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Refugee Update

A Project Of The Jesuit Refugee Service/Canada And The Canadian Council For Refugees.

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The Backlog: Slow, Painful...and Illegal!

On March 8th, 1990, the Federal Court of Canada decided that the government's backlog programme is illegal. The decision was made in the case of Ken Yung Yhap versus the Minister of Employment and Immigration. Mr. Yhap is from the Peoples' Republic of China. He is in the backlog because he made a refugee claim prior to the new refugee law coming into force on January 1st, 1989.

The Yhap decision has major implications. It affects the 113,000 (estimates go as high as 124,000) people caught up in the backlog mess. When the backlog programme came in on December 28th, 1988, Immigration Minister, Barbara McDougall promised people that all their cases would be resolved within two years.

However, a recent report by the Parliamentary Committee on Immigration condemns the programme and says it may take up to 6 years to complete. The Federal Court decision has thrown even more uncertainty into the picture. This can only mean more pain and suffering for many people who have been waiting years to get on with their lives and be reunited with their loved ones.

Refugee Claimants Rights Denied

The Court's decision is based on the restrictive nature of the backlog programme. In fact, the programme deprives refugee claimants in the

backlog of the rights they would otherwise have had under normal immigration law. What does it say of our government that it treats refugee claimants even more harshly than normal immigrants?

S. 114(2) of the Immigration Act states that the government may allow a person to stay in Canada if satisfied that "the person's admission should be facilitated for reasons of public policy or due to the existence of compassionate or humanitarian considerations". According to the Federal Court this means everyone is "entitled to a full and fair review to determine the existence of humanitarian and compassionate considerations.

The Court goes on to point out that because this section gives immigration officers very wide discretion, it is proper for the immigration department to set out some guidelines which assist

officers in the exercise of their discretion. These are found in the Immigration Manual, Chapter 9:

It is important...that officers realize that these guidelines are not intended as hard and fast rules. They will not answer all eventualities, nor can they be framed to do so. Officers are expected to consider carefully all aspects of the cases, use their best judgement and make appropriate recommendations.

Humanitarian and compassionate grounds exist when unusual, undeserved or disproportionate hardship would be caused to a person seeking

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Backlog Statistics / March, 1990

Total Backlog	113,063
Front End "H and C" Interviews	23,032
Accepted	1,251
Rejected	21,781
Panel Hearings	6,076
Accepted	5,830
Rejected	246
Back End "Hand C" Interviews	30
Accepted	4
Rejected	26
Landings	3
Removals	56
Voluntary Departures	1,787

Source: Immigration Canada / Compiled by JRS/Canada

consideration, or to persons in Canada with whom the person is associated, if he were not allowed to remain in Canada while his request for landing is in process.

By comparison, the Court points out that the policy guidelines in the "Refugee Claimants Backlog Procedures" are rigid and inflexible:

...The officer reviews the claimant's case, checks the Information form for accuracy, considers the criteria in Humanitarian and Compassionate Criteria in making a decision and completes the Humanitarian and Compassionate Summary...

The so-called "Humanitarian and Compassionate Criteria" refer only to a carefully selected segment of the backlog, namely those who are "members of official delegations, athletic teams or cultural groups" (traditionally used to grant asylum to those arriving from Eastern Europe) and those who are "close family members

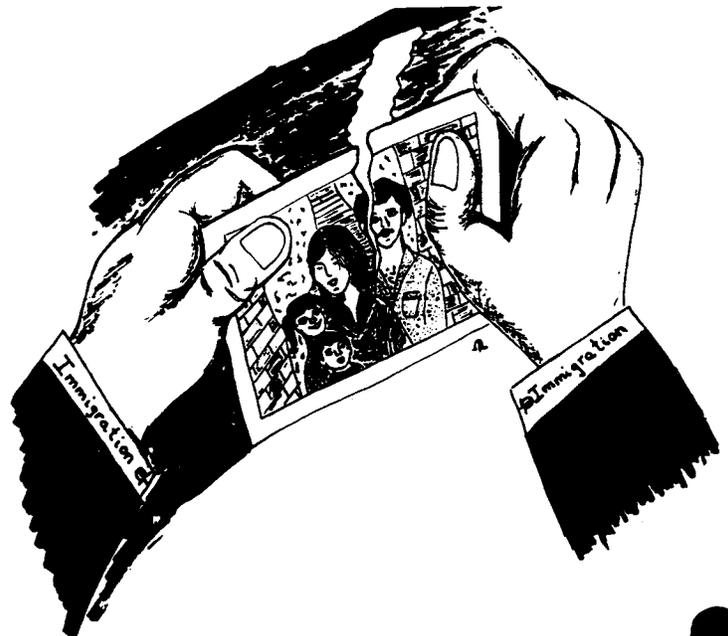
of a Canadian resident". The Court said that this was so restrictive that it fettered the discretion that immigration officers must exercise under S.114(2) and deprived refugee claimants in the backlog of their right to a fair review.

