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Refugee Update

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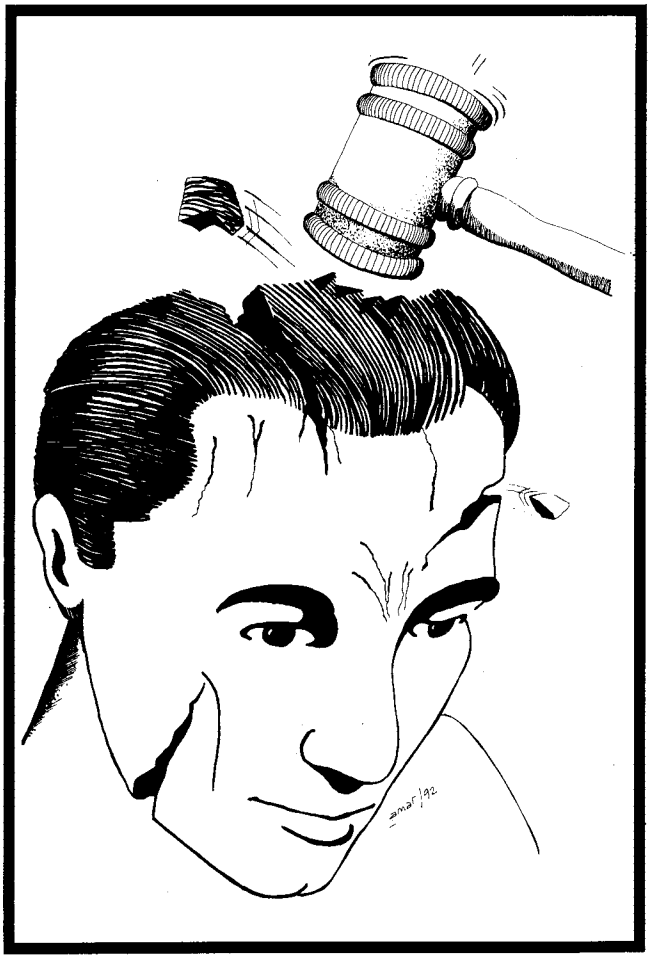
INSIDE

Why I Resigned from the Immigration and Refugee Board

Sam Ifejika, LLB, PhD.

Why would anyone in their right mind resign from an $86,000/year job in the midst of a vicious recession? A day after I quit my job, leaving behind some $10,000 in pay in my current term, a colleague of mine phoned to let me know that he would have done the same thing if he could financially afford to do so. He said that I have taken a stand for all those on the Board who feel the same way I did. Another colleague, in a tone of much concern, intimated to me that I might have burned my bridges. I thanked him profusely for an insight bordering on prophecy.

This resignation underlines my belief that there can be no true act of principle without self-sacrifice. Similarly, there can be no life or resurrection for an organization like the present IRB without a death to its current *modus operandi*. The IRB remains a bureaucracy yet to establish a reputation for fairness toward refugee claimants. In theory, the Board is supposed to create an environment for fair and independent decision-making by its members. In reality, the Board has allowed independent decision-making to erode, has allowed racism to spawn and, within the IRB itself, block multicultural representation in positions of power.



One reporter asked me if this was all just 'sour grapes' on my part since I was not offered a new contract after three and a half years work on the backlog. But since my first month on the job, when I began to notice the incongruencies between IRB principles and practice, I began to consistently record what I saw and speak about these things to my superiors as opportunities arose. I received no response equal to the gravity of the matter. After finally disclosing all that I saw to the Governor-in-Council appointee of the Federal Government, and receiving no intent from him to investigate these abuses, I had no choice but to resign. If I were merely concerned about my longevity within the IRB I would have more conveniently held my peace when its principles were being violated brazenly before me.

The IRB has grown into a $90 million impersonal bureaucracy. Although there are many dedicated professionals and Board members who really do care,

the tone and direction of the organization is in the hands of an arrogant, insensitive and irresponsible hegemony. Peter's Principle has bumped them up the ladder and a well-funded public relations strategy keeps the image of their operation untarnished. As for the Board itself, independence of decision-making is anathema as long as the Board's most senior officials create an atmosphere of fear about the security of each member's job - and connect that security to their preference for negative decisions.

