

1

**The Postwar Development of Canadian Refugee Policy**

by

**Howard Adelman**

**Professor of Philosophy  
Director  
Centre for Refugee Studies  
York University**

**This article is a draft only and is not to be reproduced or cited as a reference. Comments and corrections are invited.**

**May 21, 1990.**

## I Introduction

Both Canada and the United States are countries formed by immigration. Both countries have been leaders in refugee overseas assistance and resettlement since the Second World War. Both countries are signatories to the Geneva Convention on refugees and its subsequent Protocol. Both countries are committed to the defence of individual freedom and human rights. Both countries see their activities on the refugee front as ways of witnessing and testifying to their own characters as nations. The people of both countries are moved by compassion at the sight of the victims of the abuse of individual freedoms and the suffering they endure. Both countries uphold the belief that, "Law is the lifeblood of any democratically organized polity."<sup>1</sup>

Yet, in spite of these and many other similarities, the refugee policies of the two countries are different in many ways. Those differences are not rooted in the principles of the two countries as much as in the connection between those humanitarian principles and each country's perception of its own self interests.

This paper will note some current differences in Canadian and American refugee policy and practices and will try to account for those differences in terms of the different historical path followed in the development of Canadian refugee policy over the last half century. One of the most fundamental decisions a sovereign state makes is determining who can become new members of that state. The paper will argue that in the process of developing its refugee policy and allowing refugees to become members of its society, Canada became more like the United States, but with a character rooted in its own history.

## II Differences Between Canada and the United States

### a) Comparative Contributions

Let me begin with a few points about the differences between the two countries. America is epitomized by "Advertisements for Myself". It wears principles as medals across its chest. Statements that would be an embarrassment to the spokesperson of another country, come out as automata out of the mouths of Americans. "The United States is the acknowledged world leader in the promotion of human rights around the world."<sup>2</sup> When one observes the American record in South and Central America, its relations with South Africa and other aspects of its foreign policy, it is difficult for a Canadian to decide whether these words are part of a ritual incantation, a lack of any comparative perspective, a lack of self critical acumen or simply an enduring and endearing if annoying part of the American character. Canadians, by contrast, have only recently begun to take pride in their record of upholding human

rights and, in particular, offering protection to refugees. Though only a leader in a few aspects of refugee policy (refugee determination procedures<sup>3</sup> and refugee resettlement per capita<sup>4</sup>), Canada leads the United States in other measures of assistance to refugees such as in the contributions to international refugee aid agencies based on GNP, \$1.35 versus \$1.02 for the USA, but nowhere near the contributions of the Scandinavian countries which are in the \$5.50 to \$6.50 range.

## b) Comparative Numbers

Recent figures comparing Canadian and American planned intakes for 1990 reveal Canada's higher levels per capita. The United States plan called for an intake of 125,000, 20,000 more than 1989 and almost 50,000 higher than in 1988 (the first time the U.S. planned to exceed the 100,000 figure since the peak periods of the Indochinese refugee influx at the beginning of the 80s). Canada plans to take in about one sixth of the American target instead of one tenth in accordance with its smaller population.

TABLE I

Source	U.S.	Totals	Canada	Totals
Africa	3,000		1,000	
Eastern Europe	6,500		3,500	
Lat. Am. & Carrib.	3,500		3,000	
Near East & South Asia	6,500		1,800	
Far East	25,000		3,500	
Undesignated			200	
		44,500		13,000
Soviet Union	40,000	40,000		
Vietnamese ODP	26,500	26,500		
Privately Funded				
Soviet Union	10,000			
Others	4,000	14,000		18,000
Total		125,000		31,000
Inland Refugee Landings		?		18,000
Grand Total				49,000

In the comparison of the American and Canadian intake of refugees, the breakdown suggests a ratio of 4:1 rather than 6:1. The American figures include 26,500 Orderly Departure immigrants from Vietnam (Amerasians and former American allies who spent time in reeducation camps) which would be included in a Canadian immigration rather than a refugee program. The inclusion of Soviet Jews is another story. Canada might include a target figure for Soviet Jews as humanitarian refugees. This does not seem to be the basis or the reasons for their inclusion in the U.S.A. George Bush

specified that any person in the Soviet Union "if otherwise qualified" was to be considered a refugee. Jewel Lafontant, U.S. Coordinator for Refugee Affairs, said that any presumption of refugee status for a particular group was now considered contrary to the 1980 Refugee Act; the applicants were to be considered on a case by case basis in accordance with a worldwide standard. That worldwide standard, according to James L. Buck, the Acting Commissioner of the Immigration and Naturalization Service, was defined in terms of the Geneva Convention, though by case law and guidelines, persecution could include discrimination if there was an accumulation over time or an increase in intensity.<sup>5</sup> On that thread presumably the U.S. Senate on July 20th, 1989, in an amendment to the foreign relations authorization bill, voted 97 to 0 to direct that Soviet Jews be evaluated "with the strong likelihood of qualifying" due to histories of persecution. Without debating whether Soviet Jews are presently suffering systematic discrimination or are in danger of imminent renewed persecution or, more importantly, have a well-founded fear of persecution, the presence or absence of current persecution does not seem to be the key factor in interpreting the worldwide standard.

Is the quota of 50,000 for the Soviet Union (to include Armenians and Pentecostals as well as Soviet Jews) a product of a uniform refugee standard applied worldwide or of domestic political pressures? Senator Simpson, coming from Wyoming, argues he is not subject to such pressures (in contrast to Senator Ted Kennedy), thus permitting him the freedom to argue that the quota for Soviet Jews (other than those promised parole who were already in Rome) was messing around with the 1980 Refugee Act.<sup>6</sup>

The most significant difference for purposes of a comparison between Canada and the United States is not the numbers themselves or the target for the Soviet Union, but the much stronger role political factors play in determining refugee policy in the United States - in this case domestic political pressures.

### c) Foreign Policy

But domestic political pressure is not the only factor that plays such an important role in determining the distribution and allocation of refugee places in the United States. Foreign policy may be as if not even more important.

In the latter half of the nineteenth century, America offered a beacon for Europeans escaping political and religious persecution<sup>7</sup>; Canada did not have that image.<sup>8</sup> Canada was a country of law, order and good government. The United States was a country promising liberty, equality and the pursuit of happiness. Originally, the United States promised protection only for those who managed to get to America's shores. In the Jeffersonian legacy, foreign policy was concerned with two primary objectives: (1) protecting individual freedom and well-being of Americans and, (2)

extending its commercial relations. In the interests of the latter, as well as expanding its own territory (West Florida, Louisiana, Texas, California, Alaska), the United States set aside any concern for other peoples fighting for their freedom and liberty.<sup>9</sup> Since the Second World War, the principle has been expanded from one governing America to one governing the world. "One of the fundamental goals of U.S. foreign policy is to promote democratic values, human rights, and individual freedoms throughout the world."<sup>10</sup> But America's legacy meant that its principles have always been subordinate to two more fundamental concerns - the happiness of its own population and its foreign policy objectives.

Canada's foreign policy also became international since W.W.II, and, for the first time, developed in service to the protection of freedom and liberty. But that service was never subordinated to foreign policy. At the same time, while Canada tried to influence others to adopt democratic values (and, in the case of South Africa, used economic sanctions as a form of influence), Canada never made the promotion of human rights and individual freedoms a fundamental goal of foreign policy.

As a result, 20% of the American recent intake from Central America comes from Nicaragua which just had an election to throw out of office a Marxist government. Large numbers of others are Cubans under the Mariella Agreement wherein the U.S. takes in political prisoners from Cuba. These are in addition to the hundreds of thousands who arrived from Cuba in the aftermath of Castro's victory, after the Bay of Pigs fiasco, in the orderly departure program from 1965-73 and in the Mariel boatlift.<sup>11</sup> In contrast, Canada received over a 1000 refugee claims from El Salvador alone in 1989. Of these, approximately 83% of the completed cases under an independent board were successful.<sup>12</sup> What is the American defence of the intake of Nicaraguan refugees and view of Salvadorean refugees? "Why wouldn't there be a difference in El Salvador and Nicaragua? You have got ten thousand people a month flying back and forth to El Salvador on TACA Airlines...And do you know the first thing an asylee does from El Salvador after they get the magnificent grant of asylum? ...they want to go home to El Salvador for a holiday, for business, or a vacation."<sup>13</sup> To a Canadian, this suggests a policy based on ideology and confirms that American foreign policy determines who is a refugee rather than objective criteria.

#### d) Economic Factors

Politics and self-definitions are not the only differences influencing refugee policy in the two countries. Both countries' refugee programs are subject to fiscal constraints. But the issue is - what are the constraints? One difference in the United States is that there seems to be a link between the amount spent on resettlement of refugees and the amount spent on overseas programs. According to Julia Taft, the U.S traditionally spent twice as much

on overseas aid as on resettlement. In 1989, the ratio had become even. In 1990, the ratio has been reversed, 2.7:1 in favour of resettlement using her figure of \$525 million for admissions and resettlement and \$190 million for overseas assistance.<sup>14</sup> Even if we use Philip Holman's figure of \$417 million<sup>15</sup> rather than \$525 million, the traditional ratio has been inverted. Since Senator Simpson argues that, "It costs \$7,000 to \$8,000 to settle a refugee in the United States when, for 39 cents or 89 cents a day, we could take care of people over there in the refugee camps operated by the United Nations"<sup>16</sup>, and ignoring the invalid argument which compares per day costs which possibly have no end versus absolute costs and the fact that resettlement costs are repayed through taxes on earnings of refugees when they are resettled, it does suggest that, in the United States, domestic lobbies and foreign policy factors can significantly shift the expenditures on overseas aid to domestic resettlement programs. In contrast, in Canada, as we shall show, in the only case where we can find a link, in 1979 the shift went the other way - \$10 million away from domestic resettlement costs to increase the aid offered to the UNHCR for Cambodians in Thailand. Further, one notes the paradoxical requirements of the Senate - larger allocations of refugees (more money), a shift in resources back towards overseas refugee assistance (again more money for resettlement)<sup>17</sup>, a make-up in the shortfall in allocations for the current program (again more money) while being governed by a law that requires the U.S. government to move towards a balanced budget.

Canada spends twice as much per \$1 of GNP as the U.S. Canada generally doesn't link overseas refugee dollars with resettlement dollars, and, in the one case it did, the benefit went to overseas aid. Canada offers a transportation loan to refugees, but Canada does not pay a 25% fee to the private sector to collect the loans and collects over 97% in contrast to the 50% recovery rate experienced by the Americans.<sup>18</sup> Canada is supposed to be less of a business oriented culture, its business people less aggressive, less innovative and less prone to take risks.<sup>19</sup> Whether myth or reality, Canada also has a reputation as a banking culture where fiscal responsibility and prudence are central. This may explain its lower costs and much higher returns on transportation loans.

Another difference is the issue of welfare dependency - a non issue for Canadian refugee programs. Welfare dependency, which is so predominant in the academic literature on refugee resettlement in the United States, is virtually absent in the Canadian literature. Philip Holman boasted that "nearly half of the refugees who had arrived in this country (the USA) were self-supporting within less than two years after their arrival, with a national dependency rate of 52%. Canadians would not find that something to boast about. In Canada, refugees under 45 have a higher employment rate than native born Canadians within a year after arrival.<sup>20</sup> Other than during the severe recession of 1981-82, the figures for refugees on welfare are less than native born Canadians. The

Canadian government or private sponsors provide assistance for a maximum of one year, whereas, in the United States, it has been recently lowered from 33 months to two years to help make up the shortfall in budget requirements for refugee resettlement. One possible explanation for this significant difference is that Canada is a welfare state with an excellent universal health program. There is no incentive for a refugee to stay on welfare to ward off the fear of being hit with astronomical medical expenditures. There is a paradox that a welfare system seems to work more effectively in keeping people off welfare.

e) Procedural Differences

Both Canada and the United States have consultation procedures involving both the private sector and the legislature to assist in determining refugee policy, but in the U.S. the process is part of the checks and balances system between the Executive Branch of the government and the legislature. In Canada, the process is part of the tradition of making policy accountable to the oversight of parliament. In the United States, the key cabinet official that a legislative committee wants is the Secretary of State. When James Baker Jr. did not show for his long arranged appointment according to the requirements of the Refugee act of 1980, Senator Kennedy was quick to upbraid the Secretary of State. In Canada, the only cabinet minister to justify refugee policy is the Minister of Immigration and Employment or the junior minister, the Secretary of State for Immigration. American policy is divided between the State Department, the Department of Justice and the Department of Human Services. In Canada, even though External Affairs becomes involved and the Department of Health is used, the responsibility for refugee issues is located in one ministry, the Immigration Commission.

Canada has a humanitarian resettlement program in which it selects refugees overseas under relaxed immigration criteria and an inland refugee determination procedure under which it selects refugees on a case by case basis according to the Geneva Convention. The United States has a resettlement program to select refugees overseas purportedly based on a case by case adjudication using the Convention criteria modified by domestic law and policy; on the other hand, the inland refugee system is an asylum program (which Canada has always eschewed) which is politically influenced (e.g. Salvadorean and Guatemalan claimants) with no independent adjudication.

A third major procedural difference involves the role of the private sector. In the United States, there are proposals to involve HIAS in processing refugee claims in Moscow and some of the work is already contracted out to private companies. NGOs, as mentioned above, already act as a collection agency on behalf of the government with respect to transportation loans. Resettlement programs are operated by these NGOs who receive grants on a per

capita basis. As a result, these NGOs have been accused of promoting refugee intakes to bring in the funds to pay their own staffs. In addition, for 1990, it is proposed that the private sector finance the resettlement of 10,000 Soviets and 4,000 others from other areas but there is a concern whether the non governmental sector can live up to this challenge.

Canada, a welfare state, uses its private sector in very different ways. The private sector does not undertake any responsibilities that are clearly seen to be those of government such as processing claims. It doesn't act to collect government loans. Under the ISAP and host family programs, nongovernment agencies assist refugees and immigrants to resettle, but they are not the agencies responsible for resettling refugees. Where the private sector does agree to assume that responsibility, they assume it outright, though the government informally provides a small safety net. In fact, Canada, a country one-tenth the population of the United States, has a private sector direct involvement in sponsorship equivalent in size to the proposed American program for 1990. One could summarize and oversimplify the differences by saying that Canada is a welfare state which promotes private sponsorship and is wary of direct private sector involvement in government<sup>21</sup> whereas the United States is a state which celebrates individual initiative and responsibility but makes the private sector a partner in government activities rather than an independent agent taking financial, legal and moral responsibilities for what it undertakes. American private involvement is a joint venture enterprise; Canadian private involvement is based on complementarity and cooperation.

Clearly, all these differences have a great deal to do with the different cultures and general histories of the two countries. What I want to show now is that the differences also have something to do with the particular history of the development of Canadian refugee policy.

### III The Development of Canadian Refugee Policy

#### 1) 1933-1947: Pre- and Post-World War II:

Prior to 1948 the major historical issue with respect to refugees has been how the Western Countries treated the Jews who were the major immediate targets of persecution and, subsequently, murder by the Nazi regime. According to the historians, the record of the Allies prior to, during and immediately following the Second World War was abysmal. That it was abysmal is not disputed. Why it was so, is.