The statistics to date show that the Federal Court was right. Of the 23,032 cases processed in the backlog as of March 2nd, 1990, only 1,251 were accepted in the front-end humanitarian and compassionate review compared to 21,781 refusals. Only 4 were accepted in the back-end review.

Impact On Peoples' Lives

More unnecessary suffering is being caused to those who now wait in the backlog. The new uncertainty about their fate means more anxiety and fear about what will happen if their cases are eventually rejected. Some people have established new lives here. What will the options be for them?

The only just option for the government is to immediately bring in special measures to allow those in the backlog to stay in Canada and be reunited with their families as soon as possible. The injustice has gone on far too long. As for the 56 people who were illegally deported and the 1,787 who "voluntarily departed", they must be offered the chance to return to Canada at government expense. ■



Claimants in the Backlog Organize

Persons trapped in the backlog speak of their dreadful fear of finally being rejected by "the system". They fear the system almost as much as they fear returning home. Part of the fear stems from their not understanding the system and not knowing how to influence it. They feel powerless against a system that will decide their fate and the fate of their loved ones.

Enduring this situation over years is bad enough for anyone, but an additional factor is that most suffer this reality in total isolation. Many are afraid to speak out because they fear doing so might effect their case in a negative way.

Refugee Update recently interviewed claimants in the backlog who are shaking off the fear and organizing themselves. Maria G. is one of them, from Guatemala. Maria J. is another, from El Salvador. They have been in the backlog for three years, not knowing if they will be allowed to remain in Canada and kept apart from their children back home. With the active support a local resettlement agency, their new organization, the Hamilton - Wentworth Association of Refugee Claimants, is working to defend the rights of persons trapped in the backlog.

Refugee Update: What is the purpose of the organization?

Claimants: This organization is meant to respond to all those who are refugee claimants in the backlog. For example, if one of us has a problem we will not be alone but will have the association behind us to respond and in that way bring more force to support us.

Refugee Update: Tell us about how you began?

Claimants: We began to organize through our

English classes. Knowing the language is important in this country. But as well, at classes you can meet other refugees and get to know their realities. You have to start talking, meeting, exploring each other's problems, and thinking of making an organization that could respond to people's problems, that can have power in front of immigration instead of just going individually, so that at least they must listen to one more. For example, if the number of protest letters send to the government increases, then they will be forced to act positively, so those who now do not have refugee status one day will have it, and they will be voters.

Before, this was just an idea, but now it has become an organization. The thing is, we have to move ahead so others will know this organization can help in ways that some cannot. Like giving orientation to others in the "backlog" and influencing the government using the contacts we have. This is important. With our contacts we can join with other people and with this help, we can solve more problems and the organization can continue to grow. We have about 40 paid members and about 140 participants.

'Give us back our children' refugees tell government

By JOHN MENTEK
The Spectator

BROKEN FAMILIES should get priority when refugees are considered for landed immigrant status, says Inez Rios, secretary of the Hamilton-Wentworth Association of Refugee Claimants.

"We are not asking for an amnesty," Ms Rios said last night at a candle-lit vigil in Gore Park. "We want the government to give priority to families with children that have been left behind."

About 100 people attended the vigil, mostly refugees from Central and South America who had to leave children behind when they fled their countries. They want the immigration department to hear their cases first, so their families can be reunited.

"It's like a million years I haven't seen my daughters," said Miriam Garcia, 29, who fled to Canada with her husband, Carlos, in 1987. "I cry a little bit for them every night."

The Garcias left their native Guatemala after three attempts

were made on Mr. Garcia's life. They left behind two daughters, aged 12 and 9, to live with a grandmother.

