Minister's frequent promises to encourage the participation of NGOs in issues of refugee protection. With the introduction of sponsorship bonds and the expansion of the financial guarantee mechanism, a further downward trend is anticipated in the number of privately sponsored refugees coming to Canada in 1995.

The policy objectives, as expressed in the ten year framework, are as follows:

1. **Enhancing private sponsorship:** While government documents are silent on the future of government refugee sponsorship, they express high hopes for the "energy and enthusiasm demonstrated by volunteers across Canada" (see *Privatizing Sponsorship: the New Solution?* on page 6 of this issue). In spite of the anticipated lower numbers for 1995, the government expects to increase the number of privately-sponsored refugees to be resettled in Canada in future years. "CIC will pilot test ways of encouraging more private refugee sponsorship." (CIC, *Highlights: Into the 21st Century*, p.4)

2. **Interdiction:** Immigration control and enforcement measures will be strengthened. "Priority will be given to the passage and enforcement of Bill C-44 to prevent misuse of the refugee protection system by serious criminals and to permit seizures from the mail of documents intended for immigration frauds.CIC will further clarify priorities and procedures for removing from Canada criminals and others not entitled to stay." (ibid.)

3. **Responsibility-sharing:** "International responsibility-sharing agreements and consensus on first asylum policies will be pursued with other countries which share Canada's commitment to refugee protection." (ibid.) The government is likely to enter into a sort of safe country agreement with other western countries, and will propose that it pursue with the U.S. a more regional or continental approach to controlling access to North America.

4. **Affordability and sustainability:** Emphasis on these categories means that there will be limits to government's support for refugee programs, including access

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YEAR / CATEGORY	GOVERNMENT ASSISTED		PRIVATELY SPONSORED		REFUGEES LANDED	
	LEVELS	ACTUAL	LEVELS	ACTUAL	LEVELS	ACTUAL
1991	13,000	7,678	23,000	17,368	10,000	10,424
1992	13,000	6,259	17,000	8,960	20,000	21,389
1993	10,000 *	6,904	9,000	4,719	25,000	12,920
1994	13,000	7,300	15,000	2,700	25,000	8,000 **
1995	7,300	-	2,700 to 3,700	-	12,000 to 18,000	-

* Revised in Immigration plan for 1991-1995, Year Three 1993.

** Projected by the Minster in his Annual Report to Parliament, November 1, 1994 (A Broader Vision, 19)

Sources: Various Valcourt's and March's Annual reports to Parliament as Complied by JRS - Canada

to a minimum basket of social and economic benefits, resettlement and integration costs, the price of the inland system, and overseas development assistance. Most likely, as observed by the Inter-Church Committee for Refugees, there will be "trade-offs between the inland and the resettlement programs, as funding for both will come out of a single envelope."

5. **Refugee women and children:** There is a commitment by the government to "maximize the number of referrals of women and children in need of protection and resettlement." To date, the government's record on resettling women has not been impressive. Even with the Women at Risk program - a joint venture between government and private groups - only 247 women (655 including their children) have been resettled in Canada between 1987, when the program began, and 1993 – an average of less than 50 women per year. (CIC, *Women at Risk*, September 1994).

6. **Resettlement in non-traditional provinces:** It has been suggested that "beginning in 1995, CIC will work with interested provinces to resettle a greater proportion of refugees in non-traditional destination communities across Canada." (ibid.) This policy direction will introduce more hardship for refugees if not accompanied by adequate and appropriate resettlement services.

7. **Addressing root causes:** "Canada is committed to promoting comprehensive, international strategies that address the root cause of involuntary migration through collaborative and cooperative efforts with the UNCHR, other organizations and other countries." (CIC, *A Broader Vision*, p.23). In 1993 - 1994, $232.7 million was allocated for emergency relief supplied by CIDA. This is an area in which NGOs could further lobby the Canadian government.

CONCLUSION

Despite the separation of immigration and refugee streams, the immigration plan and strategy are driven by economic and control concerns, and the government is shrinking from Canada's longstanding humanitarian and compassionate commitments. Landing fees, financial guarantees for sponsorship, mandatory medical testing, emphasis on enforcement, control and interdiction, all feed a climate in which immigrants and refugees are not made welcome. They are seen as health hazards, threats to society and an economic drag on the country. This should be fought by refugee rights workers vigorously.

The plan and strategy make no reference to the Davis-Waldman report which the Minister requested at the end of 1993, and which proposed an appeal mechanism and mechanisms to protect persons in deportation. Prof. Hathaway's report on the need for reforming the Immigration and Refugee Board has been neglected.

Another serious shortcoming of the plan and strategy is the lack of any reference to the need for public education on refugees and immigrants. There is no plan to overturn the increasingly negative public image attached to refugees and immigrants.

As NGOs working for the fundamental human rights of refugees and immigrants, we should carefully monitor the implementation of the plan and call upon the government to meet its targets, fulfill its commitments, and rectify its shortcomings.

IRB ACCEPTANCE RATE UP TO 60%

On November 25, 1994, the Convention Refugee Determination Division (CRDD) of the Immigration and Refugee Board (IRB) released its statistical summary on refugee determination for the first nine months of 1994. It shows a further (one percent) increase from the 59% rate of refugee acceptance during the first six months of 1994.

Across Canada, 26 per cent of all decisions were rendered through the expedited hearing process. Through this process, the Board identifies straightforward claims that warrant rapid positive determination by the CRDD.

The distribution of claims heard to completion by the IRB among the regions of Canada follows the traditional pattern with Ontario and Quebec remaining the key points of arrival for asylum seekers.

The major source countries continue to be Sri Lanka, Somalia, the republics of the former USSR, Iran, India, Israel, China, Pakistan and Guatemala. Lebanon, Peru and El Salvador have ceased to be among the top 12 countries. They have been replaced by Bangladesh, Yugoslavia, and Haiti. Other major refugee producing countries were Romania with 333 claims; Afghanistan 328; Peru 283; Lebanon 277; El Salvador 266; Zaire 237; Algeria 201; Sudan 186; Burundi 186; Iraq 170; Ghana 162; Nigeria 158; Venezuela 145.