The situations differed in the three periods before, during and after the war. Prior to the outbreak of the war - which was 1941 not 1939 for the U.S.A. - the opportunity existed to take in

Jews but it was not adequately taken up. Further, in spite of the terrible record on the part of all the Western countries, neither the record nor the reasons were uniform.

By the end of the 1930s, France was the leading country of immigration and refugee intake in the world. 515 of every 100,000 residents were immigrants or refugees in contrast to 492 per 100,000 in the United States. An estimated 180,000 were refugees.<sup>22</sup> In the period 1933-45, France took in 55,000 Jews. In comparison, the United States took in 190,000, Palestine admitted 120,000 and the U.K. 65,000.<sup>23</sup> Canada, a country of immigration, took in a bare 5,000.<sup>24</sup>

In the United States, an isolationist foreign policy, bureaucratic inertia, sensitivity to public opinion and the concern with the economic depression seemed to have been the main factors that led to a policy of rhetorical humanitarianism and actual restrictionism.<sup>25</sup> However, David Wyman concluded that although many who opposed refugee immigration were not antisemitic, a great deal of restrictionist and anti-refugee sentiment was rooted in such prejudice.<sup>26</sup>

Before, during and after the War, Canada continued to have the worst record, a record which, unlike the U.K., the United States or France, had its roots directly in the antisemitism of bureaucrats, such as Frederick Blair, and politicians, such as Prime Minister Mackenzie King.<sup>27</sup> When Canada began to take European migrants as part of the special movement between 1947 and 1952, less than 10% were Jews. 16,000 moved to Canada, while 142,000 of the European remnant went to the new state of Israel.

Given that unenviable record in both numbers and motive, the key question is what happened in Canada during the subsequent four decades to make Canada a leader in refugee policy so that in 1986, the Canadian people were awarded the Nansen Medal by the UNHCR for work on behalf of refugees?

## 2) 1947-1956 - West-European Anti-Communism

In 1945, after the end of the war, 15,000,000 refugees, people uprooted by the war, were seeking homes in the west while an equal number were repatriated east. Most of those flowing west were uprooted Germans forced to relocate from the Baltic states (former German territories that were now Polish or Russian) or simply Nazi collaborators or ex-SS officers and Storm Troopers on the run. But they included every nationality of Europe.<sup>28</sup> At the beginning of 1947, there were approximately 1,000,000 refugees still in Europe, 800,000 of them in refugee camps. While Jews started out as less than 10% of the refugee population in camps, they ended up as 50%.

In the period 1947 to 1952, Canada resettled over 10% of the displaced persons through special programs. Since many of these in

turn sponsored their relatives who were still in camps, the total intake of refugees between 1947 and 1952 is estimated to be over 186,000. (See Table II)

This tremendous effort must be seen against the background of the momentous international events underway during the same period. The Cold War had begun. Under the Truman Doctrine, the U.S.A. intervened against the communist partisans in the Greek Civil War in 1947. The Communist coup in Czechoslovakia in 1948 ended democracy in that country for over four decades. The American led Marshall Plan began in that same year to promote an economic solution to the threat of a communist takeover throughout Europe. The Berlin crisis of 1949 consolidated the division of Germany for forty years and the East Berlin workers uprising of 1953 was unable to accomplish by force what forty years of communist failure achieved through peaceful protest.

Canada's response was directed towards refugees in western Europe against the backdrop of the Cold War. When, in 1949, eighteen Arab Families uprooted from Palestine as a result of the Arab-Jewish war, sought resettlement in the West, Canada, like all the other Western Countries, refused to consider them. The reasons had nothing to do with the desire of the Palestinians to return to their homes in what was then Israel. Canada was unwilling to take them for the very same reasons Canada was unwilling to take the Jews earlier - they were seen to be alien and unacceptable for adaptation in Canada.<sup>29</sup> The fact is, outside of Europe, in North Africa, the Middle East and Asia, there were at least another 1,000,000 refugees.<sup>30</sup> But none of them were considered for resettlement by the Canadian government.

During this period, refugees had no rights in Canada. The Geneva Convention was passed by the U.N. in 1951, but Canada was unwilling to sign at the time because refugees were viewed as individuals fleeing persecution to whom a country gave temporary asylum. Canada saw itself as a country of permanent resettlement for immigrants. Further, Canada wanted to control who came into the country. Though clearly humanitarianism and some sense of obligation to clear out the camps of Europe (so that the process of rebuilding could begin in earnest) were factors in Canadian policy, the key which unlocked the door to Canada was a combination of self-interest factors, first and foremost of which was economic self-interest, for we needed labour to feed a rapidly expanding and industrializing economy. These were reinforced by ideological anti-communism and the need to correlate our foreign policy with that of our allies. Racism, too, was a factor<sup>31</sup>, but, for the first time, it was no longer the predominant factor; the preservation of a perceived cultural homogeneity not only took last place, but the sense of cultural uniformity was redefined in terms of all of Europe. Thus, the redefinition of Canada had begun. This was the period in which Canadian refugee policy and American refugee policy resembled each other most closely.

## 3) 1956-1968 - East European Anti-Communism

Michael Lanphier describes the Canadian response to the refugees produced by the ruthless Soviet repression of the Hungarian uprising as "the first ever crisis to demand Canada's participation in the international resettlement effort."<sup>32</sup> We had participated in the emptying out of the refugee camps of Europe between 1947 and 1952, but that was hardly a response to a crisis. The Hungarian revolution against the Soviet Bear quickly became a crisis.

It began on the 23rd of October 1956 when Budapest students "met to express solidarity with the new Polish regime which advocated freedom of speech and worship".<sup>33</sup> The police repression of this protest led to rioting, which in turn led to swift intervention from the Soviet troops and tanks which occupied Hungary. The Hungarian army joined the revolutionaries (dubbed, naturally as "counter-revolutionaries"). The struggle escalated as the Soviets sent in better-trained reinforcements. Approximately 150,000 heavily-armed troops swept through Budapest, supported by 5,000 tanks and vehicles; in all, it is estimated, 10,000 houses were destroyed, and 50,000 killed.<sup>34</sup> As the carnage came to an end, hunger began to stalk the Hungarian capital. The Soviets began deporting thousands to perform forced labour in the Soviet Union.

What began as a trickle to take advantage of an opportunity became a flood of both genuine refugees and opportunists from Hungary into Austria after the 18th of November, 1956. Soviet intolerance of freedom of worship and belief, the repression of unauthorized publications, the denial of freedom of assembly and association, in other words, a climate of extreme intolerance of dissent, culminated in ruthless repression and the murder and persecution of tens of thousands. This was exacerbated by the immediate devastation caused by the repression of the uprising which left people homeless and without the means to support themselves.

The Canadian government responded wholeheartedly and with dispatch. Without a doubt the leading factor was humanitarian concern for the refugees on the part of the Canadian public, members of cabinet, the media, etc. "It was a perfect liberal cause and the government responded to it quickly."<sup>35</sup> J.W. Pickersgill, then Minister of Immigration, played a prominent role, setting up a special Hungarian Refugee Task Force, personally flying to Vienna to oversee the admittance process<sup>36</sup>, moving the office so that refugees did not have to stand in long lines all day, delaying the medical checks until after the refugees arrived in Canada (an unprecedented move), arranging to book 4500 seats on airlines himself, arranging to use Governor General warrants as an original initiative and use of the Financial Administrations Act to obtain the funds to carry out his commitments and otherwise receiving a virtual carte blanche from the Prime Minister to do

what he had to do. NGO's, universities, local communities, private sponsors, and the provincial and federal governments worked in a coordinated fashion to make the resettlement effort a success. This virtual hands-on entrepreneurial involvement of the Minister in charge has no parallel, as far as I know, in the history of Canadian or American refugee policy since the Second World War, though the innovative use of the "parole" provision in the United States bore an uncanny resemblance to the innovative use of Governor General Warrants in Canada.

The "cold-war" ideological undertones of this initiative cannot be ignored since many scholars have pointed out that refugees escaping communism - even some notably right-wing individuals - have generally been more welcome in Canada (and, certainly, the United States) than, for example, left-wing dissidents fleeing from rightist regimes.<sup>37</sup> However, knee-jerk anti-communism was not the prime motive behind the Canadian response, though the government was certainly anti-communist and quite eager to embarrass the Soviet Union. In fact, fear and hatred of the communists was an argument for not undertaking the program. Prior to the Hungarian movement, there was trepidation at the idea of taking in refugees from Soviet dominated regimes lest the Soviets "seed" the refugees with spies, a factor which was partially responsible for Canada's timid response to those who fled the suppression of the workers revolt in East Berlin in 1953. In case this wariness of even the Hungarian "freedom fighters" by the RCMP, due to a generalized "security bias", disrupt the movement of refugees, Jack Pickersgill laid down the law. "Unless your Security Officer has serious reason to believe the applicant is a security risk, we would expect him to issue a security clearance."<sup>38</sup> Whitaker called this a watershed in the Security Establishment's fear of those fleeing Soviet Communism. And it was. When the RCMP noted that some sponsored relatives had been communists, the Immigration Department chose to ignore those warnings as well as others which pointed warily to the fact that some of the refugees were "Hebrews".<sup>39</sup> Thus, began the movement of refugees from East Europe as the successor to the movement from West Europe.

However, even the cause of the "freedom fighters" from Hungary might have been less attractive to Canada had the economic conditions seemed to dictate a limited capacity for absorbing immigration. In the light of Canadian prosperity at the time and the need for skilled workers, Pickersgill commented that "it was an Immigration Minister's dream".<sup>40</sup> In fact, abrupt cutbacks in government-sponsored immigration from Hungary were initiated following the election of Diefenbaker's Conservatives in the summer of 1957 to coincide with higher unemployment and a weakening economy.

If the RCMP had to be pushed into line with government policy, the media were right in step. Though it might be too strong to attribute the Government response to media pressure, a "campaign"

in the mass media and by pressure groups helped to champion the cause of these "freedom fighters".<sup>41</sup> The media and public opinion climate was overwhelmingly positive.<sup>42</sup> One anecdote serves to illuminate this: A small northern Ontario town expressed reservations about the refugees, stating publicly: "We don't want them." The public and media reaction was so swift and emphatic that the town was forced to issue an official apology. It then went on to welcome the newcomers.

The Canadian response to the Hungarian refugee movement was overwhelming. Canada took in over 37,000 Hungarian refugees (cf. Table II), almost 20% of those who had reached Austria and about 600 less than the U.S. total of 38,121, on a par and not the usual 10% of the American intake.<sup>43</sup>

Ideology was a factor, but the ideological factor dictated more that the Hungarian refugees be kept out rather than allowed to enter. Politics was a factor - the attempt to divert attention from the British/French fiasco over Suez as well as the domestic hangover from forcing closure in Parliament over the pipeline debate. Economic self-interest was clearly a factor. The fact that the refugees were European, though not West-European, was important. But the clearest and most dominant factor was humanitarianism. And it was a humanitarianism of Virtue. Both the government and the media painted the Reds in terms of villainy and oppression and our actions in terms of witnesses to the defense of Freedom.<sup>44</sup> And Canada led the world in its per capita response.

After the tremendous effort on behalf of the Hungarians, Canada became laid back. While the United States took 125,000 Cubans fleeing Casto's victory over the corrupt Batista regime and subsequent development of an authoritarian regime, Canada left the problem of Cuban refugees to the Americans.

Canada's ad hoc response to the Hungarian refugees was repeated in response to the Soviet repression of "Prague Spring" and the flight of Czechoslovakian refugees, but with a difference. Part of the difference was attributable to the events in Czechoslovakia itself. In 1938, under the slogan "Peace in Our Time", Czechoslovakia had been sold out to the Nazis. In 1948, a Soviet organized putsch overthrew the democratic government. Two decades later, a reformist Communist regime tried to introduce freedom into a Communist regime. The Soviets would not tolerate it and again, as in Hungary, sent in troops to overthrow Dubcek. The Soviet tanks did not meet any armed resistance. As a result, there were relatively few casualties and no massive economic devastation. Given the absence of any need to tie up Soviet forces in fighting, the window of opportunity for flight was open for only a very short period. In fact, the vast majority of refugees were simply Czechs who had been allowed to go abroad during Prague Spring and who refused to return when the Soviets marched in. Consequently, the refugee movement was much smaller and Canada took in about 30% of

the refugees (approximately 12,000), about the same proportion as in Hungarian wave and the same numbers again as the Americans.

The difference between the Czech and Hungarian movements was not in the proportions we took in but in the absence of Canadian leadership and the increased importance given to economic factors. The Canadian program was a direct response to the UNHCR High Commissioner appeal to resettlement countries. Secondly, in 1968, public opinion and newspaper editorials led and inspired a belated response from the Trudeau government. Further, the refugees were screened, not particularly as security risks - this factor had declined significantly since 1956 - but for skills and talents which this country needed.<sup>45</sup> The Czechs (and Slovaks) selected were predominantly young, well-educated, mostly with technical and professional skills.<sup>46</sup>

Thus, in the second phase of the development of Canada's Postwar refugee policy focused on Eastern Europe, one can observe not only a geographic shift, but a decline in concern with security issues, though cold war ideology remained an important factor but on a different plain. The battle was no longer fought to save a portion of Europe from Soviet domination but to embarrass the Soviet Union in the face of despicable behaviour in the areas already under domination while, at the same time, Canada was able to express its humanitarian concern. However, in the 1968 movement, that humanitarian response was more overtly shaped by Canadian economic priorities. Since the relaxed criteria were now governed by universal criteria applied through a point system, this meant that nominated relatives and skilled independent applicants were given favourable consideration.

## B The World

### 4) 1969-1977 - Rights for Convention Refugees and Access to Humanitarian Refugees

In 1969, Canada signed the Geneva Convention on Refugees and its Protocol thereby ensuring that Canada had an obligation to refugees in accordance with international law. But that obligation had not yet been incorporated into domestic law. In 1967, Canada had passed the first Immigration Act with an overt intention not to discriminate among immigrants (including refugees) on the basis of race, religion or national origin. The Act established universal criteria for admission based on a point system. Further, in 1970 new guidelines for the admission of refugees into Canada were published by the Department based on both the Refugee Convention and relaxed immigration criteria. These guidelines specifically spelled out the requirement that adequate assistance would have to be available from the public and/or private sectors. The guidelines further provided that these refugees would not have to be outside their country of origin, a very important criterion when applied to the Chileans Prisoner Program as we shall see.<sup>47</sup>

The practice imitated the new non-racist policy. Canada took in several hundred Tibetans in 1970 who had fled the brutal repression of the Dalai Lama by the Chinese Communists. In 1972-3, Canada took in over 7,000 Ugandan Asians forced to flee Idi Amin's repressive and anti-Asian regime. In 1973-9, Canada took over 7,000 Chilean refugees, overwhelmingly leftists, fleeing the right wing military dictatorship of Pinochet who overthrew the first democratically elected Marxist Allende government. This phase of the development of Canadian refugee policy ended with the intake of over 9,000 Vietnamese refugees into Canada following the U.S. defeat in and retreat from Vietnam in 1975. To understand the characteristics of this phase in the development of Canadian policy, it is necessary to examine in closer detail the three major movements during this period, the Ugandan Asians, the Chileans and the Vietnamese. But before we do, it is even more important to examine the one major movement of refugees that is not even acknowledged by the Immigration Department, the movement of draft dodgers and deserters fleeing the U.S. involvement in the Vietnam War.

