

# Refugee Update

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

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## LAW REFORM COMMISSION DRAFT REPORT

"Two-year wait recommended for seeking resident status: Law body offers study on refugee determination."

This March 10th headline greeted readers of The Globe & Mail and those interested in refugee issues. The draft report of the Law Reform Commission of Canada's study of the refugee determination system had been released to the Globe's immigration reporter, Estanislao Oziewicz, who seized on the Commission's recommendation that successful refugee claimants be required to wait two years before being allowed to apply for landed immigrant status.

Two years in preparation, the Commission's report is a comprehensive review of Canada's refugee determination process. However, the federal government's budget in February stopped it dead in its tracks with the announcement of the Law Reform Commission's elimination.

Though the Commission's report will remain only in its present draft form, it nevertheless is already exercising an important influence on policy discussion, as the government considers changes to the system and the two opposition parties work at defining their own immigration and refugee policies. As Peter Harder, Associate Deputy Minister of Immigration, put it, the Commission's study is an important contribution to the public debate on policy (G&M, March 11, 1992).

## What's In, What's Out, What's New?

The Commission's assessment of the refugee determination system is wide-ranging and thorough. At its heart is a clarion call for a sharper distinction between Canada's refugee policy objectives and the objectives of immigration policy.

Claiming that it "is no longer possible to meet [the obligation of dealing with refugee claimants on the merits of their claims] within the context of our general immigration policy, particularly at the point of admission or where removal is contemplated", the

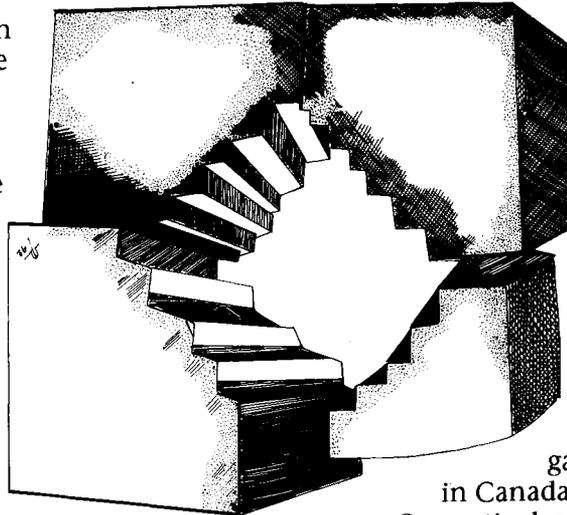
Commission recommends that immigration concerns be addressed only after a person's claim has been examined.

As it is now, a determination is made on a claimant's immigration status before his / her claim is heard. Calling for the reversal of this sequence, the Commission argues that, "More sympathetic consideration might reasonably be accorded to persons found to be Convention refugees than is forthcoming when such persons are seen primarily as illegal immigrants or as visitors present

in Canada without proper authorization."

On particulars of the current system the commissioners are often decisive and unanimous in their call for reforms. For example, they advocate the elimination of the credible basis step, characterizing it as a waste of resources and serving no useful purpose.

As the Globe headline and a subsequent editorial a couple of days later indicate, the media picked up on the recommendation that successful refugee claimants be required to wait two years before being able to apply to



become permanent residents. During that time they would not be able to have their families join them.

The principal researcher for the Commission, Professor Guy Goodwin-Gill, decried the recommendation on family separation in a letter to the editor of the *Globe*. "Would you deny a refugee child the right to be joined by a parent or relative? Would you deny any refugee the right to be joined by their spouse and minor children? The protection of refugees involves more than not sending them back to persecution or death; it is also about human dignity and integrity, about Charter rights, and about the obligations to children and the family that we have freely developed and accepted at the international level."

Less widely reported is that the Commission was not unanimous on either the recommendation regarding a two year temporary residency for successful claimants or the family separation recommendation. As the minority on the Commission put it, "The study we have conducted has gathered no empirical evidence to support the hypothesis that early eligibility for landing may attract persons of weak or unfounded refugee claims. The right of those who are recognized as refugees to rebuild their lives on a stable basis is too important to be put in question under the untested pretext that the system is being abused or that it is incapable of reaching correct decisions on individual claims."

As for the recommendation concerning delaying family reunification, a minority of the commissioners found it unacceptable, even in the case of people granted temporary asylum in Canada, to keep them separated from their family. And for those commissioners who rejected the idea of temporary asylum, they felt that the current system of family reunification once landing is granted should be maintained.

In addressing complaints of poor decision-making among Immigration and Refugee Board (IRB) members, the commissioners call for a number of changes including a system for choosing members, clearly established criteria for appointment to the Board, regular training for members, and non-binding guidelines to assist board members in decision-making.

In another far-reaching recommendation, the Commission has suggested that IRB panels should have one member only, instead of the present two-member panels. This represents a significant backing away from what even the Commission acknowledges to be a political commitment to give the benefit of the doubt to claimants by requiring unanimity in negative decisions. However, the commissioners have allowed administrative and cost-benefit considerations to win the day, arguing that the two-member panels require a more complex scheduling process, and are a less efficient way of using available resources to deal with the current case load.

Recognizing that moving to a one-member determination panel will require some sort of review mechanism, the Commission tackled the contentious

issue of an appeal. Refugee-rights advocates who have been calling for a full appeal on the merits of a claim will be disappointed by the Commission's opting for a system of internal review of negative decisions. (The Commission did not give final approval to this recommendation prior to being abolished.)

The Commission rejects a full appeal principally out of fear that the administration of such a system, given the volume, "would introduce unacceptable delays that would invite abuse of the appeal procedure." The Commission's proposal is a compromise between the current system of pursuing leave to appeal to the Federal Court and the full appeal that advocates have been calling for since the introduction of Bill C-55.

The review would limit itself to the record of proceedings from the hearing, concentrating on errors of law or fact that are present in the record. Such a review would also be open to consider new evidence that might have changed the decision had it been available at the original hearing. The review can be requested either by the government or by the claimant.