Out of 1173 claims for CIS/USSR, 154 claims were made in the name of the USSR. The share of other countries emerging out of the collapse of the Soviet system were as follows: Russia 373 claims; Moldova 241; Ukraine 219; Estonia 90; Latvia 40; Lithuania 12; Belarus 10, Armenia 8, Georgia and Azerbaijan 7; Kyrgyzstan and Kazakhstan, 5 each.

TOP TWELVE COUNTRIES

JAN. 1 - SEP. 30, 1994

1994 RANKING	1993 RANKING	CLAIMS*	WITHDRAWN/ ABANDONED*	HEARING REJECT*	HEARING ACCEPT*	ACCEPTANCE % 1993	1994
1. Sri Lanka	1	2,406	120	318	2,365	76	84
2. Somalia	3	2,006	95	83	2,000	90	92
3. CIS/USSR	2	1,173	218	623	943	44	53
4. Iran	4	899	77	188	821	63	76
5. India	7	738	255	382	409	20	39
6. Israel	6	590	72	445	344	13	40
7. Bangladesh	-	493	52	159	381	42	64
8. Pakistan	5	431	107	206	328	25	51
9. China	9	397	69	290	231	18	39
10. Guatemala	-	368	67	160	218	46	49
11. Yugoslavia	-	354	213	92	296	43	49
12. Haiti	-	339	11	52	298	68	83
Others		5,607	1,290	2,527	3,675	36	49
TOTAL		15,801	2,646	5,525	12,309	46	60

* Including claims made in 1993 awaiting a decision as of January 1994.

Source: Immigration and Refugee Board as compiled by JRS/Canada.

RACISM AND XENOPHOBIA

PRIVATIZING SPONSORSHIP
THE NEW SOLUTION?

BY MICHAEL CASASOLA

Since the Liberals were elected the government has shown a renewed interest in refugee resettlement. The Liberals' "Red Book" emphasized it as a preferred role for Canada in its provision of assistance to refugees. This emphasis seems to have found its way through to Immigration which, as it scrambles to respond to the Liberals' agenda, has taken a renewed interest in private sponsorship. What is of current concern is whether this new interest is in finding ways to aid refugees, mending ailing programs, or simply finding ways to defer costs.

This newfound enthusiasm may have come too late. Currently the private sponsorship program is a pale remnant of its former self. For the first eight months of 1994, 1,515 privately sponsored refugees were admitted. This compares to 19,000 admitted annually only 5 years before. This shortfall in numbers is a reflection of the many unresolved problems that have dogged the program for years.

Processing times have been long. While government publications suggest sponsorship applications should take six months to complete, most groups experience on average one to two year waits. Communication has been poor. Groups are often frustrated by the uncertainty and by never knowing where to turn for information. Furthermore, the rate of rejection has been high. Many sponsoring groups are used to having most of their applications rejected. These problems have resulted in the loss of numerous groups whose interest in aiding refugees through the program has been frustrated.

Recognizing the potential good private groups could provide, and interested in providing new avenues for community partnership, the Minister urged the department to work with the Canadian Council for Refugees to establish a government-NGO committee on the Private Sponsorship of Refugees programs. The Committee was formally established at a meeting of master agreement holders (the major sponsoring organizations) in Montreal in late November. During this meeting six NGO representatives were elected, who along with six government representatives make up the committee.

The Committee is intended to be a collaborative approach for planning and developing recommendations concerning the program.but it has a daunting task before it. First it will have to resurrect the master agreements (contracts between government and major sponsoring organizations) which have been under review since 1991. But even the government has recognized that this is not enough to cure the program's ills. Consequently internal reviews have been undertaken of the work of the matching centre and of the processing of Canadian visa posts. In addition the former Director of the International Refugee and Migration Policy Branch, Bill Van Staalduinen, was asked to develop recommendations for improving the operation of the program. A draft report on the Private Sponsorship of Refugees Program was released in November. Its twelve recommendations begin to respond to the concerns of NGOs by suggesting improving communications through use of a "hot line", designating Refugee Coordination Officers, and putting overall authority for the program within one department branch. Concerning processing problems, the report recommends publishing service standards for overseas private sponsorship processing, as well as using NGOs overseas to assist visa officers in identifying refugees in need of resettlement. A controversial recommendation is for refugees that will be identified by Canadian visa officers overseas rather than by the sponsoring organizations themselves. This suggestion may be particularly burdensome for ethnically based sponsoring groups who often make use of the sponsored refugee's family links in Canada to provide for his/her care and integration.

IMMIGRATION POLICY MAKERS HAVE OPENLY SUGGESTED THAT SINCE PRIVATE GROUPS PROVIDE BETTER BANG FOR THE BUCK, THEY SHOULD TAKE OVER REFUGEE RESETTLEMENT.

It should be noted that the report's recommendations carry no guarantee of follow through. What may be of greater concern is that the newfound interest in the program has been suggested as part of a desire to privatize Canada's refugee resettlement program. The ten year framework dedicates much discussion to the private sponsorship program. However, outside mention of government-assisted targets for 1995, no other mention of the government-assisted program is made. Immigration policy makers have openly suggested that since private groups provide better bang for the buck, they should take over refugee resettlement. This interest in exploiting private sponsorship as a cost saving approach dismisses the entire basis of the program, which was created as a means for private groups to provide additional good to a national responsibility. The attempt to privatize this work suggests that Canada as a whole is no longer responsible for providing resettlement as a solution for refugees in need. Instead, a small group of altruistic individuals are expected to take on the task.

Michael Casasola is the Director of the Refugee Office at the Diocese of London, and Co-Chair of the Canadian Council for Refugees' Working Group on Overseas Protection and Sponsorship.

INTERDICTIONS ABROAD

ACCELERATE

Hundreds from top refugee producing countries turned back

The Jesuit Refugee Service-Canada has acquired the following figures from CIC information management under Access to Information legislation. It shows that between January and November last year, 3,279 people were intercepted boarding planes bound for Canada. Hundreds of these were coming from the top refugee producing countries to seek political asylum: 707 Sri Lankans, 319 Iranians, 393 Chinese, 254 Indians, 145 Pakistanis and 141 Somalis. 364 people whose unknown citizenship were probably escaping from the republics of the former USSR, as those republics are not named in the original list.

