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Refugee Update

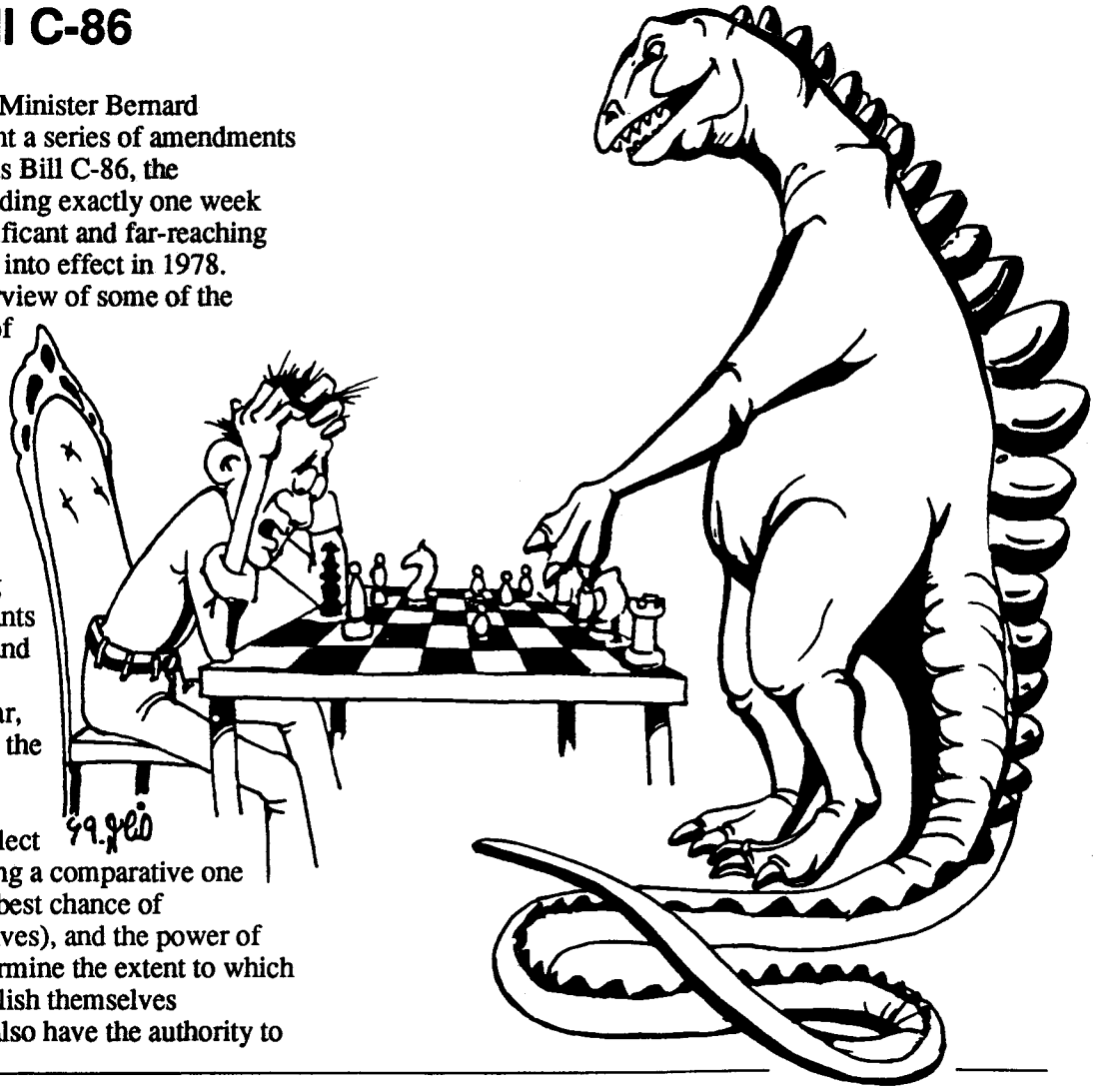
A Project of the Jesuit Refugee Service/Canada and the Canadian Council For Refugees

Inside

Refugees and Bill C-86

On June 16th, Immigration Minister Bernard Valcourt placed before Parliament a series of amendments to the *Immigration Act*. Known as Bill C-86, the amendments received second reading exactly one week later and represent the most significant and far-reaching overhaul of the *Act* since it came into effect in 1978.

What follows is a brief overview of some of the major proposals and provisions of Bill C-86, particularly as they affect refugees.



Broad Powers

The Minister is given even greater power to establish, through regulations, whatever standards (s)he wishes, including quotas for all classes of immigrants in the annual immigration plan, and specifically the sponsorship of Convention refugees. In particular, the Minister will be able to limit the number of refugees privately sponsored. The amendments also give the Minister the power to select immigrants on any basis, including a comparative one (on the basis of who stands the best chance of successfully establishing themselves), and the power of establishing regulations that determine the extent to which immigrants must be able to establish themselves successfully. The Minister will also have the authority to

determine which classes of immigrants will receive travel (and other purpose) loans.

These broader regulatory powers will mean that refugees and immigrants who apply after the legislation comes into force will have even less assurance than now that the rules and regulations will not be changed in mid-stream.

The Minister will be authorized to enter into agreements with other countries for the purposes of coordinating immigration polices, including sharing the responsibility for refugee determination, without provisions for public consultation with Parliament or other interested parties.