Pressure from Superiors is both direct and subtle. While I was on a field trip to London, Ont. to hear cases, my superior spent more than twenty minutes on a long distance call trying to get me to go negative on a case from former Yugoslavia. Repeatedly at meetings, she was displeased that a number of members had gone positive on war-torn countries. She once stated that "the acceptance rate for war-torn countries is very high and in my opinion far too high." On another occasion, members were told to call her if they were even thinking of going positive on any Trinidadian claim. Indeed, a member who once went positive on Trinidad is being let go this month, even though his decision was upheld on appeal in the Federal Court. A Board member had earlier warned him that it was his belief that any member who went positive on Trinidad would not last on the Board, given the attitude of managers.

The pattern of preference for positive decisions persists in many forms. I have occasionally been asked to explain my positive decisions; I have never been asked to explain my negative decisions. At meetings and conferences, and at the yearly evaluations meetings with members, statistics about member's positive and negative decisions rates are routinely discussed, and often decisions going positive are questioned. A former Board member, Judith Gelberger, stated that when she asked her superior why her job evaluation was poor, she was told that she was accepting too many refugees (Ottawa Citizen, March 10, 1992)!

Bias can also be felt in the promotion of its members within the board. The visible minorities within the organization, who have the least voice, the least power and no access to the top, feel the prospect of re-appointment has been used as their principle means of control. While senior members openly lament the passing of the days when the Board was merely a few close friends, colleagues more sure of their futures flaunt their status and scrutinize the actions of visible minority members on the Co-ordinator's behalf. Privileged assignments involving more travel or less work were given to those who were favoured, while the `lesser among equals' were left to pick up the slack as well as toe the line.

Overall, what we have is a Board that has come to be well known by the bias and the insensitive behaviour of some of its managers and members. It is a Board where refugee claimants have been called racist names and their stories made into racist jokes. It is a situation that clearly calls for a more fundamental corrective action than what the Government and the Board itself has been prepared to do. Nothing but an independent inquiry would clear the air about the Board's current practices and direction. So far, the Board has proved itself very adroit in resisting real change. That is why individuals and organizations that work for a just society and care about our service towards refugees must continue the pressure for real change in the IRB. ■

The End of the Backlog Is Not the End of Suffering

In a document released by the Immigration Department on November 16 the Minister made an important announcement about the Backlog Clearance Program: "the program will be completed well within budget and I am confident that my officials will meet the December 1992 deadline for completion of the bulk of the hearings." Furthermore, an amendment was proposed "to establish a time limit of eligibility for processing under the program." Refugees in the backlog "who have not had further contact with a Canada Immigration Centre, are advised to notify an Immigration Officer by December 11, 1992. Those who fail to do so will no longer be eligible for consideration under the Backlog Clearance Program." The document also emphasizes the necessity to have all hearings at least scheduled before the implementation of Bill C-86 which is "expected to come into force in January 1993".

The Canadian Council for Refugees strongly believes that the amendment has been very poorly conceived and should be changed before coming into force.

It is the Council's position that all those persons without a decision on their claim prior to January 1, 1989 should have been landed, barring security or criminal situations. The CCR does not feel that the Backlog Clearance Programme was a justified response to the backlog situation. This scepticism has been born out by the consecutive extensions added to the original two-year time line. At this late date the CCR's main concern is to alleviate the hardship and suffering brought on by the numerous delays in the programme. In this respect the CCR strongly suggests the following changes to the regulation:

As a minimum, the cut-off date should be extended to at least three months from when the regulation takes effect, and that a publicity component be incorporated into the measure.

The following is a list of reasons behind these demands:

1. The period between when this proposal was gazetted, November 14th, until the proposed cut-off date, December 11th, amounts to less than one month. This is a completely unrealistic time frame to ensure that persons affected are informed of the measure.

2. Under the Backlog Clearance Programme persons were explicitly told *not to contact the Programme*, but to wait until they were contacted by the Programme. The experience of many refugee serving agencies demonstrates that persons in the backlog have waited patiently if not anxiously, as they were instructed.