The Commission is divided on the question of what body should carry the review out. A majority of the commissioners say it should be the Chairperson of the IRB, while a minority argue that a separate section within the Refugee Division should be established to conduct reviews. As for how many people should be involved, the Commission is again split: the majority holding for a single member review panel, and the minority for a three-member panel. Those rejected at the review level should still have recourse to the Federal Court of Appeal, but as now only with the court's permission.

There's a certain symbolic flavour to the government's decision to nix the Law Reform Commission just as it was preparing to release its study of Canada's refugee determination system: a system born amidst intense controversy, the subject of on-going scrutiny and criticism from many quarters (unfair, too liberal, harsh), and obviously dealing with an issue of considerable political sensitivity to the current government. As with so many refugees and claimants, the Commission has been silenced, leaving as a kind of still-born legacy a nearly completed study of how we as a nation live up to our commitment to protect refugees, who are so vulnerable to exclusion, abuse, and manipulation.

There is much to take issue with in the Commission's study and recommendations — the refusal of a full appeal, one-member panels, agreement with the safe-third country policy, their proposed harsh treatment of families of refugees —, but the study is a welcome contribution to the debate that is shaping up on the future of how we will treat refugee claimants.

As the Commission was itself not entirely unanimous in all its recommendations, so also are we as a country not agreed on how best to deal with refugees. However, the Commission has clearly set the terms of the debate, in stating that the issue of refugees is not an immigration question, it is a humanitarian one of protecting the rights of people who are in danger.

## REFUGEES AND DETENTION

In recent months, enforcement and removal practices have clearly been on the increase. According to a statement released by the Minister of Immigration on April 7, 1992, "Last year EIC removed over 4,400 people from Canada, 1,600 more than were removed in 1990, and 2,000 more than were removed in 1989." Finding removals necessary for "the integrity of our immigration and refugee determination system", the Minister reported that "during January and February of 1992, a total of 1,202 persons were removed, already half the total for all of 1989."

As a result, the number of people being detained at immigration detention centres has also increased. According to Peter Harder, Associate Deputy Minister of Immigration, in the Toronto area alone resources devoted to investigations and intelligence, detention and removals increased by 37% in 1991. Warrants have been issued for 5,844 refugee claimants who have allegedly gone underground.

In some regions the detention issue is a fairly small one due to the limited numbers of detainees. However, in other parts of the country, such as Toronto, it is of much greater concern as reports of unfair detention practices, arbitrary arrests, and poor conditions in the detention centres have become more prevalent. Because immigration detention centres lack visibility there's a lack of accountability to the public for their conditions, and for the way removals are carried out. There is also no official governmental body that regularly monitors the conditions of detention centres in Canada.

As a result of these reports, a Sub-committee on Detention was formed in 1990 under the auspices of Toronto Refugee Affairs Council (TRAC). This Sub-committee has been attempting to deal with critical issues affecting the human rights of those in detention. In the fall of 1990, the Sub-committee began discus-

sions with Immigration officials, which resulted in the establishment of a visitor programme in which a limited number of TRAC members were officially designated as visitors, and were given permission to meet with detainees inside the centres, on a one-to-one basis when necessary.



In recent months, with the number of deportations increasing and more arrests and detentions, there has been renewed concern about detention centre conditions. Once more the Sub-committee has entered into a new series of discussions on a number of issues with Immigration officials responsible for detention in Ontario.

For example, the Sub-committee has heard numerous reports of people who, upon arrival in Canada, are detained and then advised by Immigration officials that they have no chance of winning their claims. They are kept in detention for a long time, and eventually they withdraw their claims even before getting legal advice.

In other instances, people are being given misleading information about their cases and are being told to come to Immigration offices for one reason, only to be arrested and detained. In still other cases, people subject to removal do not receive their call-in notices, through no fault of their own, and they find themselves being arrested and detained without warning.

In addition to these practices, the Sub-committee on Detention has become alarmed about living conditions inside the detention centres. There is concern that some of the basic minimum standards established by the United Nations regarding detainees are not being met. For example, women are not being held in completely separate areas from men, and they are under the observation of male guards. The minimum U.N. standard of fresh air and outdoor exercise time is not being regularly observed. General overcrowding of the facilities is limiting freedom of access for detainees to public telephones. And there are inadequate facilities for legal counsel to meet privately with detainees.

The TRAC Sub-committee on Detention hopes to deal with these issues as well as several others through its discussions with the Ontario region Immigration representatives. In light of the fact that there is currently no national body monitoring detention centres in Canada it is hoped that, if successful, the Toronto initiative can serve as a model for other regional Immigration offices to follow.

### Refugee Determination System: New Arrivals and Hearings Opened through February 1992

Total Arrivals	7,060
Port of Entry	3,206
Inland	3,854
Hearings Opened	6,463
Cases Awaiting Opening	597
Average Monthly Delay in Opening Cases	2.9
Atlantic Provinces	.9
Quebec	1.5
Ontario	3.8
Prairies	2.0
British Columbia	.7

# PRIVATE SPONSORSHIP PROGRAMME REVIEW: AN UPDATE

It is now one year since the consultation on Private Sponsorship Review, which took place at the Spring consultation of the Canadian Council for Refugees, in Victoria. With the passage of time, however, the future of the programme is no less clear. Few are predicting that the government will end the programme, nevertheless, it is not yet known what shape it will take.

Over the past year and a half, the private sponsorship programme has been undergoing a process of review initiated by the government. One of the objectives of the review was to develop improved guidelines for sponsoring groups. To this end, a lengthy study was conducted by means of questionnaires, in addition to a sample of more in-depth interviews of refugee claimants, sponsoring groups, and government officials. This research led to the Private Sponsorship of Refugees Consultation Report, which was the basis for the discussion at the Victoria meeting.

Many issues were raised in Victoria. There was much concern about the future of the programme and the direction the government would like it to take. One of the final recommendations coming out of the meeting was that the consultation process should continue, and it was agreed that some kind of steering

committee would be consulted about any possible changes to the programme.