(a) American Draft Dodgers and Deserters

In 1967, over 40,000 Americans deserted the U.S. armed forces. By 1970 that figure rose to almost 90,000.<sup>48</sup> In 1969, though Canada was accepting draft dodgers, deserters - or, war resisters as they preferred to call themselves - were being turned back at the border because they had allegedly committed a criminal offence, military desertion, whereas draft evasion was not a criminal offence in Canada because we did not have a draft. Another rationale offered was that the American deserters were "likely to become public charges".<sup>49</sup> However, a campaign, led by Praxis, a research organization devoted to combining theory and practice in working for social change, in which myself, Barbara Frum (who later became instantly recognizable across Canada as the main host of Canada's nightly CBC newsmagazine, The Journal) and others were very active, did have the effect of changing government policy and admitting deserters as well as draft dodgers into Canada.

Though I attribute the change in policy to the active leadership of the Praxis Corporation, it is still not clear why the government changed the policy. Media support backed the change. Further, the policy disallowing entry to deserters merely led to the creation of a large underground population since Americans could easily cross the border as visitors and then go underground. Canadians increasingly opposed American involvement in the Vietnam War. Thus, although Canada was a large supplier to the U.S. military, Canada could express its symbolic disapproval of the American involvement without any cost to itself by taking in Vietnam deserters. The precedent had already been set by Sweden who had begun accepting American deserters in 1967. In May of 1968, Sweden received the first seven who had deserted the theatre of war in Vietnam and not just the military (e.g., from troops stationed

in Germany). The deserters travelled to Thailand, Japan, across the Soviet Union to Sweden.

If the reasons for the change in policy still remains to be established, so do the actual numbers that we took in. In the early 1970s, Praxis estimated that over 100,000 draft dodgers and 60,000 deserters had come to Canada.<sup>50</sup> But the movement was not recorded as either a refugee movement or a humanitarian movement even though Canada allowed draft dodgers and eventually deserters to become landed immigrants unless they actually had criminal records. The Immigration Department never recorded or noted this movement as a refugee movement. It is certainly true that Canada did not select those who came from camps as we do with humanitarian refugees. It is also true that the individuals did not have to prove they had a well founded fear of persecution when they arrived in Canada. Normally, immigrants are required to apply for status from abroad; the Americans obtained their status within Canada. Further, many of them were well qualified to achieve entry as immigrants. But the reason they came was not because they were economic migrants seeking better opportunities in Canada but because they fled the United States because they were unwilling to serve in a war where they feared they would be killed and/or because they objected to American involvement in the war.<sup>51</sup> In reality, the American refugee movement into Canada in the late sixties and early seventies was Canada's largest refugee movement, on the same scale as the subsequent movement of the Indochinese refugees.

If the numbers are not clear, if some of the records have been destroyed and the movement is not even recorded officially as a refugee movement, we can nevertheless offer some explanation of why Canada took in the Americans yet did so unofficially rather than as an openly acknowledged refugee movement. Let us begin with the humanitarian rather than self-interest side of the ledger. If humanitarianism was a factor, it was clearly not the Humanitarianism of Virtue. Though Canadians saw themselves as virtuous because of their non-involvement in the Vietnam war and boasted that youth from both the United States and Canada, to escape the opprobrium directed at Americans, had taken to wearing the new Canadian flag on their jackets as they travelled through Europe, the intake of American refugees was not a product of the Humanitarianism of Virtue. There is no evidence to indicate that Canadians based their support for the intake of the Americans on long established and exalted virtues of the Canadian polity. Quite the reverse. The support for the intake of the Americans was seen as a challenge to the perceived propensity of Canadian politicians to kowtow to American foreign policy interests (such as Lester B. Pearson's surrender to the bullying tactics of President Johnson when he reluctantly agreed to reverse Diefenbaker's policy against nuclear weapons on Canadian soil and agreed to allow Bomarc missiles to be stationed in Sudbury). Taking in the American draft dodgers and deserters was exalted to demonstrate the self-transformation of Canada, its new found self-pride, its sense of

independence which began to be asserted through symbols with the creation of a Canadian flag in 1965 and the substitution of "O Canada" for "God Save the Queen" as the official anthem in 1967, and which would be most strongly expressed in the seventies through Canada's national energy policy, the prime thrust of the effort to repatriate the Canadian economy. In fact, the intake of American draft dodgers and deserters can be seen as one of the significant steps to assert Canadian independence and self-creation in opposition to its past record of serving the imperial centre in London, a step which, ironically, can be said to be one on the road to the Americanization of Canada rather than the development of its independence. For the older Canadian sense of itself derived from stressing "historical continuity" rather than revolutionary beginnings.<sup>52</sup> While Francophone Canada in Quebec had begun its Quiet Revolution setting itself on the road to greater autonomy and probable national independence, temporarily set back by the October crisis of 1970, the FLQ crisis and the invoking of the War Measures Act, Anglophone Canada began the silent self transformation into Americans in the guise of becoming more Canadian and in antithesis to the imperialism of current American policy. For Canadians began to base their humanitarian behaviour on the principle of self-transformation, on the rights of nations to assert themselves independent of the demands of superpowers, on historical discontinuity rather than continuity. Canadians, like the American could remake themselves in terms of their own image under their own national flag and thumb its nose at the Americans. One way to assert this independence was to take in the American draft dodgers and deserters, but not through an open supportive program, but quietly, suitable to the diplomacy of country lying alongside a powerful neighbour. Canada could tweak the American nose but not twist it.

Canadians were sympathetic to the American dissenters from the Vietnam War. At the same time, Canadians believed citizens should serve their countries; Canada was a country built on law, order and good government. On the other hand, Canada's historical crises with military conscription did not make Canadians sympathetic to forced service in a war with which the participants morally disagreed. Canadians exemplified a Humanitarianism of Will, not a strong and boastful will, but a will nevertheless to assert and transform themselves. Certainly, Canadians were not moved out of compassion by any alleged suffering of the draft dodgers and deserters or any legal obligation to accept the Americans.

This Humanitarianism of Will was not seen as having to be pure and not involve self-interest factors. In fact, the intake of Americans was seen as consistent with a new Canadian Identity to be developed in opposition to an imperialist America, with economic self interest (to be fostered through government ownership and leadership rather than the initiatives of private entrepreneurs), with our new found international political role distanced from the virulent anti-Communist ideology of the U.S.A. The intake of

American refugees suited the Canadian recollection of its Anglophone identity founded by Loyalists or American refugees fleeing the republican revolutionaries in the aftermath of the American War of Independence. They would help contribute to the economy. They fitted the newly emerging Canadian international and domestic political agenda. Most of all, they fitted the new found Canadian ideology defined in terms of non-American. If Americanism was the religion of the United States so that, "Those who reject American values are un-American",<sup>53</sup> anti-Americanism temporarily became the revivalist religion of Canada. What better way was there to symbolically invigorate the anti-American Canadian religion than by taking into Canada those who were overtly un-American in refusing to go to war and die for their country.

#### (b) The Ugandan Asians

After a century of colonial domination, Uganda experienced a peaceful transition to independence. However, instead of the promised democratic methods to resolve the problems of colonialism and the inter-tribal conflicts inherent in Uganda, Milton-Apolo Obote set up a one party state with power centralized in the hands of the president. In 1966, the constitution was abandoned and political opposition parties were banned. Obote's power was ensured by the Ugandan army. In 1971, led by Idi Amin Dada, Obote was overthrown by the army and he and his supporters were expelled. Amin began his eight years of dictatorship by terror by setting aside any remaining constitutional protections. One of his major initial acts was the expulsion of 50,000 Ugandans of Asian origin who retained British citizenship. They were given ninety days to leave.

Since they held British citizenship, Britain was obliged to act. On the other hand, the Britain government believed that such a large influx of ethnic Asians would exacerbate racial strife already pervasive between British whites and its growing population of Asians (and Blacks). The U.K. made a direct appeal for its former Dominions to "share the burden". Canada responded by quickly dispatching immigration officers to Kampala and organizing transport for the refugees. The Ugandan Asians were, in fact, selected using immigration criteria with some adjustments.

By the end of 1972, 4,875 Ugandan Asians had been resettled in Canada and by the time the movement ended, 7,069 Ugandan Asians had arrived. Given the education and skills of the refugees, they were quickly resettled. It is clear that although Canadian newspaper editorials overwhelmingly supported a Canadian humanitarian response and there was little evidence of any racial backlash, and, further, though Canada was responding to a sense of obligation to Britain as the "mother country", Canada's quick response enabled the Canadian immigration officers to skim "the cream off the top". In terms of age, education and experience, the Ugandan Asians were highly qualified for immigration to Canada.<sup>54</sup> Humanitarianism and

self-interest had been congruent. And again it was a Humanitarianism of Will rather than Virtue or Compassion or Law. Canada was not legally obliged to take the Ugandan Asians. Nor were these middle class Ugandans pictured as suffering victims, though certainly they were perceived as being treated wrongly. Nor could Canadians assert that the actions were based on principle since Canada had just passed the immigration act which made non-racism part of Canadian law for the first time. In any case, Canadians, particularly the Quebecois, understood the position of a majority "race" economically dominated by a small minority. Canada took in the Ugandan Asians because these new refugees helped define Canada as non-racist, not tied to its roots in Europe. It was another step in the transformation of Canadian self-identity.

Humanitarianism, however, seems to have been less important than self-interest given Canada's subsequent record. The Idi Amin terror increased. When he was overthrown in 1979 and Obote regained the leadership over Museveni in a fixed election in 1980, the situation became even worse. Thus, by 1984, the final year of Obote's rule, Obote had killed even more Ugandans than Amin in half the time. Further, one in fourteen Ugandans, over 1,000,000 people, were refugees. Yet, in that year, Canada accepted only 117 refugees from Uganda, up from 83 in 1983 and 20 in 1982.

The Organization of African Unity (OAU) preference for resettling African refugees within Africa, in part, to prevent a brain drain of its brightest and finest, is often cited to explain this very low resettlement record. The OAU prefers resettlement close to home to facilitate eventual repatriation. The OAU appeals for medical, food, and development assistance for refugee settlements within Africa. The historical research has not been done to indicate whether the OAU made any unsuccessful requests on behalf of individual refugees or whether individual African refugees applied to get to Canada and were refused or whether Canada offered any resettlement opportunities if they were needed. In contrast, despite the horrible repression of the Obote regime, CIDA provided over \$1.1 million to Uganda in the 1977-80 period.

Canada took in the Ugandan Asians because it suited the process of self redefinition, because the refugees were perceived as middle class and professional well able to contribute to the economy, because it helped Britain out of a bind at no cost to Canada and because it fitted the new self definition of Canada as a multi-cultural creation rather than simply a continuity of British and French stock on the one hand or an American melting pot on the other. Canada's uniqueness was to be defined in terms of being both a mosaic and economically prosperous, thereby running against the inherited vision and the common reality that homogeneity was a requisite of success for a nation-state and pluralism a sign of economic failure.<sup>55</sup>

### (c) The Chileans

On September 11, 1973, in Chile, Augusto Pinochet led a military coup and overthrew the first democratically elected Marxist government in the world. The President, Salvador Allende, was killed. Following the coup, tens of thousands were rounded up and tortured; thousands were killed. In the military seizure of power and the repression that followed, many Chileans in search of safety fled to various embassies.

On October 9, 1973, 17 of 50 asylees who had sought and found refuge in the Canadian embassy (15 Chileans and 2 Brazilians) were flown to Canada. Seventy-six days after the coup, on November 26, 1973, the Canadian government instituted a special program for Chileans along the same lines as the program for Ugandan Asians and Czechs; Chileans were granted rights to immigration to Canada under relaxed criteria. A target figure of 300-1000 was announced for "persons whose lives had been adversely affected"<sup>56</sup> by the coup d'etat. On January of 1974, a Canadian Armed Forces plane flew 128 Chilean refugees to Canada.

On November 20, 1974, in an unprecedented move, the Canadian Cabinet authorized the admission of up to 100 political prisoners who were, technically, not refugees since they were not outside their country of origin. At the same time, a target figure for the special program was raised from 1,000 to 5,000. This was more than 14 months after the original coup. On July 15, 1976, the Cabinet expanded the program to designate the source of refugees to include anywhere in South America and increased the target figure to 5-6,000, with a reserve of an additional 1,000 at the discretion of the Minister; at the same time, the prisoner program was extended. The 1,000 discretionary figure was added by the Minister on June 14, 1977 and the 7,000 target was reached by mid-1979 when the program was terminated.

One cannot help but notice the relatively few admitted for safety into the Canadian embassy, the fewer still who were allowed to leave Chile quickly and fly to Canada, the long delay in announcing a special program, the slow processing of the applications once the immigration teams arrived in November; by Christmas of 1973, only 184 of 1400 applicants had received visas and only 780 six months after the government had been overthrown.<sup>57</sup> Nevertheless, in comparison to the U.S., there was a real Chilean refugee movement.

Five factors can be said to account for the movement being a rather tepid response: an External Affairs policy against allowing Canadian embassies to be used for sanctuary, the problem of separating immigrants and refugees in genuine need of protection, the role of the Canadian Ambassador in Santiago, foreign policy considerations and ideology.

Latin American states as well as the U.S.A. have allowed their embassies to be used as places of refuge under the doctrine of the right of diplomatic asylum. Canada had and still has (as the events following the 1989 events in Tiananmen Square attest) a policy denying access to its embassy for purposes of sanctuary.<sup>58</sup> The 50 who managed to gain entry did so before embassy officials were able to close their doors to additional asylum seekers.

It was quite clear from the very start that large numbers of people in Chile were in danger of their lives. Members of left-wing parties, government officials, union leaders, intellectuals and other sympathizers of the Unidad Popular, not forgetting the 13,000 non-Chilean nationals in Santiago who were refugees from other right wing dictatorships in Latin America, were in danger, at the very least of losing their jobs, and even more seriously, their lives, unless they were "lucky" and were merely tortured and imprisoned.

There is a possibility others would want to immigrate to Canada given the disruptions to the Chilean economy that had been exacerbated by the Allende government program of large scale nationalization. The military coup might have generated more loss of faith in Chile and stimulated a large increase in immigration. Certainly, increased numbers in Chile applied to immigrate.

The reality is that this was the least relevant factor, if it was a factor at all. Distinguishing between economic migrants and genuine refugees was not the major problem in the minds of Canadian officials as the dispatches of the Ambassador in Santiago, Andrew Ross, attest. Ross supported the military coup and urged the government to recognize the regime as soon as possible, which the Canadian government did less than three weeks after the overthrow of the Allende government. In documents leaked to the press, Ross observed that, "disintegration of normal institutional system brought the country to verge of anarchy ... the Armed Forces command structure offered the only apparently viable alternative. It would be a mistake to consider the action the military took as rightist coup...From my knowledge...they would intend to turn the government back to civil authority with the minimum delay feasible."<sup>59</sup> Seventeen years of Pinochet's dictatorship would belie this prediction as would the ruthless repression that quickly became apparent to the rest of the world.