The proposed legislation allows for conditions to be placed on where permanent residents will be allowed to reside, with the penalty of deportation for non-compliance. There are no legislative limitations on either the period of time this applies to, or on whether residence is restricted to a region, a province, city or community. Another, related provision is that the Minister can establish whatever kind of residency documentation for landed immigrants (s)he wants. Currently, the Immigration department is experimenting with a permanent resident's card that expires after a period of time and must be renewed. The renewal requirement provides an obvious control mechanism, allowing the department to ensure that the immigrant is complying with terms and conditions under which he or she was accepted.

Immigration officers will be given the power to fingerprint, photograph and search all refugee claimants. Detention provisions will be tougher, with a review after the first 48 hours, and then once every thirty days, compared to the present seven day review. The provisions increasing the inadmissibility criteria are also reflected here, expanding the grounds on the basis of which a claimant may be detained.

Finally, under the Bill, changes to the act will, upon coming into force, apply retroactively to "every application, proceeding or matter under [the] Act or the regulations ... that is pending or in progress."

Inadmissibility

If a refugee claimant is deemed inadmissible, then (s)he is refused the right to make a refugee claim before the CRDD, and is subject to removal from Canada.

The basis for criminal inadmissibility will be broadened. According to the bill, there need only be reasonable grounds to believe that there has been a criminal conviction outside of Canada, and not actual proof of that, for a person to be judged to be inadmissible. There is also a guilt by association clause, according to which a person is inadmissible if there are reasonable grounds to believe that the person is a member of an organization that, there are reasonable grounds to believe, is engaged in illegal or criminal activity. Furthermore, a person can be deemed inadmissible when there are reasonable grounds to believe that he or she will engage in acts of espionage, subversion, terrorism, etc. This is very broad and sweeping, and will result in many people being wrongfully determined inadmissible. In all these provisions, the test of reasonable grounds is left undefined.

An addition to the inadmissibility criteria is the notion of terrorism, very broadly defined as any activity directed towards or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political objective. This could apply to anyone involved in any type of insurrectional activity.

Eligibility

As under the current *Act*, a person claiming refugee status will be deemed ineligible to have his or her claim heard by the Convention Refugee Determination Division (CRDD) if the person is a Convention refugee in another country to which the he or she can be returned; has come to Canada through a safe third country where a claim could have been made; has been determined to be a member of an inadmissible class.

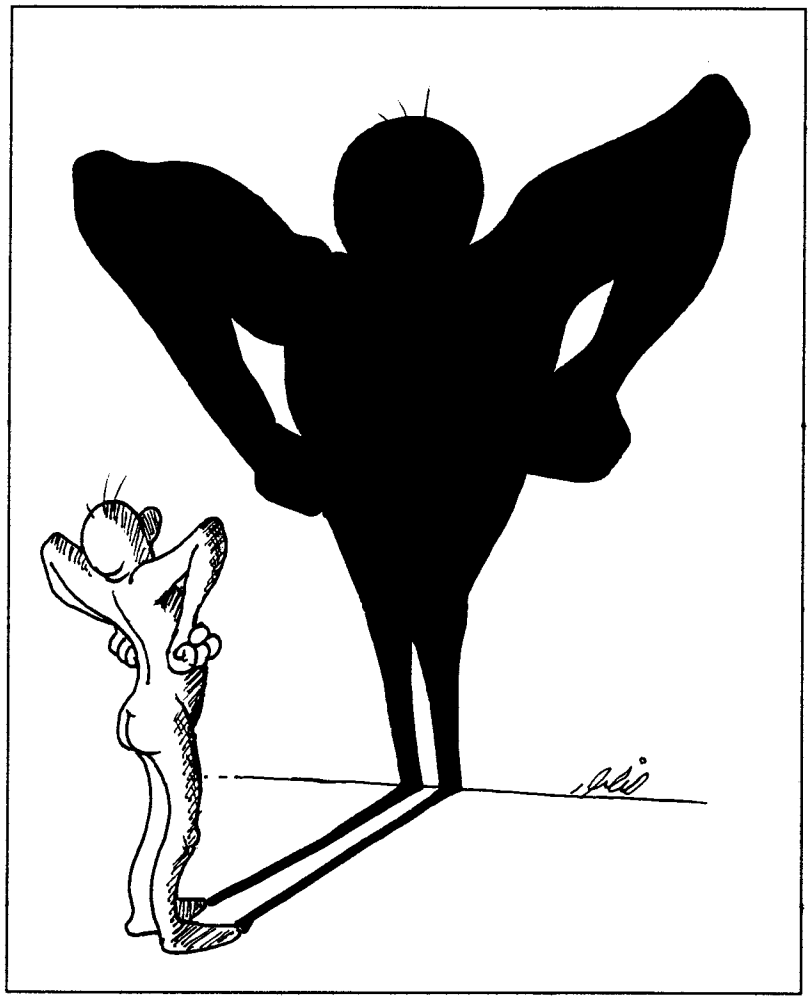
A person who has come either directly or indirectly from a safe third country is considered ineligible (this does not depend on whether the person was in that country legally or illegally). Such a country is so designated for two years, and the designation can be renewed. The safe third country test is whether a country complies with Article 33 (non-refoulement provision) of the *Convention*, with the government supposed (but not necessarily required) to take into account the country's policies and practices with respect to refugee claims, its human rights record, and whether Canada has a responsibility sharing agreement with the country. The Minister can, in certain cases, waive the safe third country provision.