"There was no chance to get them out with us," he said. "We left with no passports. We didn't know what would happen to us; we didn't want to risk our children, so we left them with their grandmother."

Many refugees tell similar stories, and are bitter Canadian immigration authorities have kept some families waiting as long as five years before granting them landed immigrant status, which permits their children to join them, said Ms Rios.

Hilda Morales' 14-year-old daughter lives alone in the city of Carasulia in El Salvador.

"She stays in my house, or goes to live with my sister sometimes," said Mrs. Morales, whose father and two brothers have been killed in the war there.

"I cry, I feel sick every day, every day," she said.

Mrs. Morales has been in Canada since September, 1987, but her refugee status is still not resolved.

Hamilton Spectator February 17, 1990

Refugee Update: What are your current objectives and what actions have you taken?

Claimants: The biggest problem we are attacking now is family reunification, gaining decisions for people in the "backlog" and in general, supporting refugee claimants. We held a vigil which was our first public action and it was very important for us. Now we are trying to increase the awareness we raised through the vigil. We also write letters to the government.

We are going to continue this process, contacting members of Parliament. Our campaign is to send out the newspaper article from the vigil with our

demand that they take action. And we are connecting with church organizations and with lawyers.

Refugee Update: How do you feel about your success so far?

Claimants: All of this has been very good because Canadians working for refugees feel they are working alone, but now they can see us working with them. They support us because they know we support them.

Until now we have not been looking for support from other community groups, because we want at first to consolidate and solidify our organization for a time, but our ultimate goal is to grow and gain greater community support.

Refugee Update: What would you like to say to other people in the backlog across Canada?

Claimants: Our message to other refugees in the same position as ourselves is that we have to work together for family reunification. There is hope for this because our unity gives us more

...our unity gives us more strength and enables us to achieve some real gains, like allowing our children to join us, and like speeding up the refugee process...

strength and enables us to achieve some real gains, like allowing our children to join us, and like speeding up the refugee process.

Contacts between provinces and between refugee organizations give us more power, which mean the Minister has to listen to us. Then the refugee claimants for the first time has the opportunity to have their own voice and to be heard with respect for their problems. Until this moment, the other groups that speak on these issues, sometimes really do not know very well how refugees feel and think.

Most of us are from Latin America, but we believe that people from other countries, share the same problems we do, maybe not exactly as we do but clearly they too are suffering. And, of course, so many of them like us do have the right to be protected here. ■

CCR Meets Minister

On January 17, members of the Executive Committee of the C.C.R., met with Barbara McDougall, Minister of Immigration, Joe Bisset, Executive Director of Immigration and Mike Molloy, Director-General of Refugee Affairs. Traditionally, the CCR Executive and Immigration Minister of the day have met fairly regularly, and it was not unusual for the Minister to come and address at least one of the CCR consultations each year. This ended with the introduction of the plans for the new refugee law.

Both sides are now looking for a rapprochement. In this regard, the tone of the meeting was constructive and cordial, ending with a statement from the Minister that she wanted to hear from us, and our hope that the lines of communication can be kept open.

The CCR's theme was essentially, "Let us tell you how things are at the grassroots." The topics included the slow progress of the backlog clearance programme, family reunification of backlog and C-55 cases, levels, overseas selection, the need for quick processing under the Women at Risk program, and the many technical inefficiencies in the process that making people suffer.

On the issue of family reunification in the backlog, it was agreed that Mike Molloy's office would follow up a small number of cases which we would identify to see why the system is working so slowly. The suggestions to move the backlog faster were viewed relatively positively and referred to Joe Bisset for study.

The possible shifting focus of sponsorship (given changing world conditions) was touched upon, and the Minister expressed her preference for the private sponsorship program, but stated that she did not want the number of government sponsored refugees to decline.

The meeting was low key. Contentious issues such as the appeal, the Court Challenge, and "safe third country" were not dealt with. Overall, it was viewed as positive in the sense of opening the door to further communication, and setting up some concrete suggestions for responses.

Refugee Rights Day: April 4th, 1990

The Backlog: A Call To Action

It's Time To Do The Right Thing !