The position of the pro-coup ambassador was reinforced by our relationship with the United States and the American (and Canadian) economic interests and investments in Chile and the rest of Latin America. I.T. and T. had openly called on the U.S. to support the overthrow of Allende. Canadian banks and other businesses had considerable investments in Chile which the nationalization program of the Allende regime threatened. It was quite clear that the U.S. government had been an enemy of Allende; if it did not help organize the coup, it certainly didn't express any disapproval.

Nor did Canada protest the overthrow of a democratic government.

Canada let very few of those in danger into our embassy. Canada took almost three months to announce a special program. Canada processed those who applied very slowly. Instead of dismissing the security issue, as Pickersgill had done with the Hungarians, security checks continued which deterred applicants from even applying for it was not known to what degree the C.I.A. or even local security services would be used.<sup>60</sup> In comparison to the response to the Hungarians, the Czechs and the Ugandan Asians, now that left-wing refugees were involved it appears that Gerald Dirk's conclusion that "ideological considerations have replaced racial criteria as a discriminatory factor in determining Canada's refugee admissions policy"<sup>61</sup> might have been correct.

The surprise is, then, that Canada had a program at all. In the end, Canada took almost 35% of those who sought asylum, a percentage comparable to the Hungarian, Czech and Ugandan Asian movements. The program seems to have been a product of domestic pressure, particularly from Quebec<sup>62</sup>, the results of a Mission of Enquiry that travelled to Chile, the overwhelming objective evidence of the ruthlessness of the new regime and the pressure from the UNHCR. For example, the Canadian Council of Churches made this clear and unequivocal appeal.

Since these refugees are in danger of their lives under a very repressive military regime, we have only one option: to do what we can to save their lives. Canada opened her doors to refugees from Hungary, Czechoslovakia and Uganda. If we refuse to open our doors to people who are in danger under another type of political regime, this would mean that we had acted from political rather than humanitarian motives."<sup>65</sup>

Churches, labour unions, academics and many others had also urged the government not to recognize the new regime and were unsuccessful. On the humanitarian in contrast to the political front, they appear to have been the key to the change in Canadian policy. Without that pressure, it is doubtful if the objective news of the tortures and murders by the new regime would have overcome the Canadian government's reluctance to become involved even in the tepid and hesitant way in which it eventually performed.

The intake of Chilean refugees posed no problem for Canada. They were overwhelmingly middle class and professionals and could quickly be absorbed by the Canadian economy. Canada had stood up to the United States on the intake of deserters so our foreign policy relations with the United States could not have been a prime consideration. The key factor seems to have been a new private sector humanitarianism propelled by compassion, on the one hand, which was at war with an External Affairs mandarin ideologically opposed to the Allende regime, indifferent to the means by which it

was overthrown and oblivious to the consequences for human rights and the safety of individuals. Prior to the development of an independent Canadian foreign policy, it is doubtful if one could have envisioned Canadian ambassadors taking such initiatives. In this case, the initiative did not follow from the traditional Canadian self definition as an international broker but in the new vision of Canada as an independent self-interested actor in the international arena. We did not imitate the anti-communist ideology of the U.S.A. but, rather, found that the economic chaos was a product of the Allende regime and its policies, and the results were not congruent with Canadian economic self-interest. The case of the Chileans is one clear and unequivocal example of government refugee policy resulting from public pressure and compassionate humanitarian concern without which it is questionable whether Canada would have had much of a Chilean refugee program at all.

(d) Vietnamese

The policy for receiving Vietnamese refugees from 1975 to 1976 was distinctly different than the policy involving the movement of Indochinese refugees from 1978 onwards. The situation was unlike previous cases, The intake of American draft dodgers and deserters was motivated by the process already underway in transforming the Canadian image of itself combined with Canadian antipathy to the Vietnam war. The case of the Ugandan Asians was motivated by economic self-interest, a similar humanitarianism and foreign policy considerations in response to an appeal by Britain to share the burden. The case of the Hungarians and Czechs was a response to a humanitarianism of virtue and, in the case of the Czechs, economic self-interest. The initial response of Canada to take in 5,000 Vietnamese as a result of the U.S. withdrawal from Vietnam and the fall of the Saigon regime seems to have been motivated mostly by an obligation to demonstrate solidarity with the United States but in a token fashion.

The numbers were relatively small indicating Canada was not undertaking its normal role in burden sharing - generally 10% and up of any outflow. Canada had not been sympathetic to the American role in the Vietnam war. Further, there was an expressed conviction that the refugee flows immediately following the war stemmed directly from the alliance with the Americans; the refugees were, therefore, America's problem. Thus, though some scholars have indicated the Canadian response was motivated in good part by anti-communist ideology, this thesis does not seem to be supported by the low numbers taken in, the tepid response, the fact that the response was stimulated by an American request and the very different response three years later when Canada began its massive resettlement effort on behalf of all Southeast Asian refugees. Only then would the total intake over a decade of approximately 100,000 Vietnamese refugees compare favourably to the total American intake of 900,000 out of a total of 1,500,000 that fled Vietnam.

What ties together the policies towards the Americans, the Ugandan Asians, the Chileans and the Post Vietnam War Refugees? The policy was not ideologically driven if it ever was. But neither was it driven by any principle whatsoever. When Pierre Trudeau became Prime Minister, he heaped scorn on Canada's self-image as an international mediator. He advocated "realism" in foreign policy. The 1970 paper on "Foreign Policy for Canadians" derided the "helpful fixer" role. Henceforth, foreign policy would be guided by national self-interest, and international policy was subordinated to domestic politics - economic nationalism, the French/English question and the rhetoric of social justice (which meant, in reality, only the protection of rights of Canadians and not the more equitable distribution of goods and services).<sup>66</sup> Government policy, when the initiative came within the government, was driven by a Humanitarianism of Will which in most cases was completely consistent with Canadian self-interests. In the one case of Chilean refugees, where assistance was initially perceived as antithetical to Canadian international interests, the intake was driven by public pressure rooted in compassion for the flagrant abuse of the rights of Chileans and where the intake of Chileans into Canada would not be at all at odds with domestic self-interest. Ideology cannot in general be seen to be the driving force of Canadian refugee policy during this period.

#### e) Convention Refugees

The irony was that it would be precisely the "rights" issue which became the major innovation, though minor in numbers, precisely at the time when domestic politics and our relations with our economic foreign partners became the major pillars on which our refugee policy was developed at the time. For it was in this period that Canada signed the United Nations Convention on refugees and granted refugees a "right" to claim refugee status in Canada and not just the privilege of being selected abroad, though, in fact, the incorporation of this right into law took some time to develop.

The development went back to 1967 when immigration applicants were allowed to apply for Landed Immigrant Status within Canada. Since those rejected had an automatic right to appeal to the Immigration Appeal Board, a backlog of 20,000 cases quickly developed.<sup>67</sup> In 1972, the government revoked the provision allowing immigrants to apply within Canada but allowed those who claimed their return would subject them to persecution to have their claims heard by a Senior Immigration Officer and reviewed, originally by a committee within the Department of Manpower and Immigration, and subsequently by an Interministerial Committee from Immigration and External Affairs - the Interdepartmental Committee on Refugee Status. This was the origin of the Refugee Status Advisory Committee (RSAC) set up in the 1976 Immigration Act (promulgated in 1978). Allowance was provided for two levels of appeal from the Committee's recommendation to the Minister, the first to the Immigration Board. At the time, however, the number of cases per

annum was still very small - only several hundred per annum.<sup>68</sup>

It was clear that refugees did not have rights yet according to domestic law. If rights for refugees had not yet been born within the Canadian legal system, Canada had at least become impregnated and the ensuing debate would be over whether to abort the foetus of refugee rights or allow it to come to term.

## 5) 1977-1987

### a) Convention Refugees

The 1976 Immigration Act, which was brought into effect in 1978, incorporated Canada's obligations to the Geneva Convention within Canadian domestic law. It also allowed Canada the discretion to select refugees on humanitarian grounds for entry into Canada. What had previously been an ad hoc policy and, subsequently, a matter of government policy, became incorporated into Canadian law through the creation of Designated Class immigrants to allow for the selection and intake of humanitarian refugees under relaxed criteria. We will deal with the development of the policy on humanitarian refugees in a separate section.

In reality, the protection afforded to refugees by the 1951 Convention and its 1967 Protocol is very meagre. The refugee claimant must prove that he has a well founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or because he holds a particular political opinion; the claimant must be outside the habitual country of residence to which the claimant is unable or unwilling to return. When the claimant proves s/he is a refugee, s/he is only entitled to the protection of non-refoulement - a state must not return the refugee to another state where s/he will be in danger. It is, in fact, the development of two other obligations concerned with procedural justice (the development of international standards for treating refugees) and international obligations (to help the UNHCR find solutions for refugees) that have led to the expansion of the rights of protection for refugees and the development of procedures which not only guarantee refugees against non-refoulement, but virtually guarantee the refugee the protection of the state where the claim has been successful by granting the refugee the right to become a citizen.

The Green Paper of 1975 had recommended that Canada's obligations under the Geneva Convention be incorporated into domestic law but the procedures governing determination under that law were to be a matter of regulation.<sup>69</sup> The policy group in the Immigration Department charged with developing those regulations did not want to develop detailed provisions; they thought this would invite too many to make claims, abuse the system and a backlog would develop. Secondly, they did not want a refugee claim to be a matter of right; they wanted to keep it as a matter of

discretion for immigration officers. They were afraid that a "liberal" refugee policy would create a "pull" factor so that Canada would become a "dumping ground" for refugees.<sup>70</sup> Basically, the immigration mandarins wanted to retain selective control on the admission of even Convention refugees and that Canada not adopt a policy of political asylum. Since Canada was an immigration country, refugees had to be considered for their ability to adopt and resettle in Canada and not just from the perspective of their need for protection.<sup>71</sup>

The result was that Canada backed into the development of a set of convention refugee determination procedures bit by bit and reluctantly. The key steps were as follows. Following the introduction of the 1976 Immigration Act, the Interdepartmental Committee on Refugee Status became the Refugee Status Advisory Committee (RSAC) with a representative of the UNHCR as a member; the committee was not empowered to make a decision but was mandated to advise the Minister whether a refugee claim was valid. The claimant would first make a request for refugee status during the course of a removal inquiry when the status of the individual had already been determined to be illegal; the necessity of convening a removal inquiry was one unnecessary step significantly delaying the convening of the refugee inquiry. The removal inquiry was adjourned and the refugee claim would be taken under oath by an examining officer in the presence of a lawyer and an interpreter, if required, and forwarded to RSAC for consideration; the claimant would also receive a copy of the transcript and written submissions and evidence by way of affidavit could be forwarded to RSAC to correct, clarify or amplify the claim. If the claimant received a negative decision, an appeal could be launched with the Immigration Appeal Board and, subsequently, the Federal Court.

In 1979, the regulations were changed to allow a claim to be made prior to the initiation of a removal inquiry as an "in-status" claim, but an in-status claimant was not permitted to obtain a work permit. (This, however, meant, that if an in-status claimant was rejected, the individual could launch a second claim during a removal hearing.) At the same time, RSAC was required to provide a written explanation to the claimant for a negative decision.<sup>72</sup> RSAC also began to employ full time officers independent of the Department to adjudicate claims.

Rules of procedure were gradually altered to benefit the claimant. For example, the principle of "benefit of doubt" to the claimant was granted in 1982 in the new guidelines under which RSAC was to operate.<sup>73</sup> Inconsistency, misrepresentation or concealment which were not germane to the claim were to be disregarded. Persecution was to be interpreted liberally to include such actions as deprivation of livelihood, and the individual no longer had to prove s/he was singled out for persecution. RSAC was also made into a body operating independently of the Commission on Employment and Immigration.<sup>74</sup> Under the new guidelines and with full time members

hearing the claims with access to training and a resource centre, a smaller percentage of claimants were rejected.<sup>75</sup>

In 1983, oral hearing pilot projects were started after a great deal of lobbying and a Task Force report. However, the procedures were cumbersome and subject to many levels and a myriad of delays. As a result, a backlog began to build up. The backlog itself invited abuse since refugee claimants could drag their cases out for years before obtaining a hearing, and, in the meanwhile, possibly marry a Canadian or perhaps benefit from an amnesty.

With liberalization, the number of claims began to rise dramatically from 3640 reported in 1983 to 6792 in 1984 and exponentially upward each year after. While liberalization and numbers only threatened to break the system, the final push which made this Humpty Dumpty device for handling refugee claims come crashing down was the decision on the Harbhajan Singh Case by the Supreme Court of Canada in April of 1985 which made oral hearings mandatory for all refugee claimants. The principles of fairness were to be applied to aliens as well as Canadian citizens in accordance the Charter of Rights.<sup>76</sup>

The department had one critical instrument in its arsenal to deter both bogus and genuine refugee claimants from even arriving in Canada to make a refugee claim - the requirement that they obtain a visa before they are allowed to depart for Canada. In 1983, visas were introduced for Bangladesh and Sri Lanka<sup>77</sup> and in 1984 for Guatemala, Peru and Guyana<sup>78</sup> and, subsequently, for Chile, Haiti and India.<sup>79</sup> Visas were criticized when they were required of Guatemalans by refugee support groups for only 244 claims had been made in 1983 with an acceptance rate of over 70%. The visas were inadequate in any case, but when they were genuinely required, months passed before they were introduced allowing abusers to flood the system in the interim. Refugee claimants began to pour in from Portugal claiming to be persecuted Jehovah Witnesses. Many Turks arrived who were believed to be abusers.

By the mid 1980s, the debate over spontaneous arrivals within Canada began to dominate the refugee policy agenda. By 1987, the problem of spontaneous arrivals claiming refugee status was perceived to have reached a crisis. One party to the debate wanted quick procedures, which were also fair, to deter abuse while ensuring genuine refugee claimants received a fair hearing (speedsters). The other major party in the debate wanted to control access as well as speed up the process, not only to deter abusers but to deter genuine refugees who could have made a claim elsewhere (controllers). The debate in turn dragged out the process of introducing and passing the legislation, a delay which, in turn, also contributed to the enlarged backlog of cases.

What started as a problem of dealing with 200 cases a year

became an issue focused on a minimum of twenty thousand cases per year. What started as a matter of Ministerial discretion had developed into a quasi-judicial proceeding with many steps and the requirement that due process be observed. The issue would be whether the new legislation would move the process back in the direction of ministerial discretion and mandarin control or towards more judicial protection.

#### b) Humanitarian Refugees

In addition to the introduction of the convention definition into the 1976 law (which received royal assent in 1978), provision was made for a movement of humanitarian refugees as designated classes. Further, if a group was made part of a designated class, the government would not be the only party to determine how many and should enter. Groups of 5 individuals could offer to sponsor anyone or a designated individual or group of individuals from that designated class. There was no limit on the total that could be sponsored. This would clearly be the most important innovation in the large flow of refugees selected overseas, particularly the Indochinese refugees. And it is to that group we shall give the greatest emphasis.