For many groups this is where the story ended. In November, the government issued a report on the Victoria consultation, however there has been little, if any, feedback from the government on the directions it is thinking of taking the programme.

What is known is that select sponsoring groups have received a government concept paper, to which they have been invited to react. The upshot of the paper is more government control of the programme, with suggested policies such as the elimination of informal co-sponsoring arrangements, greater emphasis on the financial capacity of sponsoring groups as a condition for being able to sponsor. Sponsoring organizations have indicated that it would be far better to circulate the paper widely, since in the long run, the policy proposals will affect all sponsoring groups.

A cause for concern among many master agreement holders (MAHs) is that once the government comes up with a final proposed agreement, then each MAH will be presented with it, with little choice but to sign if they want to continue to sponsor refugees. The problem with such a scenario is that the whole notion of "agreement" will be lost. Clearly these groups want to assist refugees through sponsorship, but does such a process lend itself to ensuring that it will be an agreement with which everyone can live and work?

Recently, MAHs received a questionnaire requesting a forecast of the number and location of the refugees they were planning to sponsor this year. Unprecedented, this has caused groups to worry about the use of this information, whether they will be tied to their projections and if so, whether this is an ominous sign of things to come.

With such concerns in mind, the Canadian Council for Refugees' Working Group on Overseas Protection is organizing a meeting of MAHs. It is the hope that there the MAHs will reach a common position regarding the components of what a future master agreement should contain.

It is widely suspected that some MAHs will lose their ability to sponsor, as already some agreements are under suspension. There is no doubt that there have been problems within the private sponsorship programme and some changes are needed, however, suggestions as to what they should be vary between government officials and those in the private sector. One of the concerns identified during the review process was a lack of communication between the government and sponsoring groups. Unfortunately, to date, this problem persists.

## Backlog Statistics (March 26, 1992)

Total Backlog	95,000
Decisions Rendered	75,889
Cases Accepted	45,254
Humanitarian Interview	13,082
Humanitarian Paper Screen	4,714
Credible Hearing	14,459
Credible Paper Screen	12,999
Cases Refused	30,635
Removal Stream	9,765
Disappeared	9,677
Voluntary Departures	11,193
Decisions Pending	19,111
Final Disposition of Cases	59,336
Accepted Cases Landed	35,878
Rejected Cases Removed	5,202
Confirmed Voluntary Departures	8,579
Arrest Warrants Issued	9,677

Source: Immigration Canada, Compiled by JRS / Canada)

*To save and serve the refugee  
is to save and serve the world.*

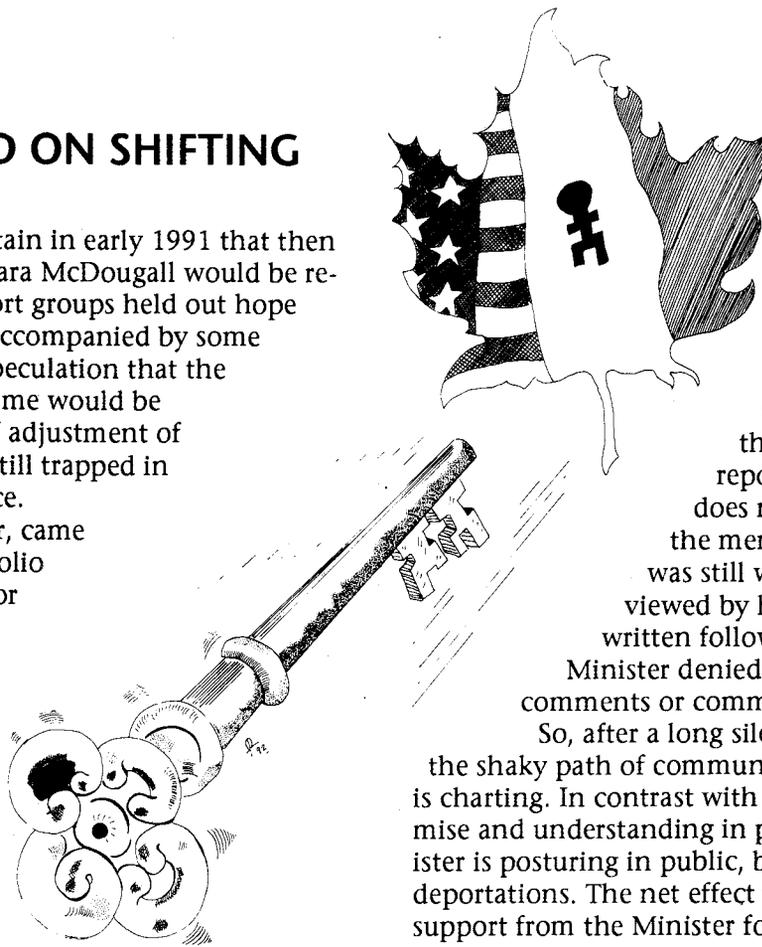
**The Talmud**

## ANALYSIS: TAKING A STAND ON SHIFTING GROUND

When it appeared certain in early 1991 that then Immigration Minister Barbara McDougall would be replaced, some refugee support groups held out hope that the change might be accompanied by some positive news. There was speculation that the Backlog Clearance Programme would be scrapped and some form of adjustment of the status of those people still trapped in the process would take place.

Mr. Valcourt, however, came into the Immigration portfolio with a deafening silence. For months there was precious little heard from him until, almost one year after his appointment, he met with the Canadian Council for Refugees.

Two comments at that meeting gave refugee workers guarded optimism that progress



could be made in the area of refugee determination. First, the Minister was heard to say that, yes, there have been cases that have slipped through cracks in the system; the system does make mistakes. Second, those present at the meeting reported that, although he does not favour an appeal on the merits of a case, Mr. Valcourt was still willing to have cases reviewed by his office. However, in a written follow-up to the meeting, the Minister denied having made any such comments or commitments.