A backlog of 120,000 people was caught in a trap when the Conservative government brought in its new refugee law. On December 28th, 1988 Immigration Minister Barbara McDougall promised these people that their cases would be resolved within two years. Since then:

- Only 15% of the cases have been decided, leaving the vast majority of people wondering whether they will ever be accepted and reunited with their families;

- NGOs, churches and refugee advocates have criticised the government's programme as unnecessary, inefficient and cruel;

The Parliamentary Standing Committee on Immigration has condemned the government's programme, predicting it may take up to six years to complete;

- The Federal Court has recently declared the programme unfair and illegal.

The government must immediately address the plight of the people in the backlog by implementing special measures to allow them to remain in Canada and be reunited with their families as soon as possible.

A Wave Of Messages From Coast To Coast

On April 4th, 1990 take these 4 steps:

1. DRAFT a 15 word message about the backlog;

2. CHOOSE words from this list:

Unfair Illegal Hardship Family Separation

Special Measures Immediate Humanitarian Now

Cruel Unnecessary Waiting Despair 6 Years

2 Year Promise People Refugees Loved Ones

3. CALL CN/CP in your area to send your message by Public Opinion Message (POM - \$3 for 15 words) to: The Rt. Hon. Brian Mulroney
House of Commons
Ottawa K1A 0A6

4. SEND a copy of your message to the Canadian Council For Refugees. A sampling of messages will be published in the next Refugee Update.

Your message counts ...even after April 4th.

FROM

Name:

Address:

Tel:

My Message

Send a copy of your message to:
Canadian Council For Refugees / Working Group On Refugee Protection
4285 de Maisonneuve ouest
Montreal, P.Q. H3Z 1K7
Fax: 414-939-7156

Copy/Distribute/Post

The New Law:1989 In Review

After years of often bitter opposition, the new refugee determination system was implemented just over a year ago. Refugee advocates predicted that the system would put genuine refugees at risk. The government assured Canadians that it was fair. We can now begin to assess how the system is working.

It is safe to say that the new law is not as

Government officials argue that the screening is necessary in order to protect the system from massive abuse by manifestly unfounded claims.

bad in practice as many feared it would be. At the same time it is not nearly as good as the government suggests. There is a high acceptance rate. Seventy-five per cent of the applicants are actually accepted as refugees. But there are many serious problems with the new system which have resulted in the rejection of many genuine refugees.

The Screening Hearing: No Credible Basis

The new procedure has two separate stages. The first, the so-called screening hearing was designed to eliminate unfounded claims. Critics of the law argue that all refugee claimants should have a full hearing before the Immigration and Refugee Board. They argue that it is too dangerous to screen out any cases at this stage, especially when one considers that a person denied at the screening hearing is subject to deportation after 72 hours. Government officials argue that the screening is necessary in order to protect the system from massive abuse by manifestly unfounded claims.

After one year of operation, it is clear that the screenings are not achieving very much. Only 550 people have been found to not have a credible basis for their claims (another 20 were found ineligible), less than 5 per cent. Yet, this stage in the process takes massive amounts of resources and time. Many people are beginning to wonder if it is really worth the effort and expense to have this first hearing at all. A significant amount of resources are being used to screen out a very small number of claimants. As well, the extra

hearing has already developed a large backlog.

Moreover, there are serious concerns about the fairness of the screening hearing. It is supposed to test whether or not there is "any credible or trustworthy evidence" that "might establish a claim". The hearing is held before an immigration department adjudicator and a Refugee Board member. Refugee lawyers and advocates are deeply concerned that in many cases the decision-makers are applying the wrong test and that serious errors are being made.

The test is a very technical one, requiring understanding of technical legal language and the ability to apply legal concepts. Since many of the adjudicators and Board members are not lawyers and do not have legal expertise, it is often very tempting to actually decide at this first stage whether or not the person would qualify as a Convention Refugee instead of merely asking whether or not there is "any credible evidence". In two recent decisions on reviews from refusals at the screening hearing, the Federal Court found that the Adjudicator and Board Member had misapplied the credible basis test by applying too high at the credible basis hearing. The result, of course is that genuine refugees could be turned

Refugee lawyers and advocates are deeply concerned that in many cases the decision-makers are applying the wrong test and that serious errors are being made.

away and deported summarily. In two other decisions, the court held that the decision-makers had erred because they had actually decided at the screening hearing whether or not the applicant qualified as a Convention Refugee. Refugee advocates wonder how many more of the 550 refusals were wrong in law, and how many genuine refugees have been denied a full hearing.