#### i) Indochinese Refugees

The Indochinese designated class provides for the admission of persons who left Cambodia, Laos, and Vietnam after April 30th 1975, and who are not permanently resettled in a country of asylum. A special Refugee Task Force was established to co-ordinate overseas operations, including the chartering of flights to transport refugees to Canada, as well as domestic refugee resettlement activities.

Canada's decision to admit Indochinese refugees dates from 1975 when the government of South Vietnam collapsed. At that time, Canada agreed to accept up to five thousand Southeast Asian refugees. The exodus from Indochina continued well beyond the point where the outflow was identified with the allies of the American government. By 1978, Canada began to view refugee flow as a product of the policies of the North Vietnamese Government following their takeover of the south rather than simply those fleeing because of their involvement with the previous regime.

Instead of merely continuing to be passively pressured by the United States, as was the case with the 1975-76 wave, with the arrival of the Hai Hong in Hong Kong harbour with 2500 refugees aboard in November of 1978, Canada began to take the initiative and came forward to offer to take 25% of the passengers aboard the ship.

As wave after wave of refugees kept flowing out as the

economic and political situation worsened, the countries of first asylum began to resist the intake and in some countries boats were pushed back out to sea. The countries of first asylum, Thailand, Hong Kong, Indonesia and Malaysia, could not be expected to absorb tens of thousands of unwanted migrants, many of whom were ethnic Chinese, an already suspect group in Malaysia and Thailand. It was at this time that a number of non-Asian governments came forward and offered permanent resettlement opportunities. The leading countries responding in this manner were Australia, Canada, France, and the United States.

The Canadian government was committed to the intake of Indochinese refugees. The mandarins were committed. The question was whether the public would support a significant intake. When senior officials approached the churches to encourage them to engage in private sponsorship, they were explicitly rebuffed by the Anglican Church (who held refugee sponsorship to be a government responsibility, and, in the aftermath of the Chilean refugee experience, were suspicious of government intentions). Only the Mennonites and the Christian Reformed Church came forward to sign umbrella agreements and initiate programs to encourage private sponsorship among their parishioners. In March of 1979, the government was committed to an intake of 5,000 Indochinese refugees. Following the intensive media coverage with daily headlines of refugees drowning at sea, being attacked by pirates and enduring all sorts of hardship, public support began to swell. In June, with the encouragement and support of the government, spontaneous organizations began to emerge across Canada to encourage the private sponsorship of refugees - Project 4000 in Ottawa, Operation Lifeline in Toronto and elsewhere in Canada.<sup>80</sup>

The Canadian people responded to this crisis with unprecedented compassion. In June, Ron Atkey, as Junior Minister of Immigration raised the target figure from 5,000 to 8,000 refugees and set a target of 4,000 for the private sector. In July of 1979, the Conservative government adopted an innovative plan with a target of 50,000 refugees, 21,000 to be sponsored by the private sector and an equal number to be sponsored by the government to match the private sector effort in addition to the 8,000 to which the government was already committed, for a total target of 50,000.<sup>81</sup>

The emphasis on private sponsorship was unique to the Indochinese refugees and distinguished this movement from its predecessors. A complementary relationship was established between the Canadian government and private individuals, groups, and organizations, a relationship which suffered some strain when the private sector achieved its target within three months and the government, instead of allowing the private sector numbers to continue growing while the government met its total goal of 29,000, cut back on the numbers sponsored by the government to

under 20,000 and thus kept the total intake to 50,000.

There are a number of explanations offered for the unprecedented numbers the government decided to take in, the decision to rely so heavily on the private sector and the renegeing on the matching formula four months after the challenge had been offered. One explanation is that the dependence on private sponsorship was part of Tory ideology reflecting the Conservative government's view that, wherever possible, the general population should play a larger role in social programs in contrast with the ostensible Liberal policy of deeming refugee programs the primary responsibility of the state. The problem with this explanation is that it does not take into account the fact that the attempt to stimulate private sponsorships began just before the Clark conservative government came into power.

A second explanation proffered is that the policy was consistent with knee jerk anti-communism which had fostered the strong support for Hungarians in the 50s and Czechs in the 60s. This explanation is not consistent with Canada's tepid response to the American request that this country take in Vietnamese refugees in 1975. A third explanation is that the policy was primarily motivated by self-interest. We needed immigrants, and the refugees from Southeast Asia were reputedly hard working and middle class.<sup>82</sup> The problem with this explanation is that it too does not fit the facts. It would have been far easier to expand the family class of immigrants and we could have gained many immigrants from India, Pakistan and Hong Kong who spoke English and were better educated as well.

Was the government merely responding to public pressure? That is the story the media consistently tried to convey. But the fact that government officials actively sought to stimulate the private sector and the Minister responded so quickly and so fulsomely, much beyond the expectations of the pressure groups, indicates that this is a media self-serving interpretation. The fact seems to be that the government led the public and responded in a timely fashion as public support built up.<sup>83</sup>

How then does one explain the government renegeing on the matching formula? Was it a response to the backlash against so many Asian refugees?<sup>84</sup> The organized leadership of the backlash factor had already been successfully silenced through corporate leadership pressure on the one organization publishing full page advertisements to stimulate and organize the backlash. The explanation for renegeing on the matching formula is not the backlash but a combination of humanitarian overenthusiasm, budgetary restraints and strategic clumsiness. Flora McDonald, the Senior Minister who announced the cessation of the matching formula, had been authorized to pledge \$5,000,000 towards assistance to the Cambodian refugees in Thailand. Compelled by the extent of the problem, she pledged \$15,000,000, Her cabinet

colleagues refused to give her the extra funds and she was obligated to take the funds from her own budget. Instead of sliding the matching obligation into 1980 on the grounds of limitations in transport, and thereby releasing the funds saved from sponsoring Indochinese resettlement in Canada and rechanneling it to overseas aid in Thailand, she abruptly cancelled the matching formula. The Liberals in effect reinstated the formula by agreeing to take an additional 10,000 refugees above the 50,000 when they were returned to power. Thus, ironically, the original proposed 60,000 total was restored.

The fact is that humanitarianism - not anti-communist or Tory ideology, not self interest or public pressure - was the key factor present in both the government and in virtually all leading sectors of society which motivated the drive for Canada to take in the single largest refugee movement in its history. And it was a humanitarianism driven by compassion at the sight of helpless refugees adrift at sea, stories of rapes by pirates, stories of boats pushed back to sea by the Thais. Canadians were not driven by a sense of their own virtue or a desire to show that they were in the process of transforming their character. The plight of the victims depicted nightly on television and on the front pages of the newspapers day after day drove the private sector movement and the government matching response.

This humanitarianism was not shared by all or even most Canadians. In fact, when Atkey increased the target figure to 50,000, a clear majority of Canadians were opposed and only a third were in support of that large a figure.<sup>85</sup> Opposition to the resettlement of Indochinese refugees, with a few exceptions, proved to be connected to low income, low education and little experience with visible minorities. Those opposed expressed concern over whether Canada could realistically absorb this many Indochinese refugees into its political, economic and social structure. It seems, however, that economic insecurity, coupled with racism, constituted most of the opposition.

Nevertheless, in spite of the 1982-83 severe recession, Canada continued to bring in Southeast Asian refugees under both government and private sponsorship, though in much smaller numbers. In the late 80s the issue became how to turn off the tap as compassion fatigue and doubts about whether the new refugees were economic migrants rather than individuals fleeing persecution and oppression replaced images of victimization.

## (ii) Sri Lanka

A special program was announced for Sri Lanka in 1983, the same year in which visa requirements were placed on travellers from Sri Lanka. Originally the program was restricted to those affected by the troubles in Colombo. The policy was changed to include those fleeing the northern area and Jaffna following a

report on the hidden civil war then in full swing in the north and the harassment the Tamils were subject to by the Sinhalese manned army.<sup>86</sup> The expansion of the program could only have been motivated by humanitarianism rather than self-interest, since, unlike the Tamils in Colombo, those from the north were not usually well educated nor did many have a very good command of English. Sri Lanka was also a Commonwealth partner and a country with a working democracy with whom Canada had closed ties and some major CIDA projects. Nor did Canada have a strong Tamil community at the time. Finally, the Tamil Tigers, the main rebel group, were identified with communist support, so ideological identification cannot be given credit. Thus, neither ethnic identification, economic self-interest, political policy or ideology can be said to have played any part. Further, since the initiative was a government rather than a private sector one in response to a seminar on the situation presented to the government and a report which was featured in the weekend editions of Canada's largest newspaper without daily headlines day after day, it seemed clear that compassionate humanitarianism had become institutionalized as an integral part of policy.

The numbers taken in from Sri Lanka are indicated in Table II. Again, the problem arose of how and when the program was to be ended and, even if ended, was the Minister willing to deport Tamils to strife-torn Sri Lanka?

#### (iii) Iran & Lebanon

The Iran program was instituted in 1982, the same year as the Sri Lankan program; the Lebanese program began shortly after. The primary focus of the Iranian program has been members of the Baha'i faith who have been so severely persecuted under the Khomeini regime. Most of the Baha'is who have come to Canada have been sponsored by the 20,000 member Baha'i community in Canada who have raised the funds while the direct sponsorship of the refugees was undertaken by local spiritual assemblies.<sup>87</sup> This was a program which was in Canada's self-interest to undertake in all respects as well as one which could flow out of compassionate humanitarianism, but those factors never came into play in any significant way since the Baha'i community took care of their own group. In the case of Lebanon, compassion should have come into play given the devastation wrought on Lebanon by a myriad of feuding factions, religions, sects, warlords and interventions by Palestinians, Israelis and Syrians. But the Lebanese program remained a small one, largely government directed based on institutionalized compassionate humanitarianism. Compassionate humanitarianism only creates a large refugee intake when there is a significant private sector involvement and that compassion is not counteracted by foreign policy considerations as in the case of Central American refugees.

#### (iv) El Salvador

In 1981, for the first time, Canada experienced a significant influx of Salvadoreans. They, in fact, constituted 7% of the Latin American intake that year. In 1982, they made up 17% and in 1983 an astounding 42.5% of all Latin Americans moving to Canada. Salvadoreans replaced Chileans as the major sending country from Latin America.<sup>88</sup> How did this come about?

The region had been beset by multiple conflicts for many years. Factionalism and the power of military over civilian governments made peace problematic. In El Salvador, the struggle between the guerilla forces (FMLN) and the army resulted in a state of virtual civil war. The factor which escalated the whole situation was the success of Nicaragua's Sandinista revolution of 1979 which boosted the morale of the rebels in El Salvador, provided them with logistic support and which sent shock waves through the area as constant border raids by the American supported Contra rebels required bases in the surrounding countries to attack the new Sandinista regime in Nicaragua.

The Salvadorean army was determined that the Nicaragua experience would not be repeated in El Salvador. In May of 1980, the Salvadorean Army and the paramilitary ORDEN made a sweep through Chalatenango, and 4,000 Salvadoreans tried to flee to Honduras but were turned back by the Honduran army and then mercilessly slaughtered on their return to El Salvador. 600 were killed.

In March of 1981 the Salvadorean National Guard crossed into Honduras and drove 7,000 peasants back towards El Salvador. The fact that only 60 lost their lives is credited to the arrival of humanitarian and UNHCR personnel on the scene. In November 1981, Hondurans wanted to stop the flow and/or remove the refugees from the border. Salvadorean refugees were forcibly relocated to the Mesa Grande camp.

By 1982, the continuing conflict drove hundreds of thousands of people into either internal exile or forced them to cross into neighbouring states. Most of these refugees sought protection in the neighbouring countries of Costa Rica, Honduras, and Mexico. But, given the great insecurity and instability in the region, some travelled as far north as the United States and Canada in search of permanent asylum. As Honduras and the other countries in the regions, including the United States, became less willing to provide even temporary asylum for these refugees, more sought refuge in the north of the continent. With the inappropriateness of repatriation for many of them, and no hint of the alleviation of repression, a desperate need for a resettlement option developed.

The Canadian special measures helped about 3300 Salvadoreans in 1982 and several thousand more afterwards. Canada has a

special program for political prisoners. This program provided a safe haven in Canada for 296 former prisoners and their families who were among 500 released by the Government of El Salvador. The success of this program paved the way for other countries to follow Canada's example.

Canada's position concerning Salvadorean refugees reflects not only its humanitarian concern but this is offset by both the United Nations High Commission for Refugees's (UNHCR) position on Central American refugees and American policy toward this refugee movement. Canada officially supported the UNHCR position that resettlement is not imperative for the majority of these refugees. Both the UNHCR and local governments held that the refugee problem was temporary and would be drastically reduced once conditions in El Salvador, in Guatemala and, to a lesser extent, in Nicaragua, stabilized. Canada's response to the situation also took into consideration American policy toward this region.

On the other hand, there was also considerable pressure on the Canadian government by the churches to provide assistance to Salvadoreans. The combination of domestic pressure, sense of international obligation balanced by foreign policy considerations vis a vis both the United States and the governments of first asylum combined to develop a modest program. Since an estimated 250,000 Salvadoreans fled their country by 1983, a resettlement program for 5,000 is a mere token. Further, since many of the Salvadoreans are poorly educated (for example, 47% of 266 Salvadoreans who requested counselling at Welcome House had elementary education or less)<sup>89</sup> there is not a great deal of incentive for Canada on self-interest grounds to welcome most Salvadoreans, who lack the education and professional skills of the Chileans.

#### (v) Guatemala

Special measures, similar to those in effect for El Salvador, were announced for Guatemalan refugees on March 12, 1984 for many of the same reasons as in the Salvadorean movement, though the specifics were different. These measures provided relaxed criteria for the selection of immigrants living in Guatemala, opportunities for Guatemalans in Canada to apply for permanent residence without having to leave the country, and a moratorium on deportation to Guatemala. One of the factors in this change was the increase from 7 to 244 Guatemalan convention refugee claimants between 1982 and 1983.

In terms of numbers, as part of the ongoing program, Canada admitted 3874 Central Americans in 1984, 4459 in 1985 and 4735 in 1986. As we shall see, the major route of entry for Guatemalans and Salvadoreans came to be the in-land Convention Refugee Program rather than the Designated Class Humanitarian refugee

program.

## 6. 1987 - The New Predominance of Convention Refugees

Canada had provided for the protection of convention refugees and access for humanitarian refugees in its domestic laws. From 1979 onward, these rights had been reinforced with procedural protections for convention refugees and specific programs for humanitarian refugees. To the mandarins, however, the procedural regulations seemed to have created a uncontrolled behemoth which threatened to flood Canada with both genuine refugee claimants as well as abusers. The humanitarian programs seemed to be under control but, increasingly, refugees from the same countries were arriving directly to Canada to claim refugee status under the convention refugee program. A Toronto Star headline on June 18, 1987 screamed, "Refugees flooding Canada's borders could hit 30,000." Canadian refugee policy which appeared to be so advanced and coherent in 1979 began to appear as a monstrosity in 1987. Bill C-55, the bill to revise the procedures, had already passed first reading in the House of Commons following its tabling in a hastily called special session following the landing of Sikh refugee claimants on the shores of Nova Scotia.