The policy of preventing refugees from getting access to the system of refugee determination is clearly well in place and resources are being directed toward faster and more efficient removals. This has been continuing vigorously since 1990 despite the change of government. By imposing tougher rules on transportation companies, legislative changes on carriers' liability, and a network of 27 immigration control officers (ICOs), the government addresses the problems associated with "illegal migration" by interdicting people suspected of being "illegal migrants" abroad. It is important to note that interdictions increased specifically in the months of October and November, and given the government's frequent references to interdiction, it may intensify in the months to come.

A glance at CIC estimates for 1994 - 1995 reveals that budget allocations for "Port of Entry Control" and "Enforcement" are 27.5 and 56.2 million dollars respectively. "Enforcement" refers to "gathering, analysis and dissemination of intelligence on illegal immigration movements; the active investigation of suspected violations of conditions of stay; and the detention of persons subject to inquiry or removal." (CIC, 1994-1995 estimates, part III, p. 3-20).

The government's policy of deterrence has adversely affected the number of refugee arrivals in Canada. As shown by the following table, the cumulative figures for the first 11 months of 1993 and 1994 have fallen significantly below the total figure for the equivalent period of 1992: 33,415 claims for the period of January to November 1992, compared with 18,582 and 20,104 for the equivalent periods of 1993 and 1994 respectively.

REPORTED INTERDICTIONS ABROAD

JANUARY - NOVEMBER 1994

CITIZENSHIP	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	TOTAL
Sri Lanka	50	75	53	53	42	77	72	43	50	84	108	707
Iran	44	40	18	19	20	38	26	19	19	30	46	319
China	8	17	12	7	18	13	11	56	23	38	90	293
India	22	21	11	34	23	36	12	12	17	13	53	254
Pakistan	30	8	7	7	9	6	16		15	18	24	145
Somalia	12	8	7	8	11	4	3	9	6	28	45	141
Nigeria	18	9	10	4	5	4	7	3	5	9	29	103
Haiti	29	12	3	11	2	-	5	-	-	-	11	73
Lebanon	11	4	2	5	3	6	5	2	4	-	10	52
Bangladesh	9	-	-	3	7	4	4	11	4	1	7	50
Afganistan	-	4	5	-	5	6	4	2	1	8	9	44
Zaire	5	3	4	1	7	2	3	1	-	6	12	44
Unknown	45	29	26	19	20	12	39	13	30	70	61	364
Others	92	72	43	44	66	45	77	56	40	63	92	690
TOTAL	375	302	201	215	238	253	284	232	214	368	597	3,279

Source: Citizenship and Immigration Information Management as compiled by JRS/Canada.

REFUGEE CLAIMS MADE AT BORDER POINTS AND INLAND OFFICES

MONTH	1992	1993	1994
Jan	3,845	3,413	1,744
Feb	3,200	980	1,530
Mar	2,915	1,339	1,617
Apr	2,554	1,112	1,458
May	2,427	1,174	1,569
Jun	2,582	1,402	1,620
Jul	2,620	1,640	1,781
Aug	2,777	1,799	2,101
Sept	3,417	2,020	2,196
Oct	3,256	1,856	2,353
Nov	3,822	1,847	2,135
Total	**33,415**	**18,582**	**20,104**
Dec	4,305	1,934	-

Source: Canada Immigration

A GUIDE FOR THE PERPLEXED:

WHAT'S WRONG AT THE IRB?

BY RAOUL BOULAKIA

Last year a lawyer in Montreal caused a news scandal when he discovered that the Immigration and Refugee Board had established a secret internal investigations unit, which was quickly termed by the press a "refugee spy unit." The Board's Chairperson felt obliged to commission James Hathaway to study the problems at the IRB. What he reported, in very general terms, confirmed what people working with the refugees already knew. Top heavy bureaucracy (career civil servants) at the Board tend to constrain how members (public appointees to the Board) do their work, emphasizing productivity over quality. The bureaucrats feel they must influence outcomes because the members aren't qualified. As bureaucrats appear to come up with solutions unilaterally, when lawyers find out what they're up to they tend to see it as unfair or conspiratorial.

The "spy unit" was a case in point. The Board thought it might be able to find records for some people that would contradict the refugees' claims. That sounds like a legitimate concern, but to do this, it set up a secret unit called RALU (Refugee Analysis Liaison Unit) to investigate people without their knowledge. This was undertaken without regard to how inquiries might endanger a legitimate refugee.

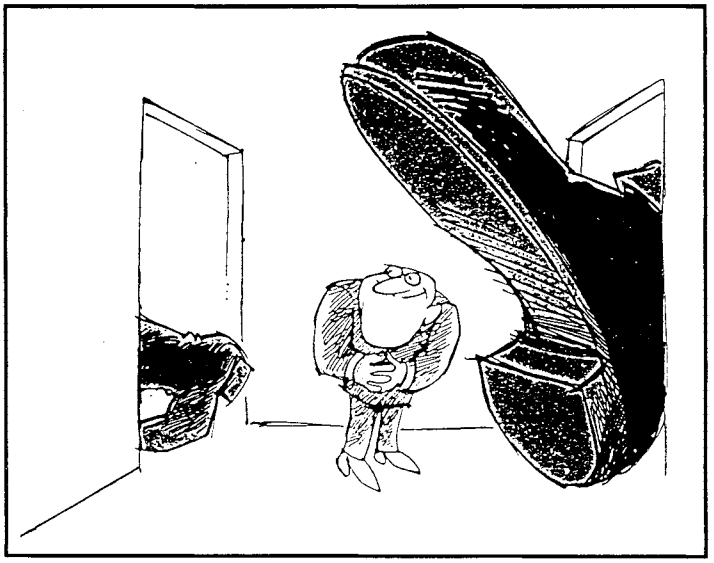
Hathaway concluded that if there was a more co-operative approach to planning the hearing process, legitimate enforcement concerns could be resolved openly and legally. He noted that all participants in the hearing process could work on improving how they participate in it. He also suggested a non-political appointment process.

Hathaway's report came at a time of low morale among refugee advocates. The government had cut refugee intake from abroad in half, and cut the number of refugees making it to Canada in half through interdiction. It was also reducing acceptance rates at the Board. Initiatives like RALU, the pressure on members to get hearings decided fast, pairing members who tended to reject people, using "boiler-plate" excuses (pre-written excuses designed for specific countries), accusations by some members that they were ordered to reject people, increased restrictions on appeals, and the Ministry's increasing refusal to give humanitarian relief, all gave the impression of a system obsessed with processing a lower number of refugees without

much concern for how fairly they were treated.