The single most important feature of the eligibility criteria in the bill will be the safe third country provisions coupled with the new powers of the Senior Immigration Officer. Put simply, once the bill comes into effect Canada will no longer have to secure bilateral agreements with safe third countries to ensure that they will take back refugee claimants who are denied access to Canada's refugee determination system. The SIO, using a list of prescribed (safe) countries, will be able to determine in a matter of minutes after a person's arrival at a port of entry that the person is ineligible and therefore will not be allowed to enter Canada. Thus, the country from which the person has just come will be required to take the person back, since (s)he will have never entered Canada. Under the new system, there is no requirement for an inquiry of any sort, and thus the determination of ineligibility will happen in a matter of minutes. Significantly, a claimant will not be able to benefit from

legal counsel under such circumstances. When one considers that fifty percent of all claimants come to Canada through the U.S., the implications are clear that these changes are aimed at cutting the drastically the number of people who have access to Canada's refugee determination system.

However, in the event that a person is ruled ineligible because of the safe third country provision, but cannot go back to that country or make a claim there, then the SIO is to refer the claim to the CRDD for a hearing.

In the case of claimants arriving from the U.S., if an SIO is not available, an immigration officer will have the power to temporarily turn back a claimant that the officer believes is inadmissible to Canada, until an SIO becomes available. The change here is that under the current system the person had to have been residing or sojourning in the U.S. in order to be turned back, but according to this provision simple arrival from the U.S. can result in a turn-back.



If the SIO deems the claimant eligible, s/he is referred to the CRDD for a refugee hearing. The burden of proof of eligibility is on the claimant.

The Hearing

The CRDD must start a hearing as soon as is practicable, which is very vague. Currently, the hearing date has to be set within ten days of the conclusion of the inquiry which established credible basis and referred the claim to the CRDD. There is also legislative provision for a member of the CRDD to determine that a claimant is a Convention refugee without a hearing, the rules for which will be established by the Chairperson of the IRB.

Refugee hearings will be public, unless the CRDD determines that there are security risks. The onus is now on the claimant to show why the hearing should not be held in public and that s/he would be adversely affected by a public hearing. Currently, the burden of proof is on those members of the public who want to attend to show that the person would not be adversely affected.

Under the current legislation, if one of the two CRDD members finds a claimant to be a Convention refugee, the claim is accepted. This principle of a split decision going in favour of the claimant is affirmed, except for cases where the claimant, without valid reason (which the amendment leaves undefined), has destroyed or disposed of their documentation, the claimant has, since making the claim, visited the country which s/he is fleeing, or the claimant has come from a country which respects human rights (i.e., non-refugee producing), all of which require a positive decision from both panel members in order to be accepted. This represents a significant backing away from the benefit of the doubt that is accorded to all refugee claimants under the current system, and will create a situation in which different groups of refugee claimants will be treated differently.

There will be more conditions which, if not met, can result in the CRDD declaring that a claim has been abandoned. These include failure to appear, failure to submit the relevant forms, and other failures to proceed, as the CRDD deems relevant.

Upon approval of the claim, the claimant can immediately apply for family reunification.

Appeal

For those claimants whose claim is rejected by the CRDD, Bill C-86 further weakens the appeal for judicial review to the Federal Court. As under the current

legislation, there will be no right to an appeal on merits, but simply leave to seek judicial review. However, instead of being heard by three judges at the Federal Court of Appeal, the leave petition will be decided by one judge at the Trial Division. No decision of the Federal Court - Trial Division can be appealed to the Federal Court of Appeal unless the judge at the Trial Division has determined at the time of issuing the judgment that there is a serious question of general importance involved, and stated what the question is.

Removals

Claimants ruled ineligible to make a claim and against whom a removal order has been made will have only seven days to file with the Federal Court leave to seek judicial review, after which the removal order will be executed. In the case of a refugee claimant whose claim is judged not to have had any credible basis (manifestly unfounded and determined to be so by both members of the CRDD panel), then that person will have only seven days in which to file an appeal and then will be removed from the country.

The limitations on the execution of a removal order before seven days do not apply to those residing or sojourning in the U.S. or St. Pierre and Miquelon, or those determined to be ineligible because they came from a safe third country and who are to be removed to a country with which Canada has a burden sharing agreement. Furthermore, a person judged by the CRDD not to be a refugee also can be removed immediately either back to the U.S. or St. Pierre and Miquelon if that person had been residing or sojourning there.

The amendments allow the Deputy Minister (DM) or an SIO to issue an arrest warrant against someone who is subject to an inquiry or a removal order where in the opinion of the DM or the SIO there are reasonable grounds to believe that the person is a danger to the public or will not show up for removal.

The person must comply with reporting conditions and must appear before an immigration officer at the time (s)he leaves Canada, otherwise a departure notice will be treated as a deportation order, making it more difficult to re-enter Canada. Someone who is under a departure order that is deemed to be a deportation order will be unable to return to Canada as long as (s)he has not repaid the government for the cost of removing them.

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These amendments were introduced without prior consultation with NGOs, and are being rushed through the House. Those who have studied Bill C-86 regard it as a serious weakening of Canada's international commitment to the protection of refugees.

INTERNATIONAL CONTEXT OF BILL C-68

Behind the Current: Directing Traffic

There has been much speculation about *who* Bill C-86 was designed to serve. For all the emphasis in the legislation on border control, identification measures, transport sanctions, increasing the power of immigration officials and weakening the rights of refugee claimants, there is no statistical evidence in the government materials that accompanied the bill to support these measures . We hear instead that the government did extensive polling before releasing the bill, suggesting that the background materials reflect information from pollsters more than serious research into what Canada requires legislatively to meet its obligations toward refugees.