3. The experience of these agencies also shows that problems in locating claimants have stemmed from bureaucratic errors to a significant degree. The proposal is therefore highly misleading in its suggestion that the number of

outstanding cases are the result of deliberate actions by persons to avoid contact with the programme. In this respect, the unnaturally short time line appears unnecessarily punitive in nature.

4. Although the CCR does not condone the Clearance Programme, they do not wish to see thousands of backlog claimants left in limbo waiting to be contacted by the Programme. For this reason, many member agencies of the CCR would be open to publicizing the cut-off date. However, the proposed cut-off date will make it virtually impossible to implement an effective publicity programme. The department should also have considered that timing the cut-off date just prior to the holiday season is particularly insensitive to the affected community.

5. The 14,000 claimants identified by the Clearance Programme as not having been contacted are far too many to be left unnotified of this important initiative.

The Council shares the interests of the Immigration Department to complete the Backlog program as quickly as possible, though they must caution that measures designed to speed-up the process need to be even-handed, given the consistent tailing off in the rate of acceptance:

Date	Rate of Acceptance (%)
January 26, 1991	66
August 29, 1991	65
December 26, 1991	62
March 26, 1992	60
September 24, 1992	59
November 16, 1992	58

(Source: Immigration and Refugee Board)

Current Backlog Statistics - September 24, 1992

Total Backlog	**95,000**
Decisions Rendered	**90,431**
Cases Accepted:	
Humanitarian Interview	15,837
Humanitarian Paper Screen	5,894
Credible Hearing	15,804
Credible Paper Screen	15,163
Total Cases Accepted	**52,698**
Cases Refused:	
Removal Stream	11,581
Disappeared	14,682
Voluntary Departures	11,470
Total Cases Refused	**37,733**
Decisions Pending	**4,569**
Final Disposition of Cases	**70,392**
Accepted Cases Landed	**39,746**
Rejected Cases Removed	**6,834**
Confirmed Voluntary Departures	**9,130**
Arrest Warrants Issued	**14,682**
Acceptance rate	**59%**

(Source: Canada Immigration Statistics, compiled by JRS Canada) ■

The CCR Alternative Deportation Study

The appointment of Mr. Valcourt as Minister of Immigration coincided with a number of serious changes in refugee policy. While there has been a consistent drop in acceptance rates in the IRB since 1989, during Valcourt's short term there has been an equally significant absence of a meaningful appeal process or a pre-removal review for claimants. In lock-step, the department's policies, finances and human resources have been recently shifted to focus upon removals. Couple that with the impending changes (Bill C-86) which will only serve to increase these already increasing removals, and one cannot help but conclude that the borders are quickly tightening. A clear indicator of this is the over 14,000 arrest warrants out for previous backlog claimants.

In response to these concerns, the Canadian Council for Refugees recently adopted an alternative deportation policy which attempts to set out acceptable conditions under which a person may be removed. The text, which follows, was drafted by the Working Group on Protection and approved as a resolution by the CCR General Assembly on November 14th:

Whereas:

1. The CCR recognizes that States have the right to remove non-citizens under certain circumstances, but maintains that those circumstances must be clearly defined and humane. Refugee determination is a point where a State's right to control its borders and its international obligations to protect refugees come into potential conflict;
2. The CCR recognizes that not all refugee claimants meet the criteria of the Geneva Convention definition, at the same time the CCR recognizes that not all these claimants should be removed;
3. The CCR believes that a deportation policy must take into account changes in personal circumstances or in the place they are to be removed to;
4. The CCR believes that removal orders should follow, and not precede, a determination by the CRDD;
5. The CCR believes that there should be no removal until an independent humanitarian review has been conducted;
6. The CCR believes that there must be a full appeal of a negative decision on the merits of the case, and
7. The CCR believes there should be no removal of a refugee claimant before all rights of appeal or review have been exhausted.

Therefore CCR endorses the following policy on deportations:

1. An independent body be established to review whether the person should be removed.
2. The body shall be composed of qualified personnel who have been appointed in consultation with credible non-governmental organizations.