So, after a long silence, we are left to decode the shaky path of communication which the Minister is charting. In contrast with the language of compromise and understanding in private meetings, the Minister is posturing in public, boasting about increased deportations. The net effect is precious little public support from the Minister for Canada accepting bona

### Top Twelve Countries (January 1 - March 31, 1992)

1992 Ranking	1991	Claims*	Withdrawn	Denied Hearing**	Hearing Reject***	Hearing Accept***	Acceptance %	
							1991	1992
1. Sri Lanka	1	1534	20	2	42	1267	95	95
2. Somalia	2	973	27	3	118	801	91	84
3. Iran	4	392	23	2	56	283	86	78
4. USSR	6	388	47	10	166	208	66	48
5. El Salvador	7	368	33	10	147	120	70	39
6. China	3	366	14	18	382	64	21	13
7. Lebanon	5	323	13	3	81	113	82	54
8. Pakistan	10	296	14	9	106	120	62	48
9. Ghana	8	231	32	19	193	69	34	22
10. Haiti	-	223	13	7	48	70	39	51
11. Yugoslavia	-	189	5	5	26	36	66	50
12. Zaire	-	187	3	1	39	85	70	66
Others		3128	293	336	1429	1255	44	38
<b>TOTAL</b>		<b>8598</b>	<b>537</b>	<b>425</b>	<b>2833</b>	<b>4491</b>	<b>64</b>	<b>54</b>

(\*) Claims concluded at the initial hearing stage.

(\*\*) Includes cases rejected at initial hearing for reasons of ineligibility and found not to be credible.

(\*\*\*) Includes claims made in 1991 which were awaiting a decision as of January 1992.

(Source: Immigration and Refugee Board, Compiled by JRS/Canada)

fide refugees, and only a deterioration of the political climate surrounding refugee determination. Of fifteen Vigil appeals sent recently to Mr. Valcourt's office, only two were accepted and the people concerned given Minister's Permits.

One claim that is repeatedly used publicly to blunt expressions of concern about the determination process is that Canada has the highest refugee-acceptance rate world-wide. First quarter statistics for 1992, however, indicate that Canada continues on a trajectory of a declining acceptance rate. The first three months of this year saw it drop to 54%, down ten percentage points from last year. Plainly, there are many reasons to be proud about this country's refugee determination system, especially since the government has not been able to implement the legislation's safe-third country provision. Still, the trend in the numbers shows that Canada is getting tougher.

A key problem facing refugee advocates, though, is that the forum for dialogue on refugees and their concerns is shifting from the national to the international arena. Immigration officials are currently engaged in regular negotiations with the United States and Europe on the issue of "burden sharing", with a view to increased harmonization of immigration policies among countries of the North. Canada has expressed interest in joining the Dublin and Schengen agreements in Europe. These set out which country is responsible for determining a refugee claim and allows the other signatory nations to refuse to hear that asylum seeker's claim.

Another example of Canada's commitment to this international agenda is Operation Shortstop, an interdiction programme intended to stop refugees from even getting to Canada.

Consequently, refugee rights groups face a most difficult challenge, namely, how to participate in setting the terms of the refugee rights agenda when it is

### I Am the Exile

I am the exile  
am the wanderer  
the troubadour  
(Whatever they say)

gentle I am, and calm  
and with abstracted pace  
absorbed in planning  
courteous to servility

but wailings fill the chambers of my heart  
and in my head  
behind my quiet eyes  
I hear the cries and sirens

*Dennis Brutus*

### The Nobodies

We are not, but could be.  
We don't speak languages, but dialects.  
We don't have religions, but superstitions.  
We don't create art, but handicrafts.  
We don't have a culture, but folklore.  
We are not human beings, but human resources.  
We do not have faces, but arms.  
We do not have names, but numbers.  
We do not appear in the history of the world,  
but in the police blotter of the local paper.  
The nobodies, who are not worth  
the bullets that kill them.

*Eduardo Galeano*

increasingly being set in the international arena? Canada's refugee determination system may be on balance a good one, but it is of no use to asylum seekers if Canada carries out its intention to sign multi-lateral or bi-lateral pacts that make it practically impossible for refugees to arrive here.

We are living in a period of rapid transition in which political decision-making is less and less accountable to the public, making it increasingly difficult to articulate a critique of those decisions. Most of the time we don't even know where to aim our fire. Is it the Minister? Is it the bureaucracy? Or is it the federal government itself that is responsible? One could say it's the whole lot of them. But it's not that simple.

Currently, the refugee rights community in Canada is struggling to take up the challenge of being proactive. In Vancouver, a United Church congregation has recently declared itself a sanctuary for a Nigerian refugee currently facing deportation. The Canadian Council for Refugees is preparing its own alternative refugee policy, one intended to respond to the national debate and the international issues of burden sharing. Central to an alternative refugee policy are questions of country standards of protection in burden sharing.

We must ask ourselves: if Canada's determination system is so good, then what becomes of refugees who are forced to make claims elsewhere? And what responsibility does Canada have for ensuring that other nations hold themselves to standards similar to our own in the matter of refugee protection? If a refugee, because of our participation in agreements such as the Dublin Convention, is forced to make an asylum claim in a country whose determination system offers less protection than our own, then it is arguable that Canada will have defaulted on its international obligation to protect refugees. So much for good Canadian policy and practice.

## THE END OF TEMPORARY PROTECTED STATUS FOR SALVADORANS IN THE U.S.

In a letter dated May 4th, President George Bush informed Salvadoran President Alfredo Cristiani that the United States will not be renewing the Temporary Protected Status (TPS) programme. A temporary asylum programme for Salvadorans who had been in the U.S. on or before September 19, 1990, TPS came into effect on June 20, 1991 for a period of one year. There had been speculation in non-governmental circles that the programme would be renewed, something that enjoyed support in the U.S. State and Justice Departments, the Immigration and Naturalization Services (INS), and the Congress.