When the Liberals came to power people wanted to believe there was some hope. While in opposition Sergio Marchi had made all sorts of promises to improve the system. In fact he has gone back on his promises, and instead steered an indecisive and often reactionary course. He has continued interdiction and capped refugee intake levels at their lowest point under the Tories. He hired some refugee lawyers and staff from human rights groups to work at the Board, but also hired Immigration Department enforcement staff and unqualified Liberals. Instead of implementing the Hathaway report he commissioned his own report, proposing a largely similar critique.

It is within this larger context of uncertainty that Michael Schelew was removed from his post as Deputy Chairperson. Schelew's removal revolves around the role of the Board's administration and the appointment process. Members only get employed on contract, so their renewal is entirely at the discretion of the the Minister. There is no process other than political lobbying for renewing appointments. For years refugee advocates have been calling for a non-political committee to review appointments, which Hathaway also recommends. The Liberals have shown no interest in such a system.



In March of 1994 the Liberals only reappointed two of the ten members whose contracts had expired. The Tories had also removed most of the Liberal appointments to the old refugee board (RSAC) when they got in power. No explanation was given as to why the two were hired back. From then on morale at the Board was very low.

Members didn't know who was in with Marchi. Many assumed he listened to refugee lawyers, but Marchi has steadfastly refused to meet with the Refugee Lawyers' Association (RLA) in Toronto or the Association Quebecoise des avocats et avocates en droit de l'immigration (AQAADI) in Montreal. In August 1994, 44 members were up for renewal in Toronto alone. If Marchi didn't adopt an objective system for reappointments he'd have a political mess at the Board. He refused to consider changing the system. When the RLA put it to Schelew that this was an urgent concern, he said he agreed in principle but because of the implications for other tribunals it would be years before the Liberals changed the system, if ever.

The fact that people gave up hoping for a non-political system meant that members were lobbying within the Board to get their own allies to back them, and finding allies outside the Board as well. Members who concentrated on work rather than on politics did not have much hope. A member who was especially well respected by lawyers asked me if I thought he could get support from them because he was not a "political animal" and would be left out in the lobbying. He was not renewed. Within the Board there was a split between Nurjehan Mawani and Schelew and there were also differences with the local Associate Deputy Chairpersons (ADCs) in charge of regional offices. When a rather short list of re-appointments came out in September there were suddenly repeated and insistent calls from some members to get Schelew out.

Instead of settling the dispute with reason, Marchi just came up with an arbitrary list that pleased no one, and gave no explanations. This left tremendous bitterness, and Marchi could not point to a principled approach to justify the result.

The complaining members told the administration they were taking their story to the Toronto Sun - even though talking to the press is supposed to lead to suspension. The Sun is generally anti-immigrant and had already been working on Schelew-bashing stories fed to it by disgruntled Board staff. The Sun had a secret meeting with Marchi. He initiated an "investigation" by Mawani, who obviously wanted Schelew out. The investigation was one-sided. Schelew claims that Marchi told him to resign in October, and Schelew refused to. In early November an all out attack was launched. Stories were printed in *Saturday Night*, the *Sun* and *Maclean's* touting Tory members as supremely qualified and claiming that refugee lawyers, NGOs and refugees were in control. The news stories attacked Schelew simultaneously from two different angles: they blamed him both for representing refugee advocate groups and for maintaining the Board's status quo.

At first Schelew claimed he would fight, and got Board support. Then he gave up under the stress of the campaign, and agreed to resign.

The accusations against Schelew raised questions about what the relationship between Board members and bureaucrats or senior members ought to be. The main concern was the implication of meetings he held with members to discuss how new Federal Court decisions might impact on their interpretation of the law in cases they had decided in the past. Members also claimed that at a more general level they felt he wanted more acceptances, and because they assumed he had influence with Marchi over re-appointments they found any consultation with him intimidating. Ironically this sense that he had influence only became urgent after the list of re-appointments was announced. The complaints were made in the context of the appointments process, but members who went to the press have stopped complaining about the process now that established bureaucrats have

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resumed full control of the Board.

The complainers have not challenged how the Board's administration related to members. However, the administration that removed Schelew has been trying to defend its freedom to influence decision-making behind the scenes for years.

To cite a few examples, Schelew's predecessor ordered all members to reject Chinese women who feared forced sterilization. Senior bureaucrat Pierre Bourget initiated a "consistency" project telling members how to decide on certain issues in Ghanaian and Pakistani cases. The Board defended giving members "boiler-plate" formats for rejecting Bulgarian refugees in the Komanov case. The Board successfully defended having a legal department vet member decisions in the Bovbel case. It is ironic that what Schelew was accused of is less intrusive than an administration influencing members on substantive issues before a hearing takes place, or on legal reasons that have not yet been finalized. The same bureaucrats who initiated the entire controversy over off-record influence using those very issues to ensure they remain at the helm. What was at stake was not so much a principle sincerely held by the administration as who was to stay in control of the Board.

Before Schelew was suspended lawyers and NGOs were attending consultations on the Hathaway report, ready to try working with the Board. This incident derailed consultation. Bureaucrats who were challenged by Hathaway have effectively side-tracked the thrust of that report completely. Marchi is now claiming he will introduce some changes in the new year, but there is no consultation going on over this. A rumoured proposal is going back on the principle established by the Plaut report and giving us one member panels, which would increase the arbitrariness of individual decisions. The very brief promise of reform through meaningful consultation has been abandoned.

If bureaucrats dominate the Board and Marchi's agenda, what is more significant than how this affects the Board's statistics (a perennial bureaucratic concern) is how it affects the quality of hiring and decision-making. Secrecy in planning, off-record investigations and influence, and obsession with productivity goals are all the results of bureaucratic concern overriding principled and publicly defensible decision-making. At present our main challenge is communication with a Minister who is not interested in getting the message that the framework for legitimate reform is a principled system where appointments are made through a non-political process, and where qualified Board members, rather than bureaucrats, guide how their office is administered. If all contracts were reviewed by an independent committee there would be no underlying tension in communications between members, or with other officials.