3. The criteria for the review shall consist of the following:
   i) Persons shall not be removed where there is the serious possibility of violations of their fundamental rights;
   ii) International instruments shall be observed in determining whether such persons would face violations of their fundamental rights;
   iii) No one shall be removed to a country where there is a possibility of serious harm to their personal security;
   iv) There shall be no removal of any refugee claimant who has been in Canada for five years or more, unless they are guilty of serious violent crimes or have engaged in crimes against humanity;
   v) There shall be no removal to intermediary countries which may cause indirectly the results which are intended to be prohibited by this policy;
   vi) There shall be no removal of any refugee claimant who has entered into a marriage-like relationship with a Canadian or permanent resident unless it can be shown that the relationship was entered into for the sole purpose of preventing the removal, and;
   vii) There shall be no removal of any refugee claimant who has dependants in Canada who are citizens or permanent residents of Canada.
4. When a removal is to take place, the following conditions shall apply:
   i) Persons shall be given a reasonable period to arrange their affairs prior to removal, and;
   ii) The dignity of the person shall be respected. ■

The U.S. as a Safe Country

(preliminary remarks from the recent CCR bi-annual conference)

Annie Wilson,
Lutheran Immigration and Refugee Service, New York.

In this panel on Bill C-86 and Protection, I have been asked to address the probability that the U.S. will be designated a Safe Third Country by Canada. Specifically, I propose to speak about the potential threats to refugee protection that would result from such a designation.

In preparing for this talk, I benefited greatly from the insights of Arthur Helton of the Lawyer's Committee for Human Rights in New York City. I would commend to your attention his August 12, 1992 testimony before the legislative committee on Bill C-86. Bill Frelick's article on C-86 in *Refugee Reports*, the indispensable publication of the U.S. Committee for Refugees, is also very helpful for understanding the status of agreements between the U.S. and Canada and for getting a sense of the reaction of border groups.

In his testimony, Mr Helton specifically addressed the provisions in C-86 that restrict the access of persons coming from certain countries to the Canadian asylum procedure. He testified that these provisions should not be enacted in respect to countries that do not provide effective protection to refugees, and offered a framework for evaluating whether such protection is provided based on three criteria. These criteria are in compliance with Article 33 of the U.N. Convention: *non-refoulement,* non-discriminatory and humane application of criteria in making refugee determinations and fair procedures to determine status.

Non-refoulement

I would like to use these criteria to make some points about protection in the U.S. Let me first turn to compliance with Article 33 of the 1951 United Nations Convention relating to the Status of Refugees, as incorporated into its 1967 Protocol. Article 33 concerns the principle of *non-refoulement,* a principle which prohibits any action by a state which obliges a person to return to or remain in a territory where he or she may be exposed to persecution.

Does the United States comply? President George Bush issued an Executive Order on May 24, 1992, mandating the interception and return of all Haitian boat people by the U.S. Coast Guard. This order supersedes the previous policy, which had been to intercept Haitian boat people and screen them for claims to asylum. Previously, the "screened in" were allowed into the United States to pursue political asylum, while the "screened out" were returned. The new policy eliminates screening, so that now all Haitians are returned regardless of protection needs.

The incoming Clinton Administration is expected, on the basis of statements made during the campaign, to reverse the forced-return policy of the Bush Administration. Advocates for refugees and the Haitian Community in the U.S. are hopeful that this will happen early on in the new Administration - that is to say, soon after the inauguration in January.

In addition to the forced return of Haitian boat people, a problematic area for U.S. compliance with Article 33, or the principle of *non-refoulement,* is our policy on the withholding of deportation. Essentially, withholding of deportation is the fall back for a person denied the discretionary benefit of political asylum. It is non-discretionary if the person meets the required standard of proof. Unfortunately, withholding of deportation demands a higher standard of proof than is required under Article 33. The U.S. Supreme Court has upheld an administrative interpretation requiring that an alien demonstrate a "clear probability" (as opposed to a "well-founded fear") of persecution in order to be entitled to relief.