In his letter to President Cristiani, Mr. Bush said that instead of renewing TPS the U.S. would grant what is known as Deferred Enforced Departure (DED) for Salvadorans, for a period of one year beyond the

expiration of TPS, with the possibility of extending it another year, until 1994. DED is a discretionary power of the U.S. President allowing designated groups to work in the U.S. and not face deportation.

About 190,000 Salvadorans had registered for TPS, which entitled them to stay in the U.S. and work. As part of registering for TPS, Salvadorans also became eligible for the terms of the American Baptist Church (ABC) settlement with INS, which gave them the right to apply for asylum once TPS had ended.

The Bush Administration's decision has left a lot of people, including INS officials, trying to figure out what it will mean for the Salvadorans concerned. Under TPS, people were supposed to re-register after six months, which a lot have not done. So, it is not clear whether those who had not re-registered for TPS will be eligible to apply for DED, or whether they will be automatically put into deportation proceedings. A draft Memo from INS central office seems to suggest that everyone originally registered under TPS will be

### National Headquarters Post-Claim Humanitarian and Compassionate Review January 1, 1989 - March 6, 1992

Selected Countries:	Positive	Negative	Total
China	31	596	627
Lebanon	7	393	400
El Salvador	38	233	271
Sri Lanka	8	237	245
Somalia	72	74	146
Iran	9	108	117
Guatemala	8	63	71
Ghana	0	67	67
Sudan	19	19	38
Pakistan	0	37	37
Ethiopia	10	24	34
Honduras	0	32	32
Bangladesh	0	30	30
Cuba	14	7	21
Haiti	1	20	21
Kenya	1	16	17
South Africa	2	8	10
Afghanistan	2	6	8
Total Selected Countries	222	1,970	2,192
Other Countries	13	1,010	1,023
<b>TOTAL</b>	<b>235</b>	<b>2,980</b>	<b>3,215</b>

(Source: Immigration Canada, Compiled by JRS/Canada)

eligible for DED, and that upon payment of \$60 they will simply receive work authorization for another year.

Also unclear is what effect this decision will have on people's ABC rights. With the end of TPS, will the INS begin notifying people, as provided for under the programme, that they have ninety days to make an asylum claim under the ABC settlement, failing which they will be put into deportation proceedings? Or will, as refugee advocates in the U.S. are calling for, ABC notices not be sent out until the end of the deferred enforced departure programme in 1993? So far, no one knows the answer to these questions.

This turn of events has caught everyone off guard, all the more so because there was so much support for the extension of TPS. INS officials were supporting an extension because they did not wish to face the prospect of the U.S. asylum system having suddenly to absorb up to 190,000 new claims. In its January 31st issue of *Refugee Reports*, the U.S. Committee for Refugees calculated that, with the current backlog in the U.S. asylum system plus new claims and Salvadorans who would ask for a new hearing if TPS was ended in June, the U.S. would be looking at having to process 361,000 asylum claims this year. INS officials are understandably very uncomfortable at this prospect, which may provide some grounds for hoping that ABC notices will not be sent out before the end of DED.

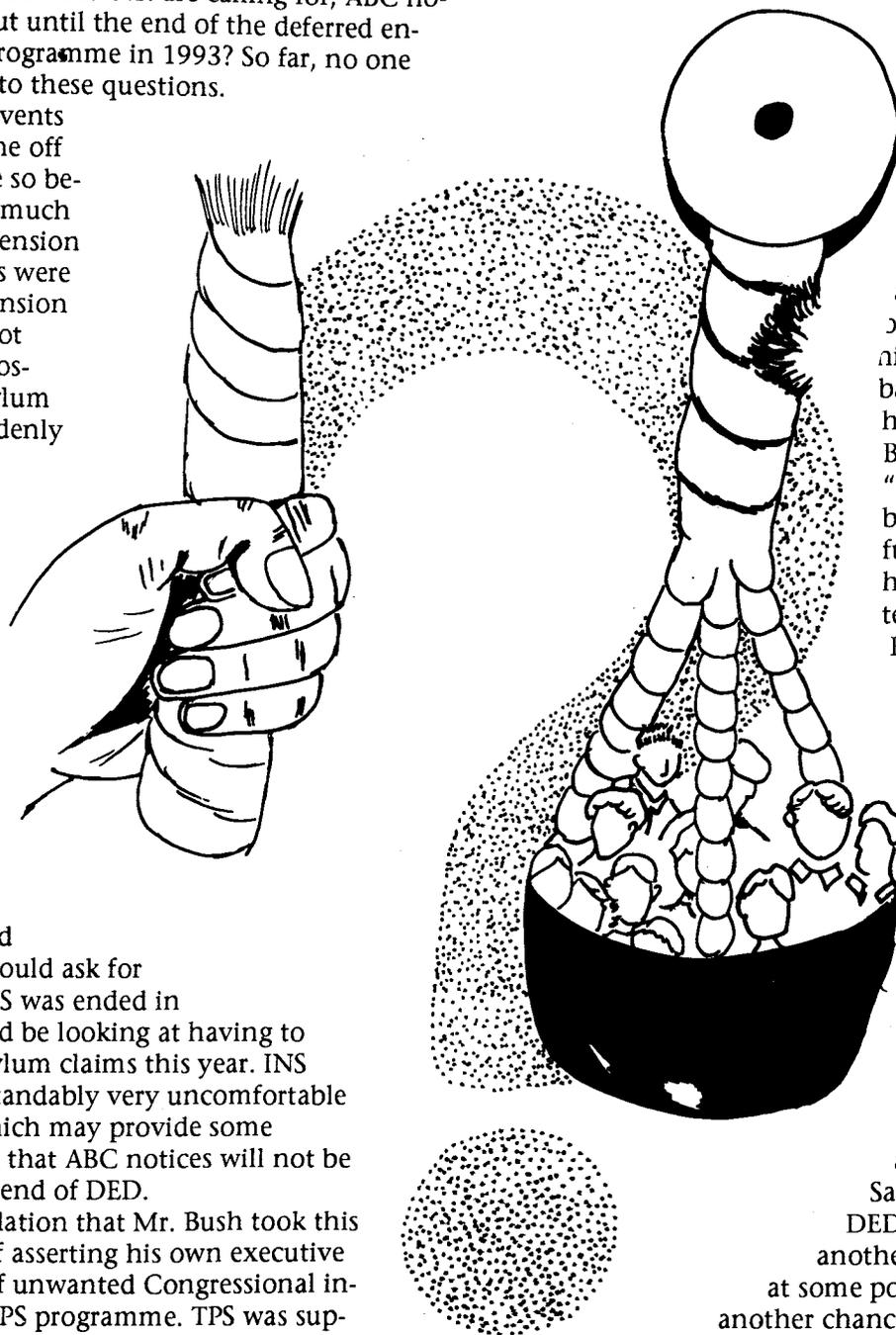
There is speculation that Mr. Bush took this decision as a way of asserting his own executive power in the face of unwanted Congressional intrusion under the TPS programme. TPS was supposed to replace DED, but when he signed the TPS law into effect Mr. Bush made it very clear that he still reserved for himself the executive privilege of implementing deferred enforced departure. This decision also provides the U.S. with an out from under what some officials were describing as the dilemma created