Moving the Minister from reactionary politics to principled change seems like a daunting task, but we have been saying what we believe for years and in the face of worse adversity. We will always be faced with people in power appropriating our concerns and using them to reinforce the status quo. However, we must continue to press for responsible consultation and reform.

Raoul Boulakia practices refugee law in Toronto.

REFUGEE CLAIMS ARRIVALS IN CANADA 1994
(AS OF EARLY DECEMBER)

REGION/COUNTRY	ATLANTIC	QUEBEC	ONTARIO	PRAIRIES	B.C	ALL REGIONS
1. Sri Lanka	1	375	1,950	4	32	2,362
2. Somalia	2	101	1,743	1	42	1,889
3. Iran	1	282	776	21	274	1,354
4. India	2	484	350	15	250	1,101
5. CIS/USSR	55	438	346	17	34	890
6. Pakistan	1	405	173	55	31	865
7. Bangladesh	4	567	109	11	10	701
8. Israel	2	549	125	4	3	683
9. Algeria	1	576	61	0	1	639
10. Afghanistan	0	51	459	4	16	530
11. Romania	17	374	76	14	12	493
12. Haiti	2	406	45	0	1	454
13. China	7	51	283	6	97	444
14. Venezuela	0	276	158	0	6	440
15. Guatemala	4	199	130	18	65	416
16. Zaire	0	285	112	2	0	399
17. Peru	0	216	53	1	11	381
18. El Salvador	0	92	170	20	79	381
19. Lebanon	1	183	175	4	8	371
20. Burundi	0	160	184	0	1	345
Others	78	1,779	2,907	138	381	4,963
TOTALS	178	7,849	10,385	335	1354	20,101

Source: Citizenship and Immigration Information Management as compiled by JRS Canada.

THE LAST AVENUE:
HUMAN RIGHTS PETITIONS AGAINST CANADA

BY SHARRY AIKEN

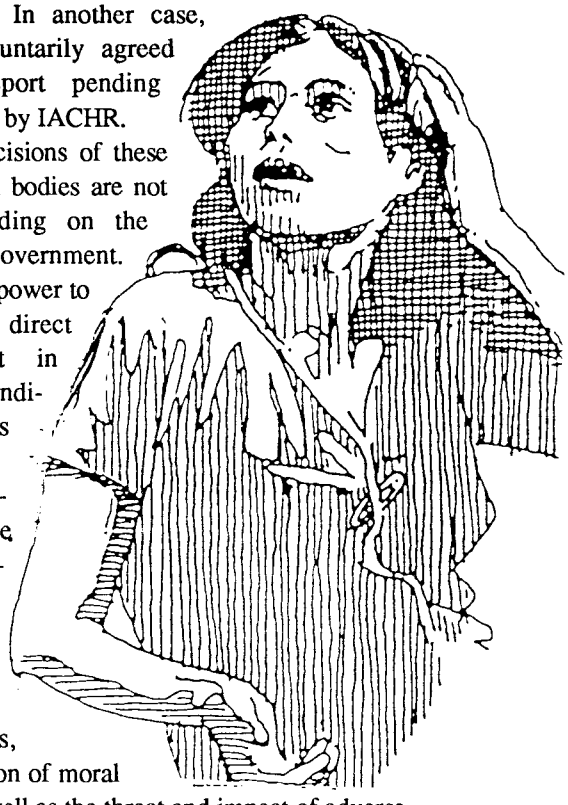
Democracy does not always guarantee respect for human rights. Canada has achieved a democratic, participatory political culture in which pluralism, tolerance and the rule of law are considered to be core values of society. Nevertheless, the history of Canadian immigration policy bears witness to how frequently we have closed our borders and adopted deportation practices to remove refugees in desperate need of our protection.

The objectives of Canada's current immigration program, as stated in the Immigration Act, include family reunification and "the fulfilment of Canada's international legal obligations and the humanitarian traditions with respect to refugees, the displaced and the persecuted."

Lawyers and community workers are contacted by rejected asylum seekers for whom the Canadian system has failed. Immigration regulations and, in some cases, the actual practices of immigration officials have resulted in flagrant violations of basic human rights. It may be the case of a pregnant woman whom officials forcibly drugged in order to "facilitate" her deportation back to a country ravaged by civil strife. Or it may be a survivor of torture whose case the Federal Court refused to review, despite compelling evidence that his removal from Canada would violate provisions of the Canadian Charter of Rights and Freedoms.

When all avenues of legal appeal have already been exhausted, nothing but the prospect of extra-legal sanctuary appears to stand between these people and the certainty of deportation. There is, however, another remedy that should be considered at this stage: petitioning one of the international human rights organizations. Canada is subject to the jurisdiction of three bodies, the United Nations Human Rights Committee, the Committee Against Torture and the Inter-American Commission on Human Rights (IACHR). All three of these international bodies have established a petition system for the review of complaints related to human rights violations by governments, including violations of the rights of non-citizens.

Pursuant to their rules of procedure, all three bodies may request that Canada adopt "interim measures" pending determination of the complaint. In one recent case, the Human Rights Committee requested that Canada grant a stay of deportation to allow the petitioner to remain in Canada while his complaint was processed. In another case, Canada voluntarily agreed not to deport pending examination by IACHR.



Decisions of these international bodies are not legally binding on the Canadian government. There is no power to undertake direct enforcement in regard to individual cases or to order that compensation be paid to victims of human rights violations. Nevertheless, a combination of moral suasion as well as the threat and impact of adverse publicity on the Canadian government has been effective in promoting resolution on individual cases.

There are no direct costs involved in filing a complaint with any of the international bodies (apart from the stamp to send the petition by airmail to Geneva or Washington, D.C.), but some skill and knowledge is required in order to draft a petition that complies with each organization's requirements. One of the more complex procedural hurdles imposed by all these organizations is the requirement that the complainant exhaust domestic remedies before initiating an international petition. Failure to first seek redress using the procedures available under local laws is one of the most common reasons for complaints being declared "inadmissible". International jurisprudence defines what constitutes a "remedy", when it is deemed to be exhausted, and the circumstances under which an applicant may be excused from the exhaustion rule. This jurisprudence requires careful analysis in

CONTINUED ON PAGE 12.

order to plan an effective strategy for each case. In this regard the assistance of a lawyer can be quite important.