The "Appeal" Isn't Real

The situation is exacerbated by the fact that appeal rights after the first stage are limited to a written application for leave to apply for review to the Federal Court on narrow legal grounds. Even if an application is filed, people can be deported

before the case is decided. The new law goes even further and denies refugee claimants who are refused this leave any recourse to the Supreme Court of Canada. After one year of operation, lawyers who practice refugee law have found that the very limited review is of no real protection against arbitrary decisions refusing refugee claimants at the screening hearing.

Thus, given the restricted appeal rights, the decision made by the adjudicator and Board member at this first stage are, for all intents and purposes, final. Given the apparent lack of understanding that many of the adjudicators and Board members have as to the meaning of the credible basis hearing, it is clear that the appeal rights provided for those refused at this stage are grossly inadequate and that many genuine refugees will be refused at this stage and put at risk.

If the claimant gets through the first stage and has a hearing before the Refugee Board, then according to the latest statistics, he/she has an excellent chance of being accepted. Of the 5,306 decisions rendered as of December 31, 1989, only 562, were rejected compared to 4,744 accepted. But the system does make mistakes. And there is a good deal of unevenness in the processing of refugee claims by the Board at the second level. Many lawyers believe that the likelihood of success or failure depends to a very large extent on the Panel that hears the case. Some Board members tend to take a very hard line and reject many cases. Others are very generous in their application of the Convention Refugee definition. This, of course, is inevitable in any administrative tribunal which has to make decisions, but many advocates believe that this situation is exacerbated

by the way Board members were selected by the government. Many of the members were chosen not because they were qualified and had the necessary experience and understanding in refugee matters, but rather because they had the right type of background - either they came from the right type of ethnic organization or had good political connections with the Conservative government.

This closed selection process gives rise to serious concerns about the quality of some of the decision makers. Thus, even though the acceptance rate is high there have still been a large number of cases that have been rejected and many of those could well have been legitimate cases. If a person is rejected at the full hearing, he/she has a right to "appeal" to the Federal Court. However, once again this is only an application for leave to appeal and the Court has discretion to deny leave even in worthy cases. Moreover, the grounds of review are very limited and do not allow a full appeal on the merits. To date only about 70 cases have been granted leave out of the 562 rejected. This is a relatively low rate of acceptance of legal applications and indicates that an appeal of a negative decision to the Federal Court is not a real safeguard against mistakes made at the full hearing.

Refugees Are At Risk

For this reason the protection work done by organizations like Amnesty International, Vigil and the United Nations High Commissioner for Refugees is a vital aspect of the entire process. To date these organizations have been successful in convincing the Minister to intervene in a significant number of cases.

Top Twelve Countries (1989)

Countries	Claims	Withdrawn	Pending	Denied Hearing	Hearing Reject	Hearing Accept	Acceptance%
1. Somalia	2095	8	1162	3	25	897	97%
2. Lebanon	1998	42	1038	31	100	787	86%
3. Sri Lanka	1966	4	907	5	45	1005	95%
4. Iran	1029	9	555	5	38	422	91%
5. El Salvador	1008	14	564	7	65	358	83%
6. China	625	18	412	24	41	130	67%
7. Poland	473	35	253	40	32	113	61%
8. Czechoslovakia	356	4	188	2	38	124	76%
9. Guatemala	280	6	165	5	12	92	84%
10. Pakistan	276	22	158	19	5	72	75%
11. Nicaragua	218	1	160	3	15	39	68%
12. Ghana	188	9	98	39	19	23	28%
Other	10512	172	5660	183	435	4062	87%
TOTAL	13537	392	6268	570	562	4744	76%

Source: Immigration and Refugee Board/Compiled by Jesuit Refugee Service/Canada

These interventions demonstrate that there are many cases, both at the first level and at the second level, where mistakes are being made. The appeal provisions in the determination procedure are clearly inadequate to provide sufficient safeguard in all cases. But this discretionary type of final recourse to the Minister is no real protector against errors and only highlights the need for a real appeal on the merits. One final concern. The new refugee determination system was designed to be fast and efficient.