By the first week of June, 14,212 refugees had made claims led by 3,844 from El Salvador, 1,365 from Sri Lanka, 1,290 from Brazil - a clear case of abusers, but a visa had not yet been introduced even though the abuse had become evident in January<sup>90</sup> - 1,290 from Chile, 1,254 from Iran and 1,113 from Guatemala. For Metro Toronto alone, the welfare bill for the previous month had reached \$1,400,000.

The new measures to handle refugee claimants within Canada were included in a Cabinet document in May of 1986 and the new measures proposed were announced in February of 1987. But the roots of the problem were not simply the increasing numbers and the unworkability of the existing system. The roots were also ideological.

A Task Force on Program Review set up in 1984 by the new Tory government under Brian Mulroney had issued its 21 volume report in 1985 known as the Nielsen Report on government programs. One of the volumes included a section on "Immigration and Citizenship". The ideological position of the authors is made clear at the beginning of the Report. "The Immigration Act of 1978 (they meant the 1976 Act promulgated in 1978) was based on the fundamental proposition that it is Canada's absolute and sovereign right to determine who to admit as an immigrant and who shall become a Canadian citizen." In fact, section 4, subsection 2 of the Act qualifies that sovereignty by stating that Convention Refugees, with the exception of those who are security risks or who have serious criminal records, have the right to

remain in Canada. As spontaneous arrivals, they choose us; we do not select them. Since the report also raises the bogeyman that the new immigrants and refugees compete for jobs with Canadians and implies that many will become dependent on welfare, the anti-immigration bias is clearly signalled. Since the Report also recommended the discontinuation of government sponsorship except as partners of private sector initiatives and recommended that no Convention refugee claims be permitted within Canada except those in "hot flight", that is those who came directly to Canada without stopping (the origin of the "safe country" provision in Bill C-55), it was clear that the goal of the task Force was to drastically reduce the intake of both convention and humanitarian refugees and reestablish Canada's absolute control of those who wish to enter the country.

No longer was self-interest to be balanced with humanitarianism and international obligations. "Self-interest" was to be the preeminent guide. Bill C-55 was not introduced simply to provide a fair hearing for refugees in accord with the Plaut Report and the Ratushny Report that preceded it. Bill C-55 was designed to radically reduce the arrivals of both abusive claimants and genuine convention refugees. The trick was to reduce the numbers allowed into the system as well as to make the system operate with a short turnaround time. Bill C-84, the companion legislation, was called the "deterrents and detentions" bill, focused not on the refugees themselves but on those who would assist claimants to get to Canada.

Bill C-55 and C-84 were also preceded by three policy announcements which had the same purpose. The B-1<sup>91</sup> list of countries to which Canada will not deport refugees was cancelled; all claimants were to proceed directly into the determination system and claimants would no longer obtain Minister's permits at the port of entry. Secondly, those claimants transiting the U.S.A. to Canada (largely Central Americans) would have to wait for their hearing in the United States. Thirdly, those en route to somewhere else (via Gander, for example) would be required to obtain transit visas.

By and large the criticism of the Bills<sup>92</sup> was not focused on the procedures themselves for adjudicating claims, but on the means of gaining entry into the system - the "safe country clause" mentioned above and the requirement of an initial hearing before a committee that would include one member of the department - and the lack of an appeal mechanism in case an error was made. An appeal could only be launched if the Court gave leave to appeal on legal grounds and not on the merit of the case.

The apparent problem of the late 1980s was the fight to obtain procedural justice for spontaneous arrivals in Canada who

claimed refugee status. The real problem that emerged was whether Canada's unique program to handle humanitarian refugees overseas would be allowed to wither away as the refugee determination system developed into the fairest in the world in spite of the drafters of the legislation who were mainly concerned with controlling and limiting those allowed into the system.

Bill C-55 provides a reasonable standard of fairness for a refugee claimant who obtains a full hearing. The claimant is present. The claimant has a right to counsel. The hearing is intended to be non-adversarial. The Board operates independently of government. The hearing officers receive training in both procedural justice and the conditions in refugee producing countries. The Refugee Board has a research facility to keep both counsel for the refugee claimant and the Board members well informed. The claimant is given the benefit of doubt.

This does not mean the hearings are perfect. There are complaints that too many of the hearing officers were political appointees, that the hearings have become too formalized, that the interpreters are inadequately trained and that the procedural norms do not meet the highest standards of judicial practice.<sup>93</sup> Whatever the merits of these complaints - and the statistical results on the acceptances of claims (see Table IV) seem to indicate they work largely in favour of the claimant - the main issues have not been about the policies setting up the procedures, but about the right to appeal once the decision is made and the access to the full hearing itself.

The issue of the right to appeal on the substance of the claim and not just on legal issues is a matter weighing two factors: the necessity for speed if the system is not to be abused because of the long delays when the courts become involved in administrative tribunals, and the necessity to provide an opportunity to correct errors when the lives of individuals are at stake. Thus far, the use of ministerial discretion has been invoked in a very few cases to allow claimants to stay in Canada whose refugee claim has been rejected where NGOs and/or lawyers have brought to the attention of the Minister that there may have been a mistake.

The major attacks have been on the preliminary hearing itself and on the "safe country provision". The preliminary hearing provided that both an immigration officer and a member of the Refugee Board give the claimant a preliminary hearing to assess whether a credible claim existed. The assent of only one of the hearing officers is necessary to forward the claim to a full hearing. Though sometimes there appears to be a confusion whether the issue is about the credibility of the claimant (a much higher standard requiring virtually a full hearing to assess) or whether there exists a credible case, the very low rejection rates at preliminary hearings and the large numbers of

those rejected who come from non-refugee producing countries would seem to indicate that the preliminary hearings have by and large met the standards of procedural fairness. The more recent criticisms have been based on whether they are even necessary in the vast majority of cases and that for cost effectiveness and the need for speed, only a small minority of cases should go to a preliminary hearing while the vast majority of cases from refugee producing countries proceed to a full hearing since the cost of each rejected claim now comes to over \$15,000.

The "safe country" provision is the key part of Bill C-55 that encapsulated the intent of the legislation to deter even genuine refugees from making use of the procedures and being allowed to enter the system. The safe country provision was intended to keep out of the refugee claims system those who had received or applied for refugee status in another country or who could have applied for refugee status in another country. The last condition was to be applicable to a refugee claimant who had passed through a country which was a signatory to the refugee convention. And it was the last condition that extended the concept from excluding those who were shopping around to those who had preselected the country where they wanted to make a claim. "The concept of a safe return is based on the principle that Canada is not the only country in the world which accords protection to refugee claimants... It recognizes that many refugee claimants have sought -- or could have sought -- first asylum in one or more foreign countries where the quality of protection is equivalent to that of Canada."<sup>94</sup> Since the vast majority of refugee claimants from refugee producing countries (though, ironically, not abusive claimants from Portugal or Trinidad for example) do transit other countries which are signatories to the convention, that provision would have meant that very few claimants would have been allowed to enter the claims system. The cabinet was charged with the responsibility of drawing up the list of safe countries.

There were a number of retreats from the strict application of this provision through interpretations. Passing through was defined as sojourning for at least two days so that a passenger in transit was not excluded. This clarification was critical but another was more so. The equivalence in quality of the claims system needed clarification. The Minister gave assurances that the concept of a safe country would only be applied to a signatory to the convention which did not exhibit a pattern of discrimination against certain groups of refugee claimants. When the measure of discrimination was to be the record of success in making claims in Canada versus that other country, it meant that this qualification would effectively undercut not simply the intent of this provision to reduce the number of claims but the possibility of the Cabinet ever drawing up a list of safe countries in the first place. For the provision would entail listing the USA as a unsafe country with respect to Salvadorean

and Guatemalan refugees since America had such a low rate of acceptance from these groups. The possibility of Canada listing the USA in a public document as an unsafe country even with respect to a particular national group was frightening to the External Affairs mandarins and is believed to be the central factor that meant this key piece of the legislation intended to deter refugee claims in Canada was effectively gutted. In fact, the safe country provision has never been utilized. This meant that the issues raised by clarifying the equivalence in the quality of the procedures was enough to put the provision on the back shelf without raising the other issue of quality - the standards of protection provided by that other country - for example, requiring the claimant to live in a closed camp for several years before the claim is heard. Nor did the validity of the issue of whether the refugee should make a claim in the first country in which s/he found his or her self, thereby not allowing a claimant to have any voice in whether a country had a fair claims procedure, have to be resolved. The legal validity of treating two claimants differently on the basis of what they might or could have done outside the country was also not resolved.

By shelving the safe country provision, the major component intended to deter refugees from entering the claims procedure was undercut to allow the refugee system quickly to develop into one, whatever its faults, generally considered to be the best in the world. More importantly for Canada it has meant that in 1990, the chances are that more refugees will become landed in Canada not because we selected them abroad but because they arrived in Canada and made a claim here. For a country that received only a few hundred claimants within Canada at the end of the seventies, this dramatic shift in ten years radically alters Canada's policies in dealing with refugees.

### Part III Conclusion

The dramatic shift in the last ten years and the new domination of quasi-judicial procedures for determining refugee status for claimants who self select Canada means that legal humanitarianism has emerged as the supreme factor in adjudicating refugee claims. It means that refugee claims are no longer determined by elected officials and civil servants but by quasi-judicial procedures. It has meant that the distribution of the refugee intake into Canada has come closer to the distribution of refugees in the world than ever before (see Table IV). Canada has become a country of first asylum in spite of the attempt of mandarins to define Canada as a country of resettlement with refugees arriving primarily as humanitarian refugees under relaxed immigration criteria. Ironically, in the effort to maintain Canada's distinctive identity, in the effort to ensure that Canada retained control over the most significant factor of

our sovereignty, the right to determine who could become new members of Canada, Canada moved away from discretion and an emphasis on collectivity towards constitutionally protections and individual rights which were the cornerstones of American democracy.<sup>95</sup>

But it is Americanism with a Canadian face. For self interest - whether in the form of domestic political pressures of groups sharing the same ethnic background or foreign policy considerations - have never been the major factors influencing Canadian refugee policy. Consideration of Britain's plight vis a vis the Ugandan Asians influenced Canada to act but was not the determining factor. Opposition to American involvement in the Vietnam war and in Central America influenced Canada to act, but consideration of American foreign policy ensured the actions would be muted. When the refugees were guaranteed to be an economic benefit to Canada and also of the same race, there was little opposition to their intake.

But in virtually all cases since the Hungarian movement, the major factor influencing whether we took the refugees was humanitarianism. The self interest factors shaped to some degree the extent and durability of the Canadian response, but humanitarianism was often the determining factor, particularly in the case of the major refugee movements to Canada - the Hungarians, the American draft dodgers and deserters, the Southeast Asian refugees and the new vast intakes Canada is currently receiving under Canadian Convention refugee legislation.

Further, the humanitarianism was of very different kinds. In our periodization, we used the sources of refugee flows to designate the periods. In spite of the number of differences in the development of American and Canadian refugee policy, shifts in the United States took place at roughly the same time as in Canada, though not in the same direction or with the same results. For example, the Ellberg Bill, introduced just shortly after the Canadian 1976 Act, attempted to remove the monopoly of decisions on refugees from the Executive Branch through the parole system, but it was never passed. The periods, therefore, in Canada and the United States are roughly comparable. The historical analysis, however, suggests a different means of classifying the same periods in Canada in terms of the different types of humanitarianism promoting the changes and the personnel entrusted to make the key decisions.

Motives

Modes

Mandarins

A Primacy of Self Interest		
1) 1933-1947	- National self-interest;	Prime Minister
2) 1948-1955	- Political/economic	Minister
B Primacy of Humanitarianism		
3) 1956-1968	- Virtue and Principle;	Minister Immigration
4) 1969-1977	- Self-transformation;	Legislature Ext. Affairs
5) 1978-1986	- Compassion;	Public Ref. Policy
6) 1987-	- Legal Obligation.	Courts Ref. Board

Thus, though we divide reasons into two categories - self-interest and humanitarianism, they are not mutually exclusive. It is possible for a policy to be governed exclusively by humanitarianism or exclusively by self-interest. In almost all cases there will be an admixture of both even when the mixture of humanitarianism is reduced to a mere drop as in the restriction on the entry of Jews before, during and after the Second World War. But even in an admixture, one or the other will be primary. Humanitarianism becomes primary when it is not merely an additional factor motivating action, but a necessary condition and the prime impetus for the refugee intake. Self-interest factors may remain necessary conditions though without which the refugee policy might not have been implemented to the same degree. The presence of self-interest factors does not abrogate the presence or even primacy of humanitarianism.

Humanitarianism is subdivided into four categories.\* And one expression of humanitarianism is acting on principle, defining oneself in terms of virtue. The party held to be responsible for the production of refugees is defined in terms of vice or evil. Humanitarianism is only sometimes based on principle. The action is intended to demonstrate that one's own state is the exemplification of virtue and the state that produced the refugees is the exemplification of vice or evil. The contrast in treatment of the individuals affected exemplifies the different values of the two societies. The society which produces refugees stands for lack of principle, for 'might is right', for 'realpolitique' and the ruthless actions required by the necessity to maintain one's power. The society which takes the refugees stands for the primacy of morality over power.

Standing on principle and being governed by morality, though related to the ideological motive, is not the same. For ideology is the intellectual expression of a country's or an individual's belief in how the economic-political-legal-social order of the world should be constructed. Humanitarianism based on principle expresses the belief in how the world ought not to be constructed. Ideology is about what 'the way of the world' ought to be. Virtue is about what 'the way of the world' ought not to be. The Humanitarianism of Principle was the main factor promoting the intake of the Hungarian refugees. Virtue is found to be an inherent aspect of one's self and one's traditions that foster that realization of self.

But it is possible to be a humanitarian in a way that runs contrary to one's traditional self, to act on the basis of a set of values which exemplify the transformation of one's self, for example, the conversion of one's value beliefs from a society built on racism to one built on anti-racist principles. This was a factor in Canada's intake of Ugandan Asians. In this version of humanitarianism, the enemy, the anti-human, is not primarily the country that produces the refugees but one's own past. Hence, one cannot use experience of the past to defend one's actions. One acts against the past to defend one's actions. One acts against the past and for the creation of a new expression of one's traditional being. The universal underlying humanitarianism is not the principle of ideal morality which, presumably, one always exemplified, in opposition to power politics. The universal underlying humanitarianism is the principle of morality which one strives to achieve and which gives vitality to one's process of self transformation. This Humanitarianism of Will, this Humanitarianism of Self-Transformation, was the major factor in Canada's largest refugee programs, the intake of American draft dodgers and deserters as Canada attempted to define itself as a distinctive entity in opposition to its alter ego, the United States of America.