Non-discriminatory Application of Criteria

Let's look now at whether or not there is non-discriminatory application of criteria in making asylum or refugee determinations. As you know, the record of the United States in this respect has been troubling. Throughout the 1980's, the most visible example of a pervasive bias in U.S. asylum policy was our treatment of Salvadorans and Guatemalans. Only 1 to 3% of asylum claims from Salvadorans and Guatemalans were approved during this period. It was in response to the needs of these Central American refugees that the sanctuary movement and the "over-ground railroad to Canada" emerged.

In December 1990, a long-standing lawsuit originating in the sanctuary movement was settled out of court. In the case of American Baptist Churches v. Thornburg (Thornburg was our Attorney General then) the government admitted discrimination and allowed Salvadorans and Guatemalans to submit new asylum applications.

Fair Procedures

The final questions is, are there fair procedures to determine status? On July 27, 1990, final rules were issued for implementation of the affirmative asylum determination system under the Refugee Act of 1980. These rules went into effect on April 2, 1991. Under this new system, people who voluntarily come forward and identify themselves as asylum-seekers (in others words, apply affirmatively) have their cases heard by specially-trained Asylum Officers in non-adversarial proceedings. The asylum officers have access to a documentation centre that contains both governmental and independent human rights information about the countries of origin of refugees.

The preliminary assessment of the new system is generally positive. The newly-released asylum approval rates indicate a definite shift away from the discriminatory patterns of the past. It should be stated, however, that there have not been enough adjudications over a long period of time to feel complacent. There have also been indications that cases likely to be denied are currently being "backlogged". This might mean a very different asylum approval picture when these cases are finally adjudicated.

The new system is also still very vulnerable. There are simply not enough Asylum Officers, and the documentation centre is faltering. The program must be better funded to be viable, and government funding is pretty thin these days for everything. Finally, if the "backlog" problem grows more visible, political pressure may build to find "quick-fix" solutions to asylum processing. That should sound familiar to Canadians.

For a complex set of reasons, many asylum-seekers from Central and Latin America do not enter the affirmative asylum adjudications process. Instead, they apply defensively (that is, to defend themselves against deportation) after being apprehended. The defensive asylum adjudication process differs from the affirmative process in that it takes place in an immigration court, as an adversarial hearing. Many of these cases are heard in courtrooms at the major border detention centres, where detainees are brought in to court, still wearing their detention-centre uniforms, and where they are hustled through hearings that are only partially translated for the detainee. I do not have statistics on the asylum approval rates under the defensive process for the past year, but the approval rates for Central Americans and Haitians have been pretty low in these settings.

The prospect of being declared a "Safe Third Country" by Canada is a cause for some concern. Advocates for just refugee and immigration policies in the U.S. have made important gains in the past few years, but serious problems have yet to be resolved. Our new system for hearing affirmative asylum applications (that is, voluntary applications rather than applications filed defensively after apprehension) still bears more promise than actual relief for the large number of applicants in the system. Serious questions about the viability of the system remain, hinging on problems with adequate funding and effective implementation.