Much has been said already about the bill reflecting the policies of the Reform Party. But there is, as well, another audience for whom the legislation was drafted and whose timetable likely determined the release date of Bill C-86.

The legislation was brought to Parliament on June 16th. Twelve days later, Associate Deputy Minister Peter Harder hosted three days of closed meetings in Niagara-on-the-Lake of the informal Inter-governmental Consultations composed of senior immigration official from the western industrialized countries, including the countries of Europe, Canada, the United States, Australia and New Zealand. The group meets on an ongoing basis to address large questions of migration. Major agreements on refugee determination have already been drafted by the European nations and are now in the ratification process. Bill C-86 contains key provisions about joining such international agreements.

So we can ask ourselves, what was the reaction of Canadian government counterparts from other countries to Bill C-86, which had just been released? (Unfortunately, we have no first-hand accounts of the immigration meetings; selected Canadian academics attended by invitation only. The Canadian Council for Refugees and the Inter-Church Committee for Refugees were told they could not attend. The reason given was that if the meeting was open to NGOs, then the participants would be less candid in their discussions. York University's Centre for Refugee Studies hosted briefings by Mr. Harder for NGOs prior to and after the meetings, however they yielded little substantial information).

For an answer, we must instead look at recent trends in international refugee determination and compare those to the corresponding measures in Bill C-86. The dominant trend among western nations concerning refugee determination has been in the area of "burden sharing". Two agreements in Europe, known as the Dublin Convention and the Schengen Supplementary Agreement,

INTEGRITY AND CANADA'S POLICY OF REMOVING REFUGEES

Jesuit Refugee Service-Canada is pleased to announce the release of a study examining Canada's policies and practices for deporting refugee claimants.

The study finds that behind the government's rhetoric about widespread abuse in the system is a new emphasis on removals at the expense of Canada's international human rights obligations:

- genuine refugees are being refused by mistake and because of inadequate safeguards in the system;
- removals of rejected refugee claimants increased 235% from 1990 to 1991, whereas the increase in removals for all other classes of immigrants was 45%;
- of all refugee claimants being forcibly removed, over one-half are persons from top refugee producing countries;
- Canada is now deporting persons directly back to countries widely known for gross human rights violations.

The study casts these and other findings within the context of competing interests: respect for international human rights conventions and the mounting campaign among Western countries to restrict the entrance of refugees.

Integrity and Canada's Policy of Removing Refugees is available for $5.00 plus $1.30 for postage.

To order the study please send cheque or money order to the Jesuit Refugee Service at:
947 Queen St. East,
Toronto, Ontario
M4M 1J9
(416) 469-1123

are giving new direction to European refugee policy. The President of the Canadian Council for Refugees, David Matas, has been following the emergence of these agreements. He argues that they have been drafted from the perspective of a traffic cop rather than a human rights worker. The agreements spell out a system to determine when countries should receive a claimant and when they can send the claimant to another country to have the claim heard. A key criticism is that the agreements all but ignore questions of minimum standards in applying the refugee definition, procedural safeguards, and the treatment of claimants pending determination.

Members of the Informal Consultation had met in Lisbon two weeks before their meeting with Canadian counterparts in Niagara, and just days before the release of Bill C-86. At that meeting they drafted a convention parallel to Dublin but with one key change: it would be open to non-EC states, such as Canada and the US. Another agreement at the meeting was the establishment of a centre for information, research and exchange on asylum. Its purpose, according to the *Migration News Sheet* out of Brussels, is to assist member countries in the coordination and harmonization of policy and practices of asylum.

A final agenda item at the Lisbon meeting was the development of fundamental conditions concerning "first country of asylum", or what in the Canadian law is called safe-country. Thus far there is agreement on the following: 1. there must have been the possibility of the person making a claim in the country for it to be deemed safe; 2. there must not be any threat against the life or freedom of the asylum-seeker as specified under the 1951 UN Convention; and 3. the protection which the country can or could grant must also satisfy the 1951 UN Convention.

Bill C-86 would apply far weaker criteria for a Safe Country than that envisioned by the Informal Consultation group. The Bill states that a safe country would only have to meet provisions in Article 33 of the Geneva Convention concerning non-refoulement of asylum seekers, and that the government, in prescribing a country as safe, should take into account factors such as the human rights situation in the country in question, the country's practice and policies of refugee determination, and whether Canada has a responsibility sharing agreement with the country. However, the proposed legislation is ambiguous about whether these are requirements of the government or merely suggestions.

The traffic cops from Europe would have been impressed by the traffic cops from Canada.

"Open your mouth for the dumb, for the rights of all who are left desolate. Open your mouth, judge righteously, maintain the rights of the poor and needy." ***(Proverbs 31: 8-9)***

BILL C-86 AND THE LAW REFORM COMMISSION OF CANADA REPORT ON THE REFUGEE DETERMINATION PROCESS

John Frecker

Amendments to the *Immigration Act*, recently tabled in Parliament as Bill C-86, come hot on the heels of the Law Reform Commission of Canada's (LRCC) report on the inland refugee determination process. The Commission's report was informally released in March of this year, just weeks after the government announced in its February budget its intention to abolish the Commission. The report called for sweeping changes to improve the fairness and efficiency of the refugee determination process. Bill C-86 has picked up on some of the LRCC's recommendations and ignored others. Following is a brief commentary on the relationship between the LRCC report and the new legislation.