by the TPS programme: what to do with the Salvadorans. By doing this, Bush has ended TPS without having to face immediately the consequences, namely, what to do with the Salvadorans whose return would be costly (because of ABC rights) and might threaten the peace process in El Salvador. (Mr. Cristiani had asked Mr. Bush to extend TPS for another year.) This way, the

Salvadorans will be able to stay without any other commitment from the U.S., and at any time the ABC notices can be issued to them, resulting in a new asylum hearing and (assuming denial of asylum) the beginning of deportations back to El Salvador. In his letter, in fact, Mr. Bush did speak of "repatriations" that will begin sometime in the future and which would happen over an extended period of time. Finally, in an election year Mr. Bush can portray himself as not allowing the U.S. to be taken for a pushover in immigration matters.

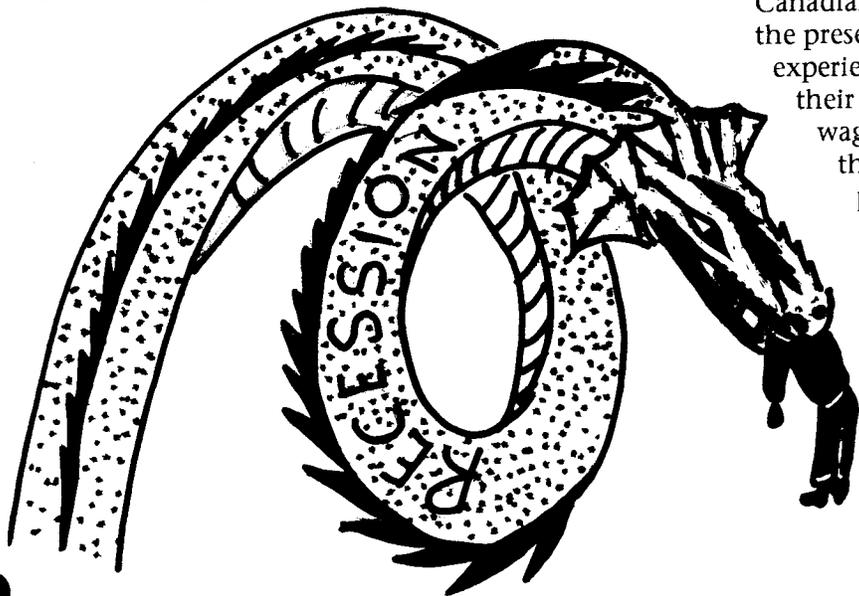
From a Canadian perspective, it is pretty clear that in the near future the prospect of Salvadorans moving up to Canada to avoid deportation to El Salvador is unlikely.

DED will allow them up to another year in the U.S., and at some point they might have another chance at making an asylum claim before facing deportation back to El Salvador. However, the medium to longer term is another question, as Mr. Bush has signalled that those who have benefited from TPS and who cannot make a successful new claim can expect to be returned to El Salvador.



## REFUGEES AND RECESSION

Among the weakest people of those who are poor and disadvantaged, refugees have had to pay the highest price during times of recession. They are often used as scapegoats, held responsible for all kinds of social and economic problems. In the words of Metro chairman Alan Tonks, "People strike out at whatever they deem to be the reason for economic problems. Often immigrants coming here are perceived to be the problem."



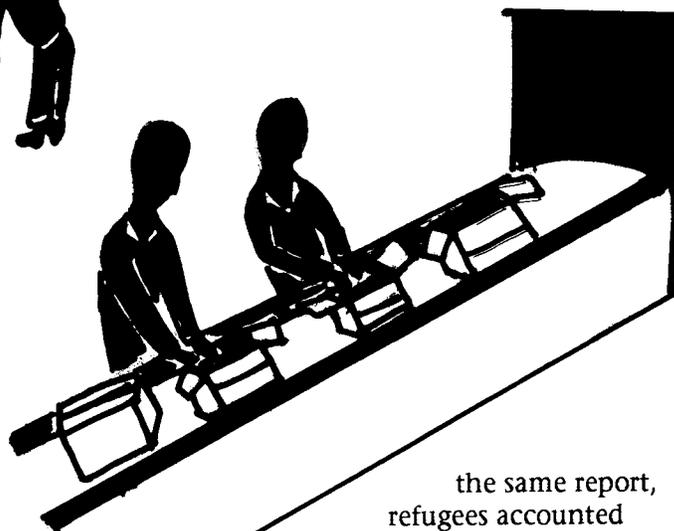
In its report, *Economic and Social Impacts of Immigration*, the Economic Council of Canada proposed that the federal government take responsibility "for controlling the admission of foreigners into the country." Among the foreigners the Council identified are refugee claimants who, it claimed, "Jump the queue to move ahead of genuine refugees selected by Canada in refugee camps." As a result, the Council argued for tighter border controls, fines against companies transporting refugees, tighter visa requirements, increased deportations, and the implementation of the idea of safe-third country.