Currently there are no provisions for free legal assistance. For most cases in Canada, funding through provincial legal aid plans would be unlikely, but assistance may be available through community groups.

Concerning the subject matter of petitions, the Human Rights Committee will consider complaints by individuals alleging violations of any of the rights recognized in the International Covenant on Civil and Political Rights (ICCPR). For a non-citizen facing deportation from Canada, the following Covenant guarantees may provide the basis for a successful petition: the rights to non-discrimination, to life, liberty and security of the person, to not be tortured or subjected to cruel, inhuman treatment, to be expelled only in accordance with law and to have one's case reviewed by and be represented before a competent authority, to equality before the law and a fair hearing, and to protection of the family unit and the child. Other international treaties which Canada has ratified may lend further support to petitions before the Committee. These include the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Reduction of Statelessness.

A number of recent complaints lodged with the Committee concern the rights of permanent residents facing deportation from Canada because of criminal convictions. One case, already reported in the Canadian media, relates to the situation of a 33-year-old man who was born in Scotland and came to Canada at age 7. It was only when immigration officials knocked on his door after a series of criminal convictions that the man realized he was not a Canadian citizen. With all his extended family members living in Canada, a major portion of his petition concerns the absence of any clear legislative requirement that family interests should be considered in deportation proceedings.

The Committee Against Torture will consider petitions based on violations of the Convention Against Torture. The Convention imposes the obligation upon states not to return a person to another state where there are substantial grounds for believing that the person would be in danger of being subjected to torture. It also requires states to prevent within their territory other acts of cruel, inhuman or degrading treatment when such acts are committed or acquiesced to by a public official.

In the past two years three communications have been submitted to the Committee alleging violations of the Convention by the Canadian government. In Tahir Hussain Khan v. Canada, the Canadian government sought to deport Mr. Khan, despite concrete evidence that Mr. Khan, a leader in the Kashmiri independence movement, had been brutally tortured by Pakistani authorities and was likely to be arrested and subjected to further abuse if returned to Pakistan. Medical evidence submitted under the allegedly improved post-claim review for refused refugee claimants failed to persuade the reviewing officer that Mr. Khan was at serious risk. In its views released on November 30, 1994, the Committee Against Torture agreed that there were substantial grounds for believing that Mr. Khan would be in danger in Pakistan. In its precedent setting conclusion, the Committee found that Canada had an obligation to refrain from forcibly returning Mr. Khan to Pakistan. Final decisions are still pending in two other cases. In Victor Hugo Rodriguez Garces v. Canada, the Canadian government ordered that Mr. Garces be deported to Mexico despite evidence that he had been tortured there as a result of his membership and active participation in the opposition party. In the case of J.S. v. Canada, the Canadian government ordered the removal of J.S. despite evidence that he would be in danger of being subjected to torture by the Peruvian National Police as a result of his cooperation with the Shining Path.

'YET THERE CAN BE NO DOUBT THAT INDIVIDUAL PETITIONS TO THE INTERNATIONAL HUMAN RIGHTS BODIES HAVE SUCCEEDED IN ENSURING THAT MANY PEOPLE RECEIVE THE PROTECTION THEY WERE UNJUSTLY DENIED UNDER THE AUSPICES OF THE CANADIAN ADMINISTRATIVE AND JUDICIAL SYSTEM.'

Since 1990, when Canada joined the Organization of American States, the possibility has existed for anyone in Canada to submit a complaint to the IACHR alleging violations of the American Declaration of the Rights and Duties of Man. The American Declaration protects a range of civil and political rights similar to those contained in the ICCPR, as well as numerous economic, social and cultural rights. Unlike the ICCPR, though, the American Declaration specifically guarantees the right to seek and enjoy asylum from persecution. A distinctive feature of the IACHR is that non-governmental organizations are permitted to submit petitions on their own behalf as well as on behalf of the victims of human rights violations. This means that advocacy groups in Canada have an opportunity to play an important role in substantiating immigration abuses and supporting the rights of victims of these abuses in cases where the victims themselves are unable or unwilling to come forward. A number of petitions involving the rights of non-citizens in Canada have been lodged with the IACHR quite recently. One case was resolved successfully between the parties subsequent to the filing of the petition and an oral hearing, (underscoring the extent to which lodging a well documented complaint can encourage the government to reconsider an earlier decision).

The case of G.A.F. v. Canada is another petition by an unsuccessful refugee claimant who was denied repeated requests for humanitarian and compassionate consideration. Despite a number of compelling factors, including evidence that she was a victim of torture in the Seychelles and would be at risk if returned

there, as well as the presence, in Canada, of an extended family network, the Canadian government ordered her deportation. In her petition Ms. F. states that her equality rights have been violated and that as an African woman she is the victim of discriminatory treatment by Canadian immigration officials. She cites the fact that the acceptance rates for African nationals as refugees is much lower than that of their European counterparts. Ms. F. also claims violations of her legal rights, citing the absence of a right of appeal for refused refugee claimants under the current Immigration Act.

It must be recognized that resort to the international human rights fora will not, alone, ensure that Canada's immigration program remains consistent with its stated objectives, in term of policy, law and practice. The ongoing work of promoting public discourse on human rights, exposing and publicizing abuses and violations as they arise, and actively contributing to initiatives for reform remains with local communities and advocacy organizations. Yet there can be no doubt that individual petitions to the international human rights bodies have succeeded in ensuring that many people receive the protection they were unjustly denied under the auspices of the Canadian administrative and judicial system.

It is hoped that more frequent recourse to the international procedures described in this article will facilitate the task of holding the Government of Canada accountable for obligations it has itself proclaimed as universal values.

Sharry Aiken is the staff lawyer at South Etobicoke Community Legal Services. A ***Comprehensive Guide to the International Procedures for Protecting the Human Rights of Non-Citizens*** *is available from the Inter-church Committee for Refugees in Toronto. This manual provides community workers and lawyers with a "nuts and bolts" understanding of the petition system. To order a copy of the manual call (416) 921-9967.*

CHRISTIANS AND JEWS RECALL CANADA TO HOSPITALITY

The following is a joint letter by Christian and Jewish leaders to the Prime Minister of Canada:

"At this time of year, more than almost any other, Jews and Christians are reminded of the biblical summons to welcome those who are strangers in our midst.