Bill C-86 will implement a number of specific recommendations contained in the LRCC report. Most significantly, the credible basis will be eliminated. The present two-tier hearing process is to be replaced by a single hearing before the Convention Refugee Determination Division (CRDD). Bill C-86 also provides for administrative processing of uncontested refugee claims without the need to conduct a formal hearing. These measures will greatly reduce the delays currently being experienced between the filing of a refugee claim and the rendering of a final decision. It is suggested in the background material accompanying Bill C-86 that elimination of the credible basis hearing and provision for the administrative processing of uncontested refugee claims will allow for a reduction in federal contributions for legal aid to refugee claimants for the full hearing before the CRDD. The LRCC report also noted that these reforms offered considerable scope for cost-saving. The intention of the LRCC recommendations, however, was to reduce the need for costly legal proceedings in circumstances where it is evident to all concerned that the refugee claimant is in need of protection and should be recognized as a Convention refugee without delay. It was not intended to restrict availability of legal counsel when such support is needed to present the claimant's case effectively.

The LRCC report recommended that the CRDD be reorganized into working groups of 15 to 20 members with a view to achieving better informed and more consistent decision-making across the board. Bill C-86 has made a step in this direction by providing for the designation of co-ordinating members at a ratio of one for every 15 members of the CRDD. Consistent with the LRCC's recommendations, the new legislation also makes express statutory provision for the Chairperson of the IRB to issue guidelines to assist Board members in the performance of their duties. Such guidelines are only to be issued following consultation with the Assistant Deputy Chairperson and the co-ordinating members of the CRDD.

In at least one respect Bill C-86 departs fundamentally from the conclusions of the LRCC report. The report concluded that refugee policy and immigration policy, while inevitably inter-related, must be clearly distinguished. Immigration policy is oriented toward control over entry of would-be immigrants into Canada and is pre-occupied with domestic economic and labour market considerations. It is frequently directly at odds with the humanitarian considerations and the international obligations that underlie refugee policy. This aspect of the LRCC report has not found favour in government circles. Bill C-86 is clearly premised on the notion that refugee policy is a subsidiary part of a larger immigration policy. Fixation on the immigration issues raised by refugee claims has resulted in some amendments that may be tilted unacceptably in the direction of administrative efficiency at the expense of fairness for refugee claimants.

The most notable cause for concern in this regard is the provision in Bill C-86 that in certain specified circumstances a unanimous decision of the CRDD panel hearing a refugee claim will be required if the claim is to be accepted. This reverses the existing presumption that split decisions will be deemed to be favourable to the claimant. Requiring a unanimous decision in favour of the claimant in such cases seems to be directed at creating an impression that something is being done to curb abuse of the system, more than it is at solving any real problem. This attempt to deal with apparently abusive claims by reversing the presumption that favours claimants is, in my opinion, unwise and unjustified. I anticipate that this provision will be challenged in the courts the first time a refugee claim is rejected as a result of a split decision.

The problem of how to deal with split decisions could have been avoided had the LRCC's recommendation to replace the present two-member decision panels with single member panels been accepted. However, both this recommendation and the corollary proposal that decisions of the CRDD be subject to an effective form of internal review to catch obvious errors and to promote decisional consistency within the CRDD were rejected by the government. Instead, Bill C-86 limits the opportunity for appeal or review by imposing new restrictions on access to the Federal Court.

The absence of an effective mechanism to allow for reconsideration of contested decisions on refugee claims remains a serious problem. The Canadian refugee determination process is one of the fairest and most humane in the world. However, mistakes will be made.

The consequences for refugees whose claims are erroneously rejected are far too serious to be left to the vagaries of a system of judicial review accessible only on leave of a judge of the Federal Court. A system with an effective process for internal review of decisions, as proposed by the LRCC, would provide a greater margin of safety for refugee claimants. It would also lead to more consistent decision-making and would be more likely to weed out unfounded claims.

The foregoing comments touch on only a few of the key changes proposed in Bill C-86 that touch on issues raised in the LRCC report. In the space available, unfortunately, it is not possible to comment on other issues in detail. It should be noted, however, that the amendments set forth in Bill C-86 constitute a major overhaul of the refugee determination process as significant as that made in 1988 under Bill C-55. It is unusual for major changes in the system to be introduced so soon after the last Bill passed through Parliament. It can be anticipated that further amendments are not likely to be made in the near future. The changes made during this round will probably have to be lived with for a number of years to come. It is therefore extremely important that any concerns about the provisions of Bill C-86 be brought to the attention of the legislative committee that is currently reviewing the legislation before it is returned to the House of Commons for third and final reading.

(Mr. John Frecker was a member of the Law Reform Commission of Canada at the time of its dissolution. He had primary responsibility for drafting the Commission's report on the Refugee Determination Process).

THE CANADIAN COUNCIL FOR REFUGEES from the Executive Director's desk THE LEGISLATIVE COMMITTEE ON BILL C-86

Hon. Bernard Valcourt: "We want the Canadian public, NGOs, lawyers and stakeholders, we want everyone to have the chance to appear before this committee and give their input". (June 19, 1992, House of Commons).

Unfortunately, despite these comments from the Minister, the legislative committee has only scheduled 6 days in July and August to hear witnesses. Many of those who have asked to present will simply not be heard. September 1 is the deadline for written submissions. In September the committee plans to move to clause by clause consideration of the bill with the government planning to have the bill passed and ready for implementation on January 1, 1993.