The economic crisis has increased dissatisfaction, at both the federal and provincial levels, with the fact that the Charter has guaranteed refugee claimants decent living conditions while their claims are being processed. The Council and the media have both claimed that, by collecting general welfare assistance, refugees are a burden for the Canadian tax-payers. In its report, the Council concluded that, "The costs associated with refugee claimants are high ... [and will reach] at least \$650 million by the year 2000." These types of arguments do little to generate public support for refugees.

While the number of refugee claimants has remained pretty constant over the last several years (around 30,000 per year), the increasing number of refugees on welfare is attributable to two factors. First, there is the policy prohibiting claimants from working

before they have passed the credible basis inquiry. Nationally it took four months in 1991 to have such an inquiry, and in Toronto it was as high as six to seven months. More recently, the national average has come down to three months.

Second, there's the obvious factor of the deepest recession since the depression of the 1930s. Since January 1989, Canada has lost 300,000 manufacturing jobs, and overall the recession has resulted in 1.5 million Canadians out of work. The types of jobs lost due to the present recession have never been occupied by inexperienced refugees, who desperately struggle for their survival by filling up odd jobs and minimum wage positions. The Economic Council is explicit that "immigration creates no permanent unemployment, and even transitory effects seem very unlikely." Furthermore, by representing only a few of the immigrants admitted to Canada, the impact of refugees on unemployment is infinitesimal. According to



the same report, refugees accounted for 18 per cent of all immigrants entering the country, "well below the 30 per cent of family class immigrants and 52 per cent of independents."

The Council also points out that "the proportion of welfare recipients among immigrants, refugee claimants, and refugees is almost the same as among Canadians." In other words, despite the many disadvantages that refugees and other immigrants face when they come to Canada, they are not more likely to go on welfare than Canadians.

The economic problems Canada faces will require creative economic policy solutions. The present recession has not been caused by the arrival of refugees, and therefore it cannot be resolved either by refugee expulsions or by using them as scapegoats. Refugees, like all weak sections of the population, are victims of the recession and perhaps the most helpless and vulnerable ones.

# REFUGEE WOMEN AND RIGHTS IN CANADA

*Foduma Jama Dirie*

*"She lost her country, not her dignity."*

Every morning when I enter my office I read these words, printed on a UNHCR poster. The picture accompanying the words is of a Somali refugee woman. When you look at her face and posture, you can see, feel, and almost touch her dignity. It's hard to believe she has lost her country, family, and friends. X

She exudes hope and a deep faith. She wears a bracelet of copper and a hirs, a leather pouch that contains verses from the Koran. These, her valuable earthly possessions, are traditionally worn to protect her against the "evil eyes"! I wonder which "evil eyes" she is protecting herself from? Is it her past, present, or uncertain future?

## Evil Eyes

Are they the colonial evil eyes that physically and economically destroyed her country, and raped the values and principles of her people? Or perhaps they are the evil eyes of the colonial legacy left behind. Could they be the evil eyes of the twenty-one years of oppressive and ruthless military rule that enjoyed the support of both the West and East? Or maybe the indifference of all religious traditions, including her own, Islam? Or are they the silence of all human beings, the evil eyes of global injustice, violence, and cruelty directed at women?

They could be the evil eyes of fleeing horror and suffering through numerous refugee camps and countries, or even of standing in front of immigration officers, in a country of asylum. What about sitting in the cold, unfriendly atmosphere of a court room in fear and confusion, silently screaming at the flashbacks of trauma, pleading for a moment's peace, while she is being examined by the Immigration and Refugee Board, an experience which almost guarantees these flashbacks? Or maybe she is staring at the prospect of facing detention and deportation? Can you tell me what crime she has committed?

## Women and Asylum

I have painted a very painful picture, but one that is true. Refugee women undergo a very difficult and traumatic experience from the time they are forced to flee, through the months and years spent in transit camps, to the time of adjustment in countries of resettlement. They are subjected to rape, torture, and inhu-

man living conditions. They have witnessed violence and the slaughtering of their loved ones. Often these women are left with the sole responsibility of raising their children. They make a very difficult and brave journey, with the hope of finding some lasting peace in a country of asylum. But alas! Their expectations and hope soon begin to fade.

A couple of examples of the treatment these women receive under the refugee determination system in Canada give a clearer picture of the degree of humiliation, sexism, and discrimination that they face when claiming refugee status.

One case is of an Iranian family. In her home country, Mrs. F. was persecuted for not wearing her veil at a private house party. She was whipped thirty-five times with a wire cable and on the following day was fired from her job of ten years. Her husband, Mr. A., had been fired for suspected political activity. The couple left Iran with their two children after hearing that a subpoena from the Prosecutor's office had been issued ordering Mr. A. to report to the office. Upon making their claim in Canada, this family met their lawyer for the first time one hour before their refugee hearing. The members of the Immigration and Refugee Board (IRB) ruled that the couple did not have grounds for fearing persecution and, regarding the flogging of

Mrs. F., stated that the "punishment meted out to [her] seems excessive, though not exceedingly harsh, considering that she has not suffered permanent physical damage." On the basis of such thinking, the IRB panel found that they were not refugees.

The second example is from excerpts taken from the examination of Ms. X, a Somali national, by the IRB. During her hearing, a Board member referred to Ms. X as "my dear lady" on two occasions. This is an outmoded form of address, clearly sexist, unwarranted and completely unacceptable in the Canada of today. Ms. X was described as "a tiny little woman". According to her passport filed at the hearing, she is 1.70 metres high and is of normal stature: so why describe her as a "tiny little woman" if not to insult and denigrate her?

In the beginning of this article, I asked many questions. In closing I will ask two more: do you know Article 1 of the Universal Declaration of Human Rights? It reads: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood (sic)."

And my second question is, if we can not give her back her home, family and loved ones, can we, at the very least, not take away her dignity?