In the Humanitarianism of Virtue and the Humanitarianism of Will, obligation and the determinations of feeling are not separated. In the Humanitarianism of Virtue, virtue may be an instrument of achieving self-realization or the definition of self-realization itself, but one is obliged to strive for that self-realization; that self-realization is identified with self-satisfaction. In the Humanitarianism of Will, self-satisfaction is one thing, self-realization is another. No one is obliged to assist a refugee on ethical grounds. The ethical motive arises because it feels like the right thing to do. The obligation is identified with self-interest, the self-satisfaction with humanitarianism, with the expression of identifying the individual self through an act of will alone with all of humanity.

In the Humanitarianism of Will, self-satisfaction is the end product. But there is a third type of humanitarianism where it is not the end but the means. Compassion drives the individual to help the refugee, not a sense of satisfaction with the identity one is about to achieve. It is not the will but the heart which is the foundation for one's humanitarian behaviour. To put it another way, when one acts on the basis of the Humanitarianism of the Will, the result is that one feels good about oneself. When one acts on the basis of the Humanitarianism of the Heart, one is driven to act because one feels terrible because of the victimization of those to whom one extends a hand of assistance. Feeling good about what is achieved may result, but it is incidental not essential to the action. What is essential is the

attempt to obliterate the images of horror. The personal sense of helplessness and impotence are also to be overcome, not because of realization of a sense of self-willed perfection in the achievement of an ideal unity for mankind, but because impotence and helplessness are part of one's history; the images of one's own past and the images of the current horror are both part and parcel of what needs to be obliterated by one's actions and deeds. Further, when Compassionate Humanitarianism is involved, when the Humanitarianism of the Heart is the major driving force, there will only be a major move of refugees into one's country if the media and the public are extensively involved.

In Humanitarianism of Virtue, the misdeeds are identified with others who express values which are the antithesis to the values of one's own society. In Humanitarianism of the Will, the misdeeds are identified with others who belong to one's own society but whose values are the antithesis of one's own. In Humanitarianism of the Heart, the misdeeds are identified with those in the past who shared the same values so that failure to act would be but a repetition of those same misdeeds. Their very failure to act in the past compels one to act in the present.

The Humanitarianism of the Heart is correctly described as being driven by a compulsion rather than any obligation at all. For in the Humanitarianism of the Heart, duty and compassion are totally separated. The appeal to others to become involved in assisting refugees is not based on what they are obliged to do either on self-interest grounds or on any ethical claims but solely on the plight of the refugees and the reverberations of that plight on the historical sense of self.

There is a fourth type of humanitarianism, the Humanitarianism of Law in which one acts out of duty and obligation alone as embodied in law without any necessity to feel compassion for the victims, without any sense that it is relevant in transforming one's own society's sense of what is right and what is human and without any sense that the actualization of that obligation has anything to do with the achievement of Virtue or some sense of self-realization. We do it because we have obligated ourselves by law to do it.

Once Canada abandoned self-interest as the primary motive of its refugee policy, the history of the development of that policy witnessed a shift from the Humanitarianism of Virtue to the Humanitarianism of Will to the Humanitarianism of the Heart and finally to Legal Humanitarianism. The image of America for Canada has had an ironical role in that development. For as Canada set out to become distinctively different than America, it came to resemble the very essence of the way in which America defined itself - as a society based on constitutionally defined rights to protect the individual, but without America's overriding concern with foreign policy as the prime determinant. Who but an American

would have uttered this rationale for a refugee policy. "Our U.S. refugee policy embodies the fundamental values of the American people - compassion, humanitarianism, idealism. We offer assistance to refugees not merely out of compassion, but to promote stability in geographic regions of concern."<sup>97</sup>

Table II:  
Canadian Refugee Programs  
1947 - 1987

<u>Year</u>	<u>Special Movements</u>	<u>Number</u>	<u>Ongoing</u>	<u>Total</u>
<b>A</b> 1947-69	European			
1947-52	Western Europe	186150		
1956-57	Hungary	37149		
1959			3047	
1960			2329	
1961			1813	
1962			1733	
1963			2024	
1964			2279	
1965			2131	
1966			2058	
1967			1499	
1968-69	Czechoslovakia	11943	820	
1969			799	
<b>B</b> 1970-87	World			
1970	Tibetans	228	1387	
1971			626	
1972-3	Ugandan Asians	7069	365	
1973	South American Program	7016	405	
1974			537	
1975	Cypriots	700	748	
1975-8	Vietnamese-Cambodian	9060		
1976	Kurds from Iraq	98	1014	
1976-9	Lebanese	11321		
1977			1061	
1978-84	Argentine Detainees	9		
1978			775	
1979	Indochinese	27740		
1980		40361		
1981		14996		
1982		16908		
1982-85	Polish Movement	9365		
1982-	Iranian	3127		
1982	El Salvadorean	3353		
1983	Lebanese	4536		
1983	Sri Lankan	1873		
1983			13643	
1984	Guatemala	1091	15400	
1985			16550	
1986-88	Sundry	7000		
1986			18625	
1987			20673	
1988			26000	
1989			<u>30000</u>	
		401083	138353	

Table III  
Backlog Breakdown

Country	Persons		
<b>A</b> Mid-East			
Iran	9217		
Lebanon	3715		
Turkey	2626		
Total		15558	
<b>B</b> Far East			
Peoples Republic of China	2485	2485	
<b>C</b> South Asia/Pacific			
Bangladesh	1276		
Fiji	2599		
India	3963		
Pakistan	1984		
Sri Lanka	11045		
Total		36425	
<u>Mid-East and Asia</u>			38910
<b>C</b> Africa			
Ethiopia	690		
Ghana	5130		
Somalia	2613		
Total		8433	
<b>D</b> Latin America/Carribbean			
Argentina	1757		
Brazil	2447		
Chile	2596		
El Salvador	7933		
Guatemala	2992		
Guyana	1130		
Haiti	1349		
Honduras	1616		
Jamaica	2600		
Mexico	745		
Nicaragua	3732		
Panama	2055		
Peru	766		
Trinidad & Tobago	14787		
Total		46505	
<b>E</b> Eastern Europe			
Poland	1656		
Yugoslavia	1219		
Total		2875	
<b>F</b> Western Europe			
Portugal	5745	5745	
<b>F</b> U.S.A. & Others			
U.S.A.	807		
Others	18052	18859	
Total			
Grand Total		121327	

1. Richard Thornburgh, Attorney General of the United States, "The Soviet Union and the Rule of Law", Foreign Affairs, Spring, 1990, p. 13.
2. Lawrence S. Eagleburger, Deputy Secretary of State, U.S.A., in hearings before the Committee of the Judiciary, United States Senate, Sept. 15, 1989, J-101-43, Washington: USGPO, p. 11.
3. This paper will argue that, inadvertently, Canada has developed the fairest refugee determination system.
4. Sweden, with a ratio of 1 refugee taken in per 100 population in 1988 ranked higher. With the large numbers taken in under Canada's new refugee determination procedures, Canada undoubtedly now has the lead. In 1988, the ratio for Canada was 1/104. The American ratio was 1/199. cf. U.S. Committee for Refugees, World Refugee Survey: 1989 in Review, Washington, 1990, p. 34.
5. cf. J-101-43, *ibid*, pp. 111-113. Buck noted that adjudication under the worldwide standard took account of four equally important components: "knowledge of current policies, U.S. international refugee responsibilities, national statutory requirements, knowledge of conditions in countries of origin." (p. 104) Given the two middle factors, the first and last points could be irrelevant, raising questions about the need for a face to face interview.
6. J-101-43, *ibid*, p. 52. Senator Specter in his statement in the committee hearings was very explicit that domestic political pressure existed, but it was laudatory in providing the prime determination for refugee policy. He advocated taking 100,000 rather than 50,000 Soviet Jews. "Why shouldn't the administration respond generously to the public view and the congressional view and increase the number of refugees who can come into this country?" p. 64.
7. "The United States has always stood as a beacon of light and hope for oppressed peoples. We should do all we can to assist, and to accept, refugees who are escaping from tyranny and who wish to come here." Senator Orrin G. Hatch, J-101-43, *ibid*, p. 75.
8. "Although Canada undoubtedly received some political emigres, there was little reason for most of them to go to a country whose image in Europe was largely as part of the British Empire." Seymour Martin Lipset, Continental Divide: The Values and Institutions of the United States and Canada, New York: Routledge, 1990, p. 183.
9. Robert W. Tucker and David C. Hendrickson in their article, "Thomas Jefferson and Foreign Policy" make precisely this point in the U.S. dealings with Napoleon and the revolts in this hemisphere against autocratic rule. Foreign Affairs, Spring, 1990, p. 146.
10. Lawrence S. Eagleburger (1989) *op. cit.*, p. 14.

11. Cf. Gil Loescher and John A. Scanlan, Calculated Kindness: Refugees and America's Half-Open Door; 1945-Present, New York, The Free Press, 1986, pp. 61-78 and pp. 179-187.

Canada, Immigration and Refugee Board statistics.

Senator Alan K. Simpson (Wyoming), J-101-43, *ibid*, p.54.

14. Julia Vadala Taft, "Call to Action for Restructuring U.S. Refugee Policy" World Refugee Survey - 1989 in Review, U.S. Committee for Refugees, pp. 7-12.

15. Philip A. Holman, Acting Director, Office of Refugee Resettlement, Department of Health and Human Services, J-101-43, *ibid*, p. 72.

16. Senator Simpson in his opening statement to the Committee of the Judiciary, United States Senate, Consultation on Refugee Admissions for Fiscal Year 1990, September 15, 1989, No. J-101-43, USGPO, 1990, p. 3.

17. cf. letter dated September 25, 1989 from the Subcommittee on Immigration and Refugee Affairs to the President.

18. cf. a memorandum of the State Department dated September 26, 1989. The Canadian figure was provided by Mike Molloy, Director General of Refugee Affairs, CEIC, Ottawa. From 1951 to 1987, Canada, in fact collected 98% on its loans. It is only in 1990 that the write off figure is expected to rise to 3%.

19. cf. Herschel Hardin, A Nation Unaware: The Canadian Economic Culture, Vancouver: J.J. Douglas, 1974 referred to by Lipset (1990).

20. "After 18 months in Canada, nine out of ten Southeast Asian refugees of working age were in the labour force (Samuel 1987:65), such that their overall workforce participation rate was considerably above the national average. Unemployment rates were reported to have been about 10% - not much higher than for the national population at large." Doreen Marie Indra, "The Spirit of the Gift: The Canadian Private Sponsorship Programme and Southeast Asian Refugees", Oxford Conference, January, 1989. The figures are drawn from John Samuel's study, "Economic Adaptation of Indochinese Refugees in Canada", published in Kwok B. Chan and Doreen Marie Indra, eds., Uprooting, Loss and Adaptation: The Resettlement of Indochinese Refugees in Canada. Ottawa: Canadian Public Health Association, 1987, pp. 65-76. See also Gertrude Newirth, "The Employment Situation of Indochinese Refugees", in Richard Nann, Phyllis J. Johnson and Morton Beiser, eds., Refugee Resettlement: Southeast Asians in Transition. Vancouver: University of British Columbia, 1984. See also Gilles Deschamps, "Etude longitudinale sur l'adaptation socio-economique refugies indochinois au Quebec: Bilan

apres un an de sejour". Quebec: Ministere de communités culturelles et de l'immigration, 1982 and "Socio-Economic Adaptation of indochinese Refugees in Quebec", in Chan and Indra (1987). Louis-Jacques Dorais in his study, "Integration and Adaptation in a Middle-sized Urban Centre: The Southeast Asian Refugees in Quebec City", Oxford Conference, January, 1989, suggests the averages are deceiving, for in some centres the rates of unemployment were higher. Further, for the Lao they were much higher than for the Vietnamese.

21. For a more extensive analysis of the government objectives in involving the private sector in refugee policy, planning and sponsorship, a 1983 policy paper of the CEIC in 1983 entitled, "Sponsorship and the Role of the Private Sector" is helpful. Public education, public input, more successful resettlement, the use of NGOs in international aid to refugees, increased capacity and allowing the public to shape the direction of resettlement efforts are all cited as goals of the program.

22. Michael R. Marrus and Robert O. Paxton, Vichy France and the Jews, New York: Schocken Books, p. 35.

23. Kurt R. Grossman, Emigration. Geschichte der Hitler Fluchtlinge. 1933-45. Frankfurt-am-Main, 1969, p. 161. Richard Breitman and Alan M. Kraut (American Refugee Policy and European Jewry, 1933-1945. Bloomington: Indiana University Press, 1987) provide a figure of 108,000 for roughly the same period (p. 9), but the discrepancy arises because their figure refers only to the Jews from Germany and Austria and not those who originated in other countries of Eastern Europe.

24. Irving Abella and Harold Troper, None Is Too Many: Canada and the Jews of Europe, 1933-1948. Toronto: Lester & Orpen Dennys, 1982.

25. Breitman and Kraut (1987), p. 234

26. David s. Wyman, The Abandonment of the Jews: America and the Holocaust, 1941 - 1945. New York: Pantheon Books, 1985, p. 9. See also Paper Walls: America and the Refugee Crisis, 1938 - 1941. Amherst, 1968, covering the preceding period. Reference can also be made to Saul S. Friedman, No Haven for the Oppressed: United States Policy Towards Jewish Refugees, 1938-1945. Detroit, 1973, Arthur D. Morse, While Six Million Died: A Chronicle of American Apathy. New York, 1967 and Henry L. Feingold, The Politics of Rescue: The Roosevelt Administration and the Holocaust, 1938 - 1945. New Brunswick, N.J., 1970.

27. Abella and Troper, 1983.

28. Michael R. Marrus, The Unwanted: European Refugees in the Twentieth Century. New York: Oxford University Press, 1985, p. 299.

## Correspondence, UNRWA files, Geneva

30. L.W. Holborn, The IRO: A Specialized Agency of the United Nations. New York, 1956, p. 197.

31. cf. Gerald Dirks, Canada's Refugee Policy: Indifference or Opportunism? Montreal: McGill-Queens Press, 1977. Racism was a factor in the U.S. as well. Loescher and Scanlan (1986) noted that, "the DP act that Congress passed was fraught with restrictions, and apparently purposely designed to favor groups other than surviving European Jews." (p. 21)

32. Michael Lanphier, "Canada's Response to Refugees", International Migration Review 15:1, p. 114.

33. Noel H. Moynihan, The Light in the West. London: Bachman and Turner, 1978, p. 15.

ibid, p. 21.

35. Freda Hawkins, Canada and Immigration: Public Policy and Public Concern. Toronto: University of Toronto Press, 2nd edition, 1988.

36. cf. ch. 7, Gerald Dirks, Canadian Programmes and Policies Towards Political Refugees, University of Toronto, Ph.D. thesis, 1972.

37. Rhoda Howard, "Contemporary Canadian Refugee Policy: A Critical Assessment", Canadian Public Policy, Spring, 1980. In the case of the United States Zucker and Zucker (1985) contend that "anti-communist fervor" led directly to the American intake of Hungarian refugees. (pp. 31-32) The fact that the Eisenhower had to use an obscure attorney general's parole provision of the Immigration and Nationality's Act to get around the Mccarran-Walter Act restricted the American freedom of movement but, at the same time, indicated that a parallel form of administrative ministerial entrepreneurship was at work in the U.S.A.