The Canadian Council for Refugees has an hour to present to the committee on July 30. Our brief comments on the broad range of the bill's effects on refugees, almost all of which are negative. Copies of the brief are being sent to all CCR members and are available from the office.

Liz McWeeny, a member of the CCR Executive, recently reported that Joe Comuzzi, MP, had not even read "Managing Immigration," let alone the bill, despite being on the committee. So it looks like we can't rely on committee members being well-informed. It would be useful for you to take the initiative to brief them in their constituency. The following are the committee members:

Blaine Thacker, MP, Chair (Alberta)
Hon. Warren Allmand, LMP (Québec)
Joe Commuzzi, MP (Ontario)
Benno Friesen, MP (B.C.)
Fernand Jourdenais, MP (Québec)
Harry Chadwick, MP (Ontario)
Doug Fee, MP (Alberta)
Dan Heap, MP (Ontario)
Ross Reid, MP (Newfoundland)

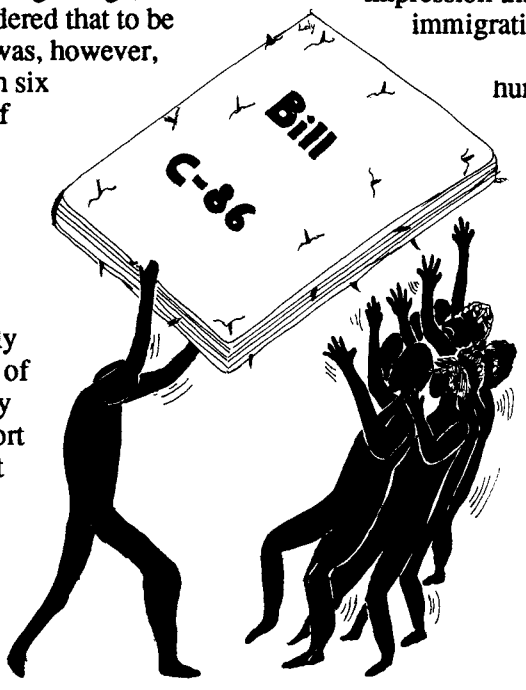
The Working Group on Refugee Protection of the CCR has been distributing information through regional contacts. If you have not been receiving the kind of information you are looking for, please don't hesitate to contact us:

CANADIAN COUNCIL FOR REFUGEES
TEL. : 514-27-7223
FAX.: 514-277-1447
6839 Drolet #302, Montréal, P.Q., H2S 2T1

MR. VALCOURT AND BILL C-86

As an anonymous Conservative lawyer from New Brunswick, Bernard Valcourt began his political career in 1984. He did his best to prove himself a favourite to Tories and was pampered by the Prime Minister. It took two years for Mr. Mulroney to promote him as the Minister of Tourism and Small Business. Soon afterwards, he moved to the portfolio of Indian and Northern Affairs and then the Consumer and Corporate Affairs.

Following a drinking and driving charge, he lost his cabinet job. Most people considered that to be the end of his political career. He was, however, given a "second chance." Less than six months later, he became Minister of Fisheries and in a big cabinet reshuffle on April 21, 1991, was made the Minister of Employment and Immigration.



For a period of eight months after he occupied his portfolio, Mr. Valcourt remained silent on virtually every issue of the immigration side of his portfolio. He turned down many requests to meet with refugee support groups and refused public comment on refugee and immigration issues.

On September 21, 1991, the Minister read a brief statement to the House of Commons on the refugee backlog system. He called the system fair, refugees abusers, and avoided questions. It eventually became apparent that removal and enforcement initiatives were a personal priority for the Minister. In an interview with *The Globe and Mail* (October 17, 1991), Mr. Valcourt revealed his attitude toward refugees: "Why should I, in Canada, be caught up with this whole thing when I could simply direct them back where they belong or where they came through, the U.S." He reiterated the same policy in his report of November 25, 1991 to the Parliamentary Standing Committee on Immigration: "We intend to be quite proactive and to remove and deport those who have no business in this country."

In his annual report to Parliament on the government's Immigration Plan for 1991-95, Mr. Valcourt revealed his hostility toward refugees. He used such terms as "spontaneous migration" and "asylum shopping." The plan revealed the government's preoccupation with the issue of controlling refugees and immigrants, which is manifested today in their proposed legislation.

The Minister also focused on the need for harmonization to "discourage asylum seekers from asylum shopping." He reported about "long delays in the deportation process because the person involved exercises the rights to appeal or seeks a judicial review guaranteed to every one in Canada by the Charter of Rights and Freedom." In retrospect, this comment foreshadows Bill C-86's provision to remove certain unsuccessful claimants quickly while they seek leave to appeal.

On February 12, 1992, ten months after taking over the Immigration portfolio, the Minister's first meeting with representatives of the Canadian Council for Refugees took place. In this meeting, Mr. Valcourt left the impression that he was not well familiar with many immigration and refugee concerns.

Mr. Valcourt's apparent apathy toward human rights and refugee protection was further revealed in his relationship with the Vigil network. In the whole year of 1991, out of approximately 30 cases submitted by Vigil Toronto, only 3 were accepted. In a letter dated May 25, 1992, Vigil Toronto wrote to the Minister: "You and your office are unwilling or unable to provide a safety net for mistakes and shortcomings in the refugee determination process. We have lost confidence in your office....We observe that you would prefer to deport refugees back to possible persecution and death rather than accept responsibility."