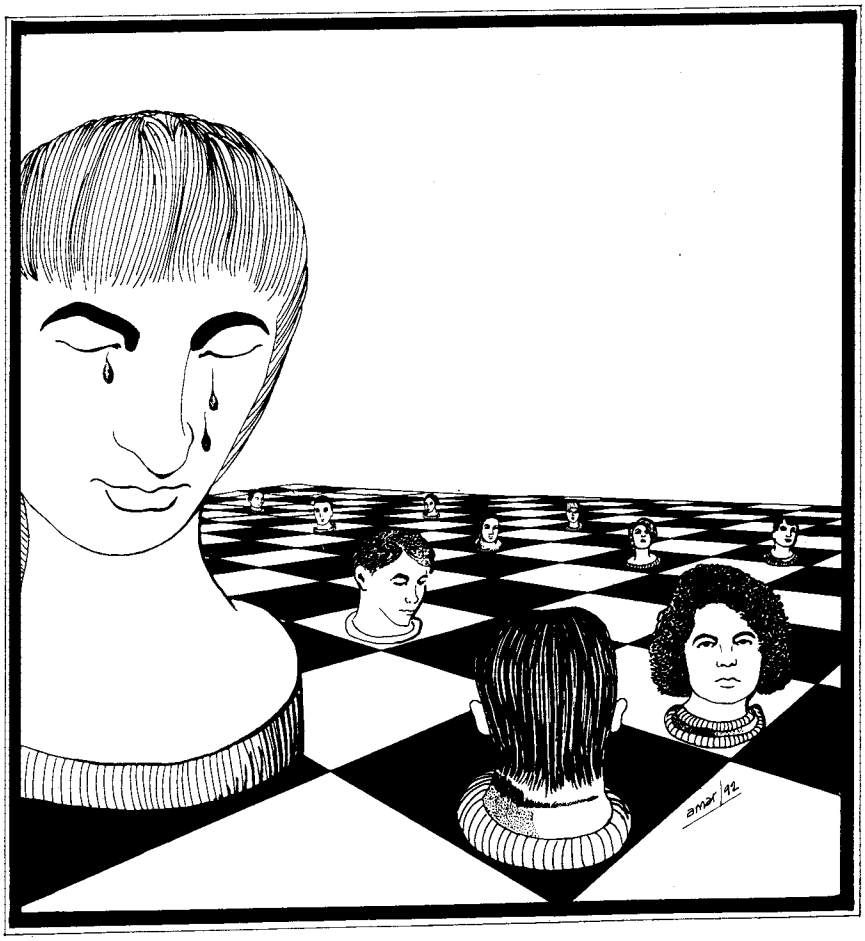
Furthermore, the U.S. response to large influxes of asylum-seekers from poor countries in Central America or the Caribbean is still being charted. Our protection record for such populations during the 1980's was not good. During the Presidential campaign, the incoming Democratic Administration signalled some definite changes for the better by outlining a new approach to Haitian refugees. Nevertheless, this is an extremely volatile policy area. It is not an unreasonable prediction that pure protection concerns will be balanced against other considerations when the actual policies get hammered out under Clinton. If the Safe Third Country scenario comes to pass, coordination between the NGOs in our two countries will be more important than ever. ■

I have been victimized.
I was in a fight that was not a fair fight.
I did not ask for the fight. I lost.
There is no shame in losing such a fight, only in winning.
I have reached the state of survivor and am no longer a slave of victim status.
I look back with sadness rather than hate.
I look forward with hope rather than despair.
I may never forget, but I need not constantly remember.
*I **was** a victim.*
*I **am** a survivor.*

(Frank Ochberg, 1989)

A Meaningful Appeal Through the Back Door?

On October 29th Immigration Minister Bernard Valcourt announced that former IRB Director Gordon Fairweather would be advising him on new regulations for a Humanitarian and Compassionate Review to address rejected refugee claims. Despite the critical need for a mechanism to deal with these cases, the Minister's announcement received scant applause from refugee advocates. Feelings of anger and frustration are particularly high these days concerning Bill C-86. The government has all but ignored the Senate *Pre-study* report widely applauded by NGOs. Moreover, the Minister's H & C initiative appears clearly designed to shield him from embarrassing situations while still refusing repeated demands for a meaningful appeal within the system.



Mr. Fairweather has been quick in moving on his assignment. In the last week of November and early December, he travelled to Montreal, Vancouver and Toronto to consult with NGOs. For many at these meetings, it was the first time they had met the former IRB Chairperson. Mr. Fairweather's patience has grown thin in the face of criticisms concerning the Board and the Department. As a result, the consultation meetings were strained and precluded an open sharing of opinions.

What did emerge is that the Department has already designed a new measure to review rejected refugee claims. The department's proposal is to create a new regulation under Section 6.5 of the Immigration Act which allows the government to specify a group which can be landed under a Minister's Permit. The new regulation under this section will specify rejected refugee claimants as a group which may be landed if specified criteria are met. Mr. Fairweather made it clear that the criteria will focus only on personal risk of removal: is the risk identifiable? Is the potential sanction excessive? Is it a personal rather than a generalized risk?