"As leaders of our respective faith communities we are moved not only by the significance of this season of light and peace but also by the urgency of the deteriorating public mood with respect to immigrants and refugees.

"We are profoundly concerned about the situation of refugees who have come to our country because their lives can be at risk. These people are decent, often courageous, human beings who have had to leave almost everything that they had because of their political convictions, their religious beliefs or their membership in a certain social group. Under the Geneva Convention, Canadians are committed to offering protection to these people. This commitment is a measure of our decency as a country.

"IT IS OFTEN SAID THAT CANADA HAS THE MOST GENEROUS REFUGEE POLICY IN THE WORLD. THIS IS NO LONGER TRUE."

"Unfortunately, refugees and refugee claimants have become a scapegoat for many of the profound social and economic problems in the country. In the media, refugees are being portrayed as criminals or potential criminals, as welfare frauds and as gate crashers. The vast majority of those who claim refugee status are people who ask only for a second chance at life.

"As people who have been shaped by the biblical tradition, we are called to welcome the stranger as we would welcome God in our midst. We reject attempts to portray refugees as problems rather than as people who bring great promise to our country. It is wrong to scapegoat these people.

"It is often said that Canada has the most generous refugee policy in the world. This is no longer true. The annual number of refugees taken in by Canada is less than a quarter of one per cent of the world refugee population. The vast majority of refugees are taken in and sustained by countries in the third world. It is almost impossible for refugees to get a visa from a Canadian immigration officer overseas, even when their lives are in danger.

"Many Canadians feel they are living through mean and angry times. Those who are most vulnerable are the easiest to blame and to burden with the general fears and cynicism of the moment. We believe that Canadians have another side. They can act much better than this. Even in difficult economic times, most Canadians know there is a difference between being out of a job and out of a life. There is light in the darkness. There is room in the Inn.

"We thank you for your attention to this important issue and look forward to your timely response to this letter."

The above letter is signed by Dr. Alexandra F. Johnston, President, Canadian Council of Churches and Irving Abella, President, Canadian Jewish Congress. It is supported by a number of Jewish and Christian leaders. For more information call Inter-Church Committee for Refugees at (416) 921-9967.

RESOURCES

VIDEO CONFRONTS POPULAR ASSUMPTIONS

Jesuit Refugee Service-Canada in association with Flying Blind Theatre Events, *Are the Birds in Canada the Same?* 28 min. VHS video

This mix of dramatic and interview material by refugees from different backgrounds is designed to confront popular assumptions about what life in Canada is like for refugees. The focus is on refugee participation in Canadian society. The video both reveals some of the barriers that refugees face, as well as promoting analysis and action aimed at overcoming them. It is also a tool for public education on refugees, and can be used as a model for similar projects.

Depending on the way people want to use the tape, the prices of the video are as follows:

Private viewing only *(personal use)*	$50.00 plus tax and postage
Limited audiences *(community organizations, workshops, no lending to other organizations)*	$100.00 plus tax and postage
Wide audience viewing *(institutions lending to affiliated members, eg. schools, large NGOs, libraries, etc.)*	$225.00 plus tax and postage

For more information and requests for preview, people could either contact us or: Full Frame Film and Video Distribution
394 Euclid Ave.Toronto, ON, M6G 2S9
Phone: (416) 925-9338, Fax: (416) 324-8268

REFUGEE CHILDREN TELL THEIR STORIES

Sybella Wilkes, *One Day We Had to Run*, Evans Bothers Ltd. in association with UNHCR & Save the Children, 1994

In this beautiful book, the latest of a series of publications on refugee children, Sybella Wikes, a UNHCR volunteer who has worked in the refugee camps of Kenya and Rwanda, communicates in a direct and lively way the experiences of three children who fled from Somalia, Sudan and Ethiopia. The children left their homes and families and faced hair-raising dangers before reaching refugee camps in Kenya. The children's stories and paintings are set against background information about the above countries and the role of UNHCR and the Save the Children Fund (SCF). Ideas for using the book in the school classroom are also included.

The following sample is by a refugee boy from Sudan:

THE PARTY

Once upon a time, the animals decided that they would live in one group and the birds would live in another group. So, one day, the animals decided to have a party. The Zebra was the watchman. All the animals came to the party to have a happy time.
Then the Bat arrived and said,
"Let me into the party, for I am an animal."
But the Zebra said, "No! We are animals because we don't have wings; you are a bird because you have wings."
So the bat left without going to the party.The next day, the birds decided to have a party. The Vulture was the watchman of the bird party. The Bat heard the party from a long way away and decided he would go. When he arrived at the party he said.
"Let me into the party, for I am a bird."
But the Vulture said, "No! We are birds because we don't have teeth; you are an animal and not a bird!" So he could never go to a party.
I say: tell the children of the world, we don't want to be bats. We want to find our place, to be either an animal or a bird so that we can be happy.

By Abraham Marial Kiol
aged 14, Sudanese, Dinka Bor tribe.
(Painting by Zekaria Aken Deng, aged 15, Sudanese, Kakuma refugee camp.)

For more information, please contact UNHCR, 280 Albert Street, Suite 401, Ottawa, Ontario, K1P 5G8. Tel: (613) 232 8691; fax: (613) 230-1855.

CHILDREN ARE PEOPLE TOO

BY TOM CLARK

Children are human beings. As such, they fall under the universal declaration of human rights. As part of "everyone" they fall under the human rights treaties which Canada and many other countries have agreed to observe.

Most of us would agree with the notion of treating children, to the extent possible, in the same way as other human beings. It seems just. However, most of us would also agree that children, especially young children, are particularly vulnerable and that they have special needs in areas such as health care and education. Indeed, there was an early international agreement that children should have separate treatment in criminal justice. No countries in the world retain the death penalty for juveniles.

Non-citizens, that is, migrant workers, resident immigrants, visitors, refugee claimants and non-recognized refugees, are all adults who are particularly vulnerable, not only because they are generally less familiar with laws and customs than citizens, but because history has shown them to be vulnerable to deportation to a previous home country to appease public discontent or some similar political motive of the moment. Canadians will remember how easily, in 1994, the Canadian public turned against the non-citizen charged in a North York shoot-out, and called for deportation of any non-citizen who was labelled a criminal. Children of non-citizens are doubly vulnerable. In 1993, in recognition of this vulnerability, the UN High Commissioner for Refugees issued special guidelines for working with refugee children.