The Minister continued with his tough policy of control. The rate of removals in 1991 increased by 235 percent over 1990; and in the first quarter of 1992, the rate of acceptance of the refugee claimants decreased to 54 percent from 64 percent for 1991. In his press release of April 2, 1992, Mr. Valcourt stated: "We will continue to introduce new methods and improved technologies...to improve the removal process." One result was greater use of detention for rejected refugees.

On June 16th, without any consultation with NGOs, the Minister tabled Bill C-86, representing a significant change in Canada's immigration legislation. He called the bill necessary because "they [Canadians] don't want bogus refugees to jump the queue ahead of hundreds of thousands of good people who want to come here to contribute to our country" (*The Toronto Sun*, July 17, 1992). Clearly, the bill is aimed at strengthening the Conservatives' fortunes among a certain segment of the electorate. As Conservative M.P. Bob Horner from Mississauga West put it, "The bill has put me five points up in the polls. Too bad we didn't do this eight years ago" (*The Toronto Sun*, June 21, 1992).

I CAME HERE AS A REFUGEE WITH A FORGED PASSPORT

Ezat Mossallanejad

I have fled the bullets of tyranny three times. My first escape was during the time of the Shah of Iran when after four years of imprisonment, the secret police, SAVAK, made an attempt against my life. I had to escape for the second time from the present fundamentalist regime when my struggles for democratic freedom made me a *persona non grata*. I went to India. I had been sentenced to death *in absentia* in Iran by Ayatollah Khomein's *Hezbollah* terrorists abroad, who plotted against my life. I was able to protect myself with the help of some friends by going underground, but my epileptic wife and son remained defenceless and were harassed by hooligans.

We left India by boarding a plane with a forged passport. On the plane, we tore up the fraudulent passports and arrived in Canada with no documents.

We went through two hearings and were finally granted Convention refugee status after almost a year and half.

Since my arrival, I have done my best to serve Canadian society by offering my voluntary services to different humanitarian agencies, including serving as director on the boards of St. Christopher House and St. Clair West Meals on Wheels.

For years, I have carefully monitored the federal government's policy on refugees. I am disappointed with the fact that it has steadily gone from bad to worse:

- In 1989, new bills were introduced resulting in a huge backlog which is still not cleared;
- The automatic process of landing for refugees was abandoned;
- Application fees were imposed;
- The rate of acceptance has steadily dropped; and
- Deportations have increasingly become the order of the day.

And now Immigration Minister Bernard Valcourt is proposing to further tighten the noose around refugees.

Thank God I arrived in Canada seven and half years ago when we had neither Bernard Valcourt nor his proposed amendments to the Immigration Act. Otherwise I probably never would have been accepted by the Immigration and Refugee Board as a refugee. I would have died instead.

One of Mr. Valcourt's immigration documents, entitled *Managing Immigration: A Framework for 1990s*, says:

"We must ensure that criminals, terrorists and smugglers do not have the opportunity to take advantage of increased pressure on our immigration system."

"As the volumes of people seeking to enter Canada increase, vigilance is needed to ensure that Canadian society is protected from those who are not welcome in our country, and who are intent on breaking our law."

I want Mr. Valcourt to know that in all three cases of my escape, I had to break the law in using forged documents.

It is clear that Mr. Valcourt has never faced danger and has no idea about a refugee's life. A desperate refugee clutches to any straw, just to escape the sinister hide-and-seek game of survival.

Travelling by a counterfeit document is almost the only way open to refugees to escape persecution.

Mr. Valcourt's terminology is familiar to me. Every time an Immigration Minister tries to prepare the public for imposing new restrictions on refugee rights, she or he has resorted to using refugees as scapegoats. I have seen this under Benoit Bouchard, Barbara Mcdougall, and now Mr. Valcourt.

I also would like to mention that, according to the laws of the countries of origin of many refugees, they are deemed criminals and dangerous terrorists.

They think that people like me have violated the ominous rules set by unscrupulous tyrants. I myself have been condemned as a criminal, acting against the security of the state. It is a practice of all inhumane and tyrannical governments to brand as terrorists and criminals those peaceful and liberal minded people who dare to challenge their draconian rules.

This is also the practice in many countries of refugees' first asylum where the rules of autocracy have an upper hand.

Under Mr. Valcourt's proposed amendments, Ottawa will take additional measures to reject claimants who already have refugee status in another country.

But having a semi-legal status in a particular country does not help refugees to be free from persecution, either by state terrorists sent by the government of their home countries, or the racist elements in the country of asylum.

In my own case, I would have died had I not escaped the country of my first asylum, India, for a safer place. Scores of Iranian human rights and political activists have been assassinated by *Hezbollah* assassins in different European countries.

How can Canada refuse its protection to such people?

When my wife and I arrived here, we both were still going through post traumatic stress, especially my wife. An Immigration doctor diagnosed it and provided us with proper treatment. Since then I have lived a very healthy life.

When I think of Mr. Valcourt's law, I wonder what will happen to all those refugees who may find themselves in the same circumstances that I was in.

PRIVATE SPONSORSHIP PROGRAMME: A FOLLOW-UP

A picture is beginning to emerge about the future management of the private sponsorship programme. It will most likely involve greater government control, particularly over the number of refugees admitted through the programme. This became clear from examining the government's discussion paper on the private sponsorship programme and the most recent amendments to the *Immigration Act.*

For over a year a review of the refugee private sponsorship programme has been under way, the final result of which will be the establishment of new guidelines and directives. One of the more recent developments of this process was the circulation of the government's discussion paper to selected master agreement holders for comment. The discussion paper includes 38 recommendations, which point to greater government control of the programme. Amongst other things, the paper suggests an end to informal sponsoring relationships commonly known as co-sponsorships. It also emphasizes financial responsibility of sponsoring groups.