38. Quoted in Whitaker (1987), p. 85. Similarly, in the United States, "The idea that refugees posed a potential security risk was an old one, deeply rooted in the restrictionist fear of 'races who have known no liberty at all'." (Loescher and Scanlan, 1986, p. 27.) The U.S. Internal Security Act which mandated the exclusion of former communists meant that security issues as well as the national quota system in the U.S. might normally be expected to help explain the relatively small intake of America in comparison to Canada, but the American administration also waived the security requirements on November 26th.

Whitaker (1987), p. 85

Dirks (1972), ch. 7. See also Hawkins (1988), pp. 114-117.

41. Lanphier (1981), p. 114. Dirks contends that the decision was made only in response to widespread pressure on the policy-makers "from within and beyond Parliament". (Dirks (1977), p. 196) Given that Pickersgill left for Vienna on November 4th to take control of the implementation of the policy for which he had received a virtual free hand from the Prime Minister and quickly arranged for new processing facilities as well as 4500 places to transport refugees, given that the significant media pressure did not start in the Globe and Mail until November 12th (continuing to December 20th) and in the Toronto Star on November 26th, given that only the Globe directed its editorials at the Minister and the government while the thrust of the Star editorials were directed at the public, given that the thrust of the editorials was directed not primarily at policy but at "red tape", "paperwork" and "bumbling bureaucracy", (charges, incidentally which are totally lacking in any basis given the actual performance of the government), it is hard to interpret the government response as a response to public and media pressure. (For the media analysis, I am indebted to a study by one of our graduate students, Andrew Goodman, "The Meaning of Persecution: Toronto Newspaper Coverage of the Hungarian Refugees, 1956".)

42. Susan M. Papp, "Flight and Settlement: The '56ers'", Polyphony, 2: 2-3, p. 68. The United States, by contrast, had to use a public relations firm, Communications Counselors, to help improve the image of the Hungarians and reduce the backlash. Nevertheless, in a Spring poll in 1957, only 26% thought the country would be better off because of the Hungarian intake while 32% thought the Hungarians would be a bad influence. (Loescher and Scanlan, 1986, p. 58)

43. John Robert Colombo, Canada's industrious and most famous collector of assorted facts, erroneously refers to the number of Hungarian refugees as 22,575. He records the U.S. figure as 35,185 and the Australian figure as 9,458. (999 Questions About Canada, Toronto: Doubleday, 1989, p. 72.) The actual worldwide distribution was as follows:

U.S.A.	38,000
Canada	37,500
U.K.	21,000
West Germany	15,000
Switzerland	13,000
France	13,000
Australia	11,000
Others (Europe & South America)	<u>51,500</u>
 Total	 200,000

44. A clear statement of a recent defence of refugee policy on the basis of Humanitarian Virtue, which now sounds anachronistic, was recently made by Senator Orrin G. Hatch on September 15, 1959 before the United States Senate hearings of the Judiciary Committee

on the refugee consultations for 1990. Senator Hatch was objecting to the US change in policy towards Soviet Jews and the selective and limited policy introduced as a result of glasnost in the Soviet Union. "Mr. Chairman, no budget deficit, however large, should ever induce the United States to abandon or compromise in any way its fundamental values and principles. The United States has always stood as a beacon of light and hope for the oppressed peoples. We should do all we can to assist, and to accept, refugees who are escaping from tyranny and who wish to come here. Let these refugees have the choice to come to the land of freedom and opportunity, without arbitrary or bureaucratic obstacles placed in their paths, and without pitting one group of refugees against another. As much as the freedom we enjoy as Americans, our willingness to let others into our country and share in that freedom goes a long way in defining who we are as a people, and what we are as a nation. Indeed, our country was founded and made great by those who came here seeking freedom." U.S. Government Printing Office, J-101-43, p. 75. The difference between the American sense of Virtue and the Canadian one is that the Americans also carried a guilt component. For, in the tradition of Jefferson, Americans preached active liberationism, but when the chips came to be paid, the Americans backed off from active military adventurism against the Soviet Bear.

45. Dirks (1977), p. 234.

46. Whitaker (1987), p. 218. One third of the refugees were highly skilled professionals. See also Dirks (1977), p. 234. Louis Holborn describes the Czechs as "composed of much younger people - students, teachers, scientists, journalists and doctors. Most of them spoke English, French, and German." Refugees: A Problem of our Time: The Work of the United Nations High Commissioner for Refugees, 1951-1972, Metuchen, N.J.: Scarecrow Press, 1975, Vol I, p. 516.

47. "The Immigration Program", A Report of the Canada Immigration and Population Study, Ottawa: CEIC, 1974, Vol 2. The American 1965 amendments to the Immigration Act also eliminated the racist basis of American selection by abolishing the national origin quota system and based its system on skills needed and family ties. The major difference with Canada was the provision providing special opportunities to refugees fleeing "Communist or Communist-dominated" lands. Though Canadian practice would show some bias in this direction, the bias in the United States was built into the legislation and provided Americans with much less flexibility in its refugee programs until 1980 when this provision was eliminated.

48. cf. Colonel Harry C. Summers Jr., Vietnam War Almanac, New York: Facts and Files Publications, 1985.

49. John Irving in his novel, A Prayer for Owen Meany, (Toronto: Ballantine Books, 1990, p. 456) refers to this debate recorded in

Hansard of Canada's 28th Parliament. It was Irving who led me to Summers' Vietnam War Almanac.

50. I take these figure from memory because the files of Praxis were stolen at the time the RCMP surreptitiously burned down the old house in which Praxis had set up its office. For an account of the RCMP surreptitious and illegal activities, see the Report of the McDonald Commission, the proper name of which is the Royal Commission of Inquiry Concerning Certain Activities of the RCMP.

51. The American draft dodgers and deserters certainly fit Ari Zolberg's et al definition of a refugee in Escape from Violence.

52. cf. Kenneth McNaught, "Approaches to the Study of Canadian History", The Annual Review of Canadian Studies (Japan, 5, 1984, p. 89.) Seymour Martin Lipset in his latest volume, Continental Divide: The Values and Institutions of the United States and Canada (New York: Routledge, Chapman and Hall, Inc., 1990, p. 19) endorses this view of the traditional difference between Canada and the USA. The book in emphasizing contrasts, however, though noting the Americanization of Canada in the development of legal rights for individuals, a litigious culture, etc., nevertheless significantly underplays the Americanization of Canada as it tries to assert its identity in contrast to the United States.

53. Lipset (1990), p. 19.

54. Whitaker (1987), p. 255; Dirks (1977), p. 243. The Americans took only 1100 Ugandan Asians on a temporary admissions program. For an account of the movement from the perspective of the British political scene, see Derek Humphrey and Michael Ward, Passports and Politics, Harmondsworth: Penguin Books, 1974.

55. Lipset (1990) cites Marie Huag's pluralism scale developed in, "Social and Cultural Pluralism as a Concept in Social System Analysis" (American Journal of Sociology, 73, Nov., 1967) which demonstrates Canada was an anomaly scoring lowest on the pluralist scale (having the most pluralism) than all but ten Third World countries. (pp. 173-174)

56. Canada Employment and Immigration Commission, Refugee Policy Division, Refugee and Humanitarian Programs, January, 1980.

57. Whitaker (1987), p. 258. Though the Americans allowed sanctuary in its embassies, "restrictive policies were adopted for applicants from Haiti and Chile." (Loescher and Scanlan, 1986, p. 85) As the Zuckers noted, "The United States has accepted only a handful of Argentinians, Chileans, Nicaraguans, and Salvadoreans." (1985, p. 78)

58. cf. David Matas, Closing the Doors: the Failure of Refugee Protection, Toronto, Summerhill Press Ltd., 1989, ch. 5.

59. Toronto Star, October 3, 1973. Ironically, the American Ambassador Popper did raise the issue of human rights violations with the Chilean military dictatorship but was reprimanded by Kissinger who lavished enormous aid on a regime that sanctioned torture, disappearances and murder to strengthen its legitimacy. (cf. Loescher and Scanlan, 1986, pp. 97-101.)
60. Whitaker (1987), p. 259.
61. Dirks (1977), p. 249. That it was not simply ideological can be noted by comparing the Canadian and American responses. If the Canadian response was tepid, the American one was barely noticeable with 1100 admitted, the first 26 not arriving in the U.S. until 1976. (Loescher and Scanlan, 1986, p. 101. Canada, by contrast, took 35% of the 20,000 refugees relocated through ICEM.
62. cf. J. Liambas-Wolfe, Notre exil pour parler: les Chiliens au Quebec. Montreal: Fides, 1988.
65. Quoted in Dirks (1977), p. 246.
66. see David B. Dewitt and John J. Kirton, Canada as a Principal Power, Toronto: John Wiley and Sons, 1983. See also M.W. Conley, "The Protection of Refugees and Foreign Policy: Canada's Role", paper presented at the Canadian Political Science Association meeting, Vancouver, June, 1983.
67. cf. Leslie Ann Jeffrey, "Canada's Refugee Policy: Selection Versus The Right To Asylum", Acadia University, Political Science B.A. thesis, 1989.
68. Rafael Girard, "The Refugee Claims System", Refuge, 4:6, June, 1984, p. 8.
69. cf. Robert Andras, "An Historical Sketch of Canadian Refugee and Immigration Policy", in The Indochinese Refugee Movement, ed. by Howard Adelman, Toronto: Operation Lifeline and Copp Clark.
70. cf. Gerald Dirks, "A Policy Within A Policy: Identification and Admission of Refugees into Canada", Canadian Journal of Political Science, 17:2, June, 1984, pp. 284-85.
71. Rhoda Howard, "Contemporary Canadian Refugee Policy: A Critical Assessment", Canadian Public Policy, 6:2, Spring, 1980, p. 369. See also Dirks (1984) where Dirks argues forcefully that the senior civil servants not only argued that the system was in danger of being overwhelmed by bogus claimants and clogged by delay and legal entanglements, but that control would be lost and the department would no longer be able to determine the right to land on the basis of whether the refugee could be successfully reestablished. pp. 292-93.

72. This new policy by Ron Atkey may have been initiated as a result of the Fernando Malina case then before the Federal Court. See Matas (1989), pp. 105-108.

73. For a detailed account of these developments, see Rabbi Gunther Plaut, Refugee Determination in Canada, Report to the Minister of Employment and Immigration, Ottawa, 1985. For a legal analysis, see Julius Grey, "Refugee Status In Canada", in Human Rights and the protection of Refugees Under International Law, Montreal: Canadian Human Rights Foundation, 1987. For a very critical perspective, see David Matas, "A Refugee Claims Procedure: An Overview", Refuge, 3:4, June, 1984 and Closing the Doors: the Failure of Refugee Protection, Toronto, Summerhill Press, 1989. The changes were announced at a symposium at the University of Toronto in February of 1982 by the Minister of Immigration and Employment, Lloyd Axworthy.

74. cf. Guy Goodwin-Gill, "Determining Refugee Status in Canada", Refugees, 38, February, 1987.

75. Girard (1984), p. 8.

76. Julius Grey, "Comment on Singh v. Minister of Employment and Immigration", McGill Law Journal, 31:496, 1986.

77. Minister of Employment and Immigration, September 9, 1983.

78. Minister of Employment and Immigration, March 12, 1984.

79. David Matas has been a vociferous critic of the use of visas. cf. (1989), pp. 73-76 and Refuge, 4:2, 1984, 22-24.

80. Howard Adelman, The Indochinese Refugee Movement: The Canadian Experience, Toronto: Operation Lifeline & Copp Clark, 1980.

81. The original proposed target was 60,000, but the figure of 60,000 resonated badly as it was associated with 60,000 Canadians detrimentally affected in another domestic political dispute and the government did not want the public to be reminded of that figure. Further, there was some doubt whether the 60,000 figure was achievable. One origin of the target figure and the matching formula can be traced to a phone call between myself and Ron Atkey, then the Secretary of State for Immigration. He had asked my advice on how many Canada could take. I noted that Canada had already pledged itself to take 8,000 through government sponsorship and 4,000 through private sponsorship. If the program was continued on the basis of a matching formula of 2:1, then I provided a quick estimate that the private sector would be able to sponsor 16,000 additional refugees based on the first ten days of success of Operation Lifeline. The calculation was based on the following:

St. Paul's Riding Private Sponsorships to Date	64
Estimated Average number of refugees per Sponsorship	4

Total Number Sponsored	264
Assume about half the ridings in Canada sponsor one half the number in St. Paul's	
Total = 122 (ridings) x 132 (1/2x264) =	16,104
Government Sponsorships (based on 2:1)	32,000
Existing Commitments	<u>12,000</u>
Total (approx.)	60,000

In fact, the private sector went on to sponsor 50% more than the above estimate by the end of 1979 for a total of 30,000 refugees.

cf. Howard (1980), p. 368.

83. Howard Adelman et al, "Canadian Policy on Indochinese Refugees", in Southeast Asian Exodus: From Tradition to Resettlement, ed. by Elliot L. Tepper, Ottawa: The Canadian Asian Studies Association, 1980, 145-46.

cf. Dewitt and Kirton (1983), p. 261-2

85. Adelman (1980). Is it happenstance that the support for the American intake of 125,000 Vietnamese refugees in 1975 was also only 36% and 54% thought they should be excluded? (Zucker & Zucker, 1985, p. 44)

86. Howard Adelman, Refuge, ??:, 1984.

cf. Refuge, 2:1, Sept./Oct., 1982

88. Fernando G. Mata, "The Four Immigrant Waves from Latin America to Canada: Historical, Demographic and Social Profiles", graduate research paper, Sociology, York University, January, 1985.

89. op. cit., p. 17.

90. A Globe and Mail editorial on June 18, 1987 referred to Gerry Wiener, the junior minister of Immigration, as a "helpless croupier" because of his failure to require visas of Brazilians. This followed the same pattern of delay as the previous year when Portugese were clearly abusing the system claiming to be persecuted Jehovah Witnesses. As Walter McLean, the then Secretary of State for Immigration stated, "neither he nor the visiting minister from Portugal, Dr. Manuela Aguiar, Secretary of State for Portugese Communities, would agree to place visa restrictions on Portugese wishing to travel to Canada." (The Globe and Mail, March 31, 1986, A14.) Yet when 244 Guatemalans arrived just three years earlier, and 70% of their refugee claims were successful, a visa was slapped on Guatemala.

91. The B-1 list at that time included: Afghanistan, Albania, Bulgaria, Cuba, Czechoslovakia, Cambodia (Kampuchea), El Salvador, G.D.R., Guatemala, Iran, Laos, Lebanon, North Korea, China, Romania, Sri Lanka, USSR and Vietnam. (CEIC, February 20, 1987.)

97. Jewel S. Lafontant, U.S. Coordinator for Refugee Affairs to to U.S Senate Committee of the Judiciary Hearings on the consultations on refugee admissions for Fiscal year 1990, Sept. 15, 1989, No. J-101-43, p. 27. Washington: USGPO. As the Zuckers note (1987, p. 30) in the debate over the McCarran-Walter Act of 1952, the major argument of the admissionists against the nativist restrictionists was that "a generous immigration policy was necessary to support an effective foreign policy".