Experience over the past year is making it clear that it is not nearly as fast nor as efficient as its designers believed. As a result there is a growing backlog developing in the new system. 21,745 people actually made refugee claims in Canada in 1989, but only 13,537 made it to the Board. The balance of 8,208 are in a new backlog (called the "front log"). This is putting more and more pressure on the government to consider the "safe third country option" as a way out of the mess. The

debate is already raging within the immigration department and the Minister's office as to whether or not "safe third country" will be imposed. To date the Minister has resisted demands for the imposition of a limited form of "safe third country", but as the system becomes more and more backlogged, pressure on the Minister and her officials grows. Only time will tell whether the government will succumb to the pressure and use the "safe third country options" as its solution.



Conclusion...

For refugee advocates the first year of the system has pointed out its many flaws. The screening hearing is still dangerous because of the lack of consensus as to the real meaning of the "credible basis". This is exacerbated by the lack of experienced lawyers, competent translators and the lack of competence of decision makers in certain cases.

The refusal at the first stage is extremely dangerous because of the lack of any effective appeal or mechanism for delaying deportation.

The full hearings procedure is certainly a gigantic improvement over the old system at the Board. This system is not as non-adversarial as many would have liked but is certainly far superior to the old system. The high rate of acceptance is a good sign but there are many cases in which deserving refugees are denied acceptance because of Board members who lack expertise and

understanding in the application of the refugee definition. The lack of an appeal on the merits in these circumstances makes it more difficult to rectify errors. Clearly it is dangerous to rely on the Minister to intervene in all cases where errors are made. Thus, in order to improve the system we need clear understanding of the meaning of the credible basis test, more intensive training of adjudicators and Board members in that area, better selection criteria for Board members, and an improved appeal mechanism. ■

Court Challenge Update:

On March 12th, 1990 the Federal Court of Appeal of Canada rendered its judgement on the right of the Canadian Council of Churches to challenge the new refugee law on behalf of refugee claimants. The Court said that in general the Churches do have the necessary "standing", but went on to severely restrict that right in this particular case.

The Court set out this test:

"Public interest standing will be allowed only where there is not directly affected group which could itself raise a challenge to the legislation or where, although such a group exists, no member of the group is thought likely to do so..."

It went on to say that many of the issues raised in the Churches' action could be raised by refugees themselves and that such cases had already come forward.

The Churches had argued that even though individual refugees could take actions on particular issues that affected them, the law needed to be challenged in its totality because it is "fundamentally constitutionally flawed". They argued that their case was capable of mounting such an integrated attack but the Court disagreed.

In the end, the Court said the Churches could proceed only on two real issues: the limitation on the right to counsel created by the speedy deportation provisions of the new law and the legality of the provisions allowing the return of claimants to the United States while awaiting their inquiries. These are important. However, other key issues like the Safe Third Country rule, screening hearings and lack appeal cannot be raised.

There are a number of options open to the Churches. They can appeal the decision to the Supreme Court. They can proceed with the challenge on the issues allowed. They can direct their resources into individual cases that raise the key issues.

The government should have allowed the case to go ahead in its entirety. Now there will be even greater time, energy and expense required to prove that the new law violates refugees.

Analysis**Migration: Issue Of The 90's**

Are you surprised to hear that one hundred million people are on the move. Don't be! They have fled their own countries because of poverty, oppression, persecution and war. And the pressure to flee is only going to get worse.

Poor countries of the South will face more and more exploitation from the rich of the North. Even the meagre aid that now flows from North to South will be choked by the East West realignmentmentcially starved countries of Central Europe attempting to regenerate their economies with Western money.

It's not a pretty picture, as millions of homeless people face increasing barriers to their search for a home. More and more countries are forming into power blocks (Europe, Canada/U.S./Mexico), and harmonizing their immigration policies to keep out the poor.

Canada's Trend: Quality Control

How is Canada responding to these changes in international relations and movement of people?

First, it classifies people into good and bad. Those that Canada screens in its offices overseas are good. Those that try and come here on their own are bad, or more commonly referred to as "illegals".

Second, it takes steps to keep the bad people out. The government's new refugee law was supposed to do this. But it is not living up to expectations. In 1989, 21,745 refugee claimants came to the border. That's down a bit from last year but certainly not what the government had hoped or expected.