In May, a meeting of master agreement holders was conducted by the Canadian Council for Refugees Working Group on Overseas Protection and Sponsorship to discuss the future of the private sponsorship programme. The government originally planned to offer its discussion paper only to a limited number of master agreement holders. However, the CCR, in order to facilitate the meeting, sent copies of the paper to all master agreement holders. Though the meeting was planned independent of government, the government cooperated with the process and received a copy of the report from the meeting.

The government described the feedback it received as "useful". A policy paper was to be written and submitted to the Minister in June. This paper is not publicly available, so it is uncertain what were the final recommendations.

The meeting in May did not anticipate the impact on private sponsorship the government's recently announced changes to the immigration programme. When the Minister released Bill C-86 he proposed a wide shake up, which will seriously affect refugee private sponsorship. The Minister outlined a new, three stream approach to immigration processing, which will likely replace the current priority processing list.

While refugees processed abroad were once considered a top priority, they are now relegated to the second stream. It is not clear whether streams and priorities are synonymous. According to the government, second stream applicants "would be processed on a first-come, first served basis, with the total number in each category of this stream subject to the limits set out in the annual immigration plan." (EIC, *Managing Immigration: A Framework for the 1990's*, 1992, p. 16)

Unfortunately, there is not actual reference to such changes within the new legislation. The few references to matters relating to private sponsorship in the bill are changes to Sec. 6 (4) of the *Act*, which would set out a legal basis for sponsoring, and Sec. 114, which gives cabinet the power to establish admission requirements, priorities for processing, number of visas granted, and limits on the number of people sponsored.

What will be much more important for private sponsors is the new immigration regulations that have not been released. They will include the new three stream approach. It is expected that the regulations will be released just before third and final reading of the bill.

Needless to say, questions are being asked about how refugee sponsorship will work under this second stream. It is rumoured that Immigration Canada will require master agreement holders to project the number of sponsorships planned for the next year (a contingency reserve in the case of emergencies would be included), similar to an exercise conducted this past spring.

These changes have negative implications. Limits on the number of applications to be submitted to a visa post and the establishment of a first-come, first-served approach, would mean that there would be no mechanism for fast tracking those refugees in immediate danger, as sponsoring groups have urged. With such changes the foundation of the programme will be refugee resettlement as opposed to refugee protection.

It is expected that sponsoring groups will be able to continue to name those refugees they wish to sponsor, an important principle for sponsors. However, such sponsorships will now be under a more closely monitored and tightly controlled programme. The resulting fear is that the notion of privately sponsored refugees as an addition to a generous government programme will be lost.

While the actual final version of the programme has not yet been fully spelled out, there are a few obvious conclusions. The government will benefit by acquiring greater control over the programme. As for private sponsors and master agreement holders, they will find they will be making concessions if they hope to be able to continue assisting refugees through sponsorship.

> ***"When a stranger sojourns with you in your land, you shall not do him wrong. The stranger who sojourns with you shall be to you as the native among you, and you shall love him as yourself."***
> ***(Leviticus 19:33-34)***

SAY NO TO BILL C-86!

People across Canada are mobilizing to protest Bill C-86. Despite the government's attempt to rush the bill through Parliament during the summer months, people are taking action on this important piece of legislation. A lot of the concern is about the content of the legislation and the government's attempt to avoid public scrutiny of the bill.

Briefs to Parliamentary Committee

Key actions that have been initiated include: flooding the Parliamentary Committee that is looking at Bill C-86 with requests to submit briefs. Even at this early date the clerk of the committee has received over 70 requests to present briefs.

Refugee communities, immigrant service agencies, labour organizations, human rights organizations, immigrant women's organizations, lawyers, and religious groups are organizing around this legislation. Here is just a sample of the organizing across the country:

Vancouver A popular community forum is being planned to provide information and discuss the legislation.

Victoria A group from the religious sector is preparing both public education on the bill and a brief to the Parliamentary Committee. Bishop Remi De Roo issued a statement criticizing the government's rush to pass the legislation without public consultation.

Calgary At least three agencies have requested to submit briefs to the Parliamentary Committee.

Hamilton Refugee advocates are planning a public meeting on the legislation and to discuss and present research on sanctuary.

Niagara A meeting was held to discuss strategies around deportations and the new law. There is the possibility of a silent vigil at the border as people are deported.

Toronto A coalition of groups (labour, women, refugee communities, religious groups, immigrant service agencies) is forming around the bill. Demonstrations, public education campaigns, and prayer vigils have been planned.

Ottawa A coalition (refugee communities, lawyers, labour, women, health centres) has been formed to protest the bill.

Montreal Groups are developing media strategies, and some initial organizing around the possibility of a demonstration is taking place.

Halifax Groups are studying Bill C-86 and are willing to become part of a national campaign to defeat the bill.

ACTIONS TO PROTEST BILL C-86

Write the Minister of Immigration, Bernard Valcourt
Meet with your M.P.
Write a letter to the editor of your local paper
Plan a protest rally
Ask to submit a brief to the Parliamentary Committee concerning the bill

If your group would like to submit a brief to the Parliamentary Committee, immediately contact:

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