## APRIL 4 – REFUGEE RIGHTS DAY

On April 4, 1985, the Supreme Court of Canada, in a ruling known as the Singh decision, extended to refugee claimants the rights guaranteed to all Canadian citizens under Section 7 of the Canadian Charter of Rights and Freedoms. The Court said that every refugee claimant has the right to have at least one oral hearing before the person who will decide his or her case.

Recognizing the importance and significance of the Singh decision, the refugee rights community across Canada has declared April 4th as Refugee Rights Day. Every year, different communities across the country celebrate this day by holding different types of events. This year's celebrations were combined with a disturbing awareness that the policies of Immigration Canada regarding refugees in Canada have been deteriorating.

Refugee Rights Day provides a good opportunity to encourage solidarity among the various refugee communities and Canadian refugee rights activists. It also provides a forum for the presentation of the concerns, problems, and grievances of refugees in Canada, which can be done in different ways. Some communities hold workshops and talks on issues concerning refugees in Canada and globally; other communities hold cultural events in order to present refugee concerns in an artistic way, for example through theatre, as well as to share with Canadians the tremendous gifts that refugees bring to Canada.

The Edmonton Coalition for a Just Refugee Policy held a full-day workshop entitled, "Protection of Refugees and the Role of Volunteers". Topics explored included the role of the UNHCR in the protection of refugees, Canadian law and refugee claimants, the role of volunteers, and the effect of uncertainty on the

health of refugee claimants. Representatives from the UNHCR office in Vancouver, the Alberta Civil Liberties Research Centre, and the United Church of Canada conducted the different workshops. The day offered a good chance for the participants not only to learn more about protection issues, but also to reflect on their work with refugees.

A coalition of thirteen refugee organizations and agencies sponsored the "Refugee Rights Festival" in Toronto. The program included dance, theatre, music, songs, and poetry from Latin America, Africa, the Middle East, Asia, and Canada. Close to 500 people attended the festival. There were also brief messages and speeches from people like Nancy Pocock of the Toronto Refugee Affairs Council (TRAC), David Matas, President of the Canadian Council for Refugees, Dan Heap, Federal NDP Immigration critic, and from representatives of the Inter-Church Committee for Refugees and the Toronto Mayor's Committee on Community and Race Relations. The evening was a huge success in bringing together many members of different refugee communities, and in sharing the cultural similarities and differences of these communities with the Canadian public.

In Montreal, Refugee Rights Day was celebrated with a "Forum on Refugees", organised by the Comité d'Aide aux Réfugiés (CAR). The theme of the day was family reunification, and the keynote speaker was Pierre Duquette, a Montreal lawyer. The day's programme also featured a series of workshops on family reunification, employment, health, budgeting, and education, all of which ran simultaneously in French, English, and Spanish. Close to two hundred people representing various refugee communities attended what was by all accounts an excellent occasion of reflection and exchange.



## CANADIAN COUNCIL FOR REFUGEES FROM THE EXECUTIVE DIRECTOR'S DESK...

It's morning time at the CCR. That's morning, not mourning! Despite the many struggles we face in improving conditions for refugees, as an organization we are clearly making headway.

Membership is climbing and now stands at 127 agencies nation-wide. Registrations at our twice yearly conferences continue to climb and are currently in the 160-person range. To meet the growing demand from members for active participation in the Council, working groups have been given greater freedom to set objectives and carry out programmes. The provision of a staff person, Janet Dench, to act as a resource for the working groups has significantly improved communications and agenda-setting.

Our maturity as an organization has been reflected in greater public recognition by government

and the media. The CCR was the first, and to date remains the only, refugee organization with which the Minister of Immigration, Mr. Valcourt, has met. Our new President, David Matas, deserves a lot of credit for the many times we have appeared as an organization in the press.

The reason for this review of recent achievements is not to blow our horn, but to remind and encourage all our members to help keep up the momentum. Like other non-governmental organizations, the CCR needs to build its donor base to sustain its growth. Many of you have called to say you like the style and content of our latest fund-raising appeal. We are asking you to help us grow. Encourage agencies in your area to join the Council and your friends to support our work.

In the next issue of *Refugee Update*, we will feature a report from one of our working groups. Until then, I hope you enjoy the Spring Consultation and I look forward to seeing many of you there.

Nancy Worsfold  
Executive Director

### The Refugee

In the obscurity of the night, a refugee cries  
His tear of woe flooded on his eyes  
He sobs for homeless life, the uncertainty of tomorrow  
Each second brings to him the painful sorrow....

Violence after violence and brutality  
Forcing him to leave his native country  
He is alone in the darkness of the night  
In the obscurity there is no hope, no light....

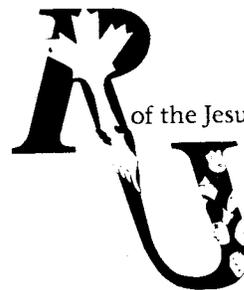
Who on earth hears his cry  
No one but God who rests on high.

No longer with his motherland under sunshine  
To brighten up each day  
No longer with his home lifeline  
In any kind of way....

The refugee cries in great despair  
All his life dreams fail  
His cry echoes when the hostile sky is fair  
This message to the world, he will mail....

In the darkness, suddenly he prays, he cries  
His belief lights up his eyes  
He cleans bitter tears and joins his hands  
Behind each refugee God stands....

*Khoi Tien Bui*



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Canada M4M 1J9  
Tel: (416) 469-1123  
Fax: (416) 469-3579

**Editorial Board:** Ted Hyland S.J., Colin MacAdam,  
Ezat Mossalanejad, Ali Rahnema,  
Francisco Rico, Loly Rico.

**Analysis Group:** Ted Hyland S.J., Esther Ishimura,  
Patricia Landolt, Caroline  
Lindberg, Colin MacAdam, Ezat  
Mossalanejad, Francisco Rico,  
Anna Maria Robert.

**Graphics:** Rico-Robert Group

**Contributors:** Michael Casasola, Foduma Jama  
Dirie, Patricia Landolt, Anne  
Woolger.

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