D.P. Hall, director of investigations, detentions and removals for immigration, makes the case in an internal memo that the original deterrence objectives of the new law have been eroded gradually, as "little by little" policies have been amended and interventions by lawyers and the Immigration Minister's office have increased (*Globe and Mail*, March 16th, 1990). Hall continues that, as a result, by the third quarter of 1989 "intake numbers began to overwhelm the refugee determination process, the clear signal for any person masquerading as a refugee to try to get into the system".

The government has started to react already. In a recent telex to its visa offices it ordered a reallocation of resources so that "by spending less time on immigrant cases, visa officers can pay more attention to deterring illegal immigrants..." (*Toronto Star*, March 15, 1990).

As well, the push is on for the government to implement the safe third country rule. Right now studies on its impact are under way within the immigration department. It almost seems inevitable that a decision in favour of implementation will be made very soon.

Third, the government takes steps to let in more and more of the good guys. Recent statistics show that Canada is taking more and more investors. In 1986, 23 investors were accepted which accounted for .02% of overall immigration of 99,219. In only the first 10 months of 1989, 1838 investors were accepted accounting for 1.11% of overall immigration of 165,710.

The government recently prepared a report that showed the net worth of all classes of immigrants to Canada: investors are worth over \$1.5 million dollars each...refugees a mere \$800!

Fourth, keep laying the groundwork with the Canadian public for tougher and tougher refugee policies. One example is the new study by the Health and Welfare department.

Although there has been talk over the past few years about Canada's need for more people (many demographers suggest we need up to 250,000 a year), there is a new trend in the air. The study, entitled Charting Canada's Future, calls into question the economic benefits of increased immigration and states that "it is not so much the numbers of people that will affect Canadians' economic well-being as their skills and the effective deployment of those skills."

In a sinister graph entitled "Where Have All The Trees Gone?" the report considers different levels of population growth in terms of "trees per person" suggesting that "the potential impact on this very Canadian resource becomes most striking". Playing on legitimate concerns about the environment, the subtle

message of the report is unmistakable: too many unskilled immigrants is not good.

This is the kind of information that is now being used to support the proposition that its time again to rethink how many people, including refugees, we can let into this country each year.

And Canadians are listening. Recent public opinion polls show that Canadians are still afraid of immigrants and refugees. Forty-nine percent of Canadians agree with the statement that "Immigrants take jobs away from Canadians." Thirty-nine percent agree that "Immigrants are a drain on our health care system." Thirty percent (60% in B.C.) agree that "Immigrants are driving house prices up".

They listen because they are concerned for themselves and their families. Free trade means a lot of jobs are on the line. So-called deficit reduction means cuts to basic social services, like health care, cause increasing anxiety about the future. The GST is going to mean less disposable income for necessities like housing.

In short, people are angry and they are looking for someone to blame.

Refugees/Advocates

Meanwhile, the refugees and advocates working with them just keep plugging away. But for how long? How many court challenges? How many trips to the detention centre? How many calls to the backlog offices? How much more...with fewer and fewer resources?

This is where refugee advocates have an advantage. There is an amazing amount of energy that goes along with doing something that matters. And this work matters. Certainly it matters because of the refugees who are helped. But also because it is done with refugees. More and more the movement must be towards a clearer partnership between refugees and refugee advocates. That is what will really matter most. ■



8 Steps For Protecting Refugees (or What Toronto Vigil Action Has Learned The Hard Way!)

Step #1. JOIN WITH OTHERS and meet bi-weekly. It helps to have (para)legal, settlement workers and ethnic members in the group.

Step #2. INFORM immigration lawyers, legal clinics, refugee and ethnic groups of your advocacy work.

Step #3. INTERVIEW the refugee claimants who come to you for assistance.. Ideally, 2 members of the group do the interview. Preferably one member has some knowledge of the country of origin. Make sure that the refugee brings: a translator, if need be; a transcript of the hearing, if possible; reasons for the Board's refusal; and background material on his country.