The Convention on the Rights of the Child was unanimously approved by the General Assembly of the United Nations in November 1989 because something more than the existing human right was needed to focus international attention on the special needs of children. Canada ratified the Convention in December 1991. In 1993, the UN High Commissioner for Refugees issued special guidelines for working with refugee children. In November 1994, the Inter-Church Committee for Refugees, ICCR, wrote a brief to the UN Committee which focused on the children of non-citizens. The brief was in preparation for Canada's examination by the UN Committee on the Rights of the Child in mid-1995. In Canada, non-citizens are governed by the Immigration Act. Therefore, the ICCR brief suggested some changes to the Act and Regulations.

One of the biggest concerns of UN treaty committees like the Committee on the Rights of the Child is whether a state such as Canada has taken steps to put the specific parts of the Convention into its law. Canada typically argues that the Charter of Rights and Freedoms, sections 7 (life, liberty, and security of the person) and 15 (non-discrimination) respond to the obligations of a treaty like the Convention on the Rights of the Child. The ICCR argues that this specific treaty and its specific provisions have a content beyond the rather vague obligations of Charter sections 7 and 15. Also if judges, immigration officials, refugee board members and lawyers are not trained about the treaty, they are unlikely to import the Convention provisions into their submissions or rulings. Therefore, ICCR recommended training programs on relevant provisions of the Convention by an independent body for all those involved in the implementation of the Immigration Act,including board members, judges, lawyers and enforcement officers.

The legal recourse for children of non-citizens is linked to the general problems with legal recourse for non-citizens. ICCR continues to believe that several provisions of the Immigration Act are unconstitutional. ICCR has pointed out that the provisions of the Immigration Act for restricted appeal or review by leave of the Federal Court frequently have not worked in some serious deportation situations involving children. In addition, access to the Canadian Human Rights Commission is only for those non-citizens deemed to be legally in Canada by the Minister of Citizenship and Immigration. In other words, the legal recourses for non-citizens are weak.

The weak legal recourse applies to a range of situations and not only to deportation. The recourse in the Immigration Act for immigration detention allows non-citizens to remain in detention for weeks for specious reasons according to the 1990 report by the Canadian Council for Refugees. For children of non-citizens, the lack of recourse is an even more serious problem.

The overriding principle of the Convention of the Rights of the Child is that the best interests of the child be taken into account, article 3. In our view, the "best interests of the child" principle deserves to be added as a goal of the Immigration Act in section 3.

In article 9, the Convention speaks to the issue of not separating a child from parents against their will unless it is in the best interests of the child. ICCR is critical of Canada using the notion of not separating the child from the parents as a pretext for the

CONTINUED ON PAGE 16.

return of a Canadian child of non-citizen parents, with the parents to the parent's home country. ICCR is particularly concerned when that country is suffering from civil conflict, abject poverty or seriously inadequate health and educational services. It is improper to argue that the child's rights to health, education, security of the person and non-discrimination can be set aside by simply upholding the child's right to remain with the parents. The government should rather seek a solution which minimizes the violation of all the rights at issue. The onus is on the government to demonstrate the necessity for the deportation of the parents.

Convention article 9 and the article 9 "best interests" principle are also relevant when family reunion between parents and child are at issue. In addition to the article 9 obligation not to separate a child from the parents, the Convention speaks of the right of a child to enter a state for family reunion in article 10. These articles should be explicitly in the Immigration Act and regulations. Presently, the spouse and child of a refugee in immigration procedures in Canada will not even be granted a visitor's visa. ICCR finds little justification for telling a small child to wait for her parent to acquire permanent resident status before being able to even visit.

The Convention on the Rights of the Child recognizes a concern for basic health and welfare, 6(2). ICCR has concerns about access to health care for some children of non-citizens who are caught up in petitions against deportation or other prolonged and indefinite procedures of the Immigration Act in Canada.

Children capable of forming their own views have the right to be heard in judicial or administrative procedures affecting them, says article 12 of the Convention. Yet the current practices under the Immigration Act treat children as mere appendages to parents. The child's views or fears about expulsion or other matters are rarely invited.

It is important to note that the Convention defines a child as under 18 years old. Canada does recognize this age boundary. However, ICCR thinks that the needs and views of children close to 18 years ought to be seriously considered. For example, making an 18 year old mother wait in Canada until she is 19 and an adult in order to meet the sponsorship requirement to bring her child over is cruel as well as absurd.

The same failure to elicit children's views holds true in refugee status determination procedures. In general, a parent is determined to be a refugee or not and children are treated as appendages of the parent. It can be unjust to return a boy of military age, in some countries 10 or 12 years old, without any examination of risks of abduction for military service. Similarly, it can be unjust to return an older girl to a local culture with restrictive rights for women. The obligation of Convention article 12 deserves to be recognized explicitly in the relevant sections of the Immigration Act and Regulations.

The UN Committee on the Rights of the Child wants to know about special protection measures for children in states of emergency, Convention articles 22 and 38. The special concerns of ICCR have been with deportation and with mechanisms to protect by resettlement. ICCR asks the UN Committee to encourage Canada to implement the proposals in the Davis-Waldman 1994 report *The Quality of Mercy*, which would provide independent decision makers with clear human rights criteria to protect non-citizens, including refugee children and children from conflicts, from inappropriate expulsion. ICCR has also suggested special consideration for bringing refugee families to Canada for protection when there is a child at risk.

Recognizing that some of the problems which children of non-citizens face are not unique to Canada, the ICCR has asked the UN Committee on the Rights of the Child to issue general guidance for other governments which have ratified this Convention.

Tom Clark is the Coordinator of the Inter-Church Committee for Refugees.

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EDITORIAL BOARD: Ted Hyland,SJ, Ezat Mossallanejad, Sharry Aiken, Elsa Musa, Tom Clark, Francisco Rico

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EDITING: Louisa Blair

ART DIRECTION: Patti Spezzaferro

GRAPHIC: Mansoor Shams

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JESUIT REFUGEE SERVICE CANADA

947 Queen Street West
Toronto, Ont., M4M 1J9
Canada
Tel: (416) 469-1123;
Fax: (416) 469-3579