Step #4. FILL OUT the questionnaires which Vigil will gladly provide. The following information is needed:

i) Full name, date of birth, country of origin, Immigration file numbers, point and date of entry into Canada, dates of hearings and notice of rejection, name and phone number of lawyer(s), date leave to appeal filed and results, detention situation, bond situation and name of bondspersons with phone number.

ii) The reasons the refugee fled and fears to return. Get accurate titles of political, religious or tribal group, dates of harassment, detention, torture (85% have been tortured and this is a question which needs to be handled especially delicately, as it is painful for the person to discuss.) Has (s)he been examined by a doctor to corroborate the torture? Would (s)he agree to do so? (we send refugees to Canadian Centre for Victims of Torture, 193 Yonge St., Suite 501, as a specially trained doctor is needed).

iii) Did the translator speak the language well? Did anything happen at the hearing which hindered the testimony? Have others in the refugee's family or group been persecuted? Get details.

iv) What were the reasons the Board gave for refusing the refugee's claim and how does (s)he answer them?

v) Signature of the refugee on a release of information form.

Step #5. DECIDE AS A GROUP whether or not to take on the case and what action is called for.

i) **Prioritize** urgency of cases by possibility of deportation to country of origin.

Example: Most Urgent Type... A Ghanaian (Canadian Government doesn't trust them), refused at credibility hearing (deportations generally done more rapidly), with leave to appeal refused (all legal resources exhausted), detained and bond posted (means that bondspersons can turn him/her in and there is more likelihood of a second detention), has travel documents (means (s)he can be removed from the country very quickly), came directly from Ghana (and so will be deported directly there).

ii) **Discuss** cases in order of urgency. The group usually accepts the recommendation of the interviewers. But often group members raise points that have been missed.

Step #6. DECIDE what action is to be taken and who is to do it, when...

i) In the case of a person whose Convention refugee claim is not strong, but who is at risk, an association of persons from the refugee's ethnic group could be invited and instructed to write to ask for a Minister's Permit on humanitarian and compassionate grounds.

ii) In the case of imminent deportation: one or two members of the group prepare immediately a letter to the Minister of Immigration. Include all information, highlighting the key reason for appeal, e.g., faulty translation. Promise a fuller account and documentation later, should that be needed. Note that this request for the Minister to stay deportation is urgent. Also request a review of the case to grant a Minister's Permit for the person to remain in Canada. The signer gives his or her own address and phone number as a contact.

FAX the letter and release of information to:
(819) 994-0448 Attention: Mr. R. Gordon/With this address on the letter:

The Honourable Barbara McDougall
Minister of Employment and Immigration
14th Floor, Place du Portage, Phase IV
Hull, Quebec
K1A 0G9

Phone Mr. Gordon at (819) 994-0037 in a couple of days and ask if he has received the full letter and what action has been taken. If the Minister has ordered a stay of deportation, phone the



Expulsion Officer to whom the refugee was to report for deportation and confirm that the stay has been received. Keep after both parties until they communicate. (Communication is one-way only, from Ottawa down). Of course, let the refugee know any news. And keep in touch until a Minister's Permit is granted.

iii) In cases where a deportation date has not been set, or in which the Minister asks for further documentation, one or two members of the group prepare and mail a brief to the above address. This gives more detail and has appended such documentation as affidavits with examples of faulty translation, or a doctor's report corroborating the account of torture, or evidence of persecution of family members or other member's of the refugee's group, or pertinent material from Amnesty International, Refugee Documentation Centre, ICCHRLA, UN, media reports of human rights' violations in the refugee's country of origin.

This action can be followed up by inviting many other people to send POM's or letters on behalf of the refugee to Barbara McDougall, House of Commons, Ottawa K1A 0A6 (613) 994-2482.

If there are still no results, you can try demonstration and/or media coverage of the case.

We have not yet been driven to the final action of physically barring deportation by lying on the runway!

Step #7. KEEP RECORDS, especially if the number of cases increases. VIGIL has a flow-chart so that we can see at a glance who we are talking about and how the case is progressing.

Step #8. KEEP IN TOUCH. Let Refugee Update know of results and problems. ■

EVENTS

April 4th, 1990

National Public Opinion Message Campaign To Brian Mulroney About The Backlog (see inside p.5)

April 5th, 1990

Montreal: Les Droits Humains Et La Protection Des Refugies/es, Call Ligue Des Droits Et Libertes (514) 527-8551

April 7th, 1990

Toronto: Second Annual Rights For Refugees Dance at 8:00 P.M., St. Paul's Church, 83 Power Street, Toronto (Best dance of the year award 1989!).

May 28th, 1990

Toronto: Conference on Canada/U.S. Refugee Policy at York University.

June 1-3, 1990

Toronto: Canadian Council For Refugees Consultation at York University.



Refugee Update

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