It was pointed out at the meetings that these criteria are already part of the current post-claim review and yet the approval rate has remained in the single digits. What could affect this in the new proposal is that it will be taken *out of the enforcement branch* and put under a new unit with specially trained staff. Many NGOs have noted the apparent bias in the current review system caused by having the current post-claim conducted within the Enforcement Unit.

In the end neither Mr. Fairweather, nor the department officials gave many details about the criteria under consideration for the new regulation. NGOs argued that the criteria should move beyond only questions of personal risk and should include consideration for cases where removal will exacerbate family break-up situations, for those with Canadian-born children, or for refugees' serious health conditions that would become terminal if returned to worse health care in their country. As well there was an appeal in women's cases, especially the common occurrence where a woman will not talk about being raped until after the hearing or even not at all despite the strong likelihood that it has occurred.

There was agreement on procedural measures which would help, such as notifying claimants that their case is under review and not leaving them in limbo without any notice as is the current practice. It was suggested that some documents be given in cases under review to permit persons to receive social assistance.

Despite the very guarded consultation process around the new H & C review mechanism, advocates will finally be getting some formal process whereby they can assist rejected claimants who have slipped through cracks in the system. The former Minister, Barbara McDougall, had taken a personal interest in this issue and so Amnesty International, Vigil and local communities found at least an informal means of serving these people. Given Mr. Valcourt's determined reluctance to play the humanitarian, we are left to hope that at least his aversion to public embarrassment will engender the creation of a real safety net where now there is none. ■

ANALYSIS: Across the Pond....

The Soviet break-up and the enduring recession in Europe are having a major impact in negotiations to harmonize European migration and refugee policy. As the winter months approach, there are expectations that over a million people will flee the economic collapse and violent nationalism of the former Soviet republics and that most will try to enter Europe. Meanwhile, the architects of European integration are struggling to move the ratification process forward even though public insecurity over deteriorating economic conditions continually grows.

Although there is much speculation that the European Community will ultimately propose a unified refugee asylum policy, the EC has yet to be granted this authority by its members. Instead, there is an ad hoc Immigration Group with sub-committees set up to allow immigration ministers from member states to discuss issues of asylum, family reunification, labour migration, etc.

An unofficial draft report from the Sub-Committee on Asylum caused quite a stir in late October when a copy was leaked to the British Broadcasting Corporation. The report has since been redrafted and was to be presented for ratification by the ad hoc Immigration Group at its meeting in early December. The main controversy about the early draft focused on the issue of "manifestly unfounded claims." The preamble reads that *"those who fear violations of their human rights should if possible remain in their own countries, and seek protection or redress from their own authorities or under regional human rights instruments."* It was reported that under this wording over 90% of all asylum claims would be considered unfounded. At their October meeting, the Sub-Group sent this section back for rewording.

Also not accepted was the draft text concerning "safe country." This is important because it reflects essentially what our government has proposed in Bill C-86. The early draft had defined a safe country as one deemed to comply with Article 33 of the Geneva Convention *(non-refoulement)*, without regard to whether the country is party to the Convention, nor whether the person is indeed able to claim asylum in the country. Asylum claims from person arriving through such countries would be considered "manifestly unfounded." Also rejected by the Asylum Sub-Group was the idea of a list of safe countries.

Two other points in the early text bear an interesting relation to Canadian policy. Even cases found to be manifestly unfounded would be subject to an appeal. And the final report kept a heavy bias against those who destroy, damage or use false documents. Only last minute re-wording softened this impact in relation to those with a well founded fear of persecution.

Witnessing the harmonization process from this side of the Atlantic enables us to see how the inescapable reality of human suffering among those arriving in Europe is having a softening impact on the designs of those who would construct "Fortress Europe". It remains uncertain if these are tactical moves on the part of the designers or whether grass-roots movements against the xenophobia will gain political strength enough to forge creative solutions to defend protection even with diminished means. ■

Top Twelve Countries
(January 1 - September 30, 1992)

1992 Ranking	1991	Claims*	Withdrawn	Denied Hearing**	Hearing Reject***	Hearing Accept***	Acceptance %	
							1991	1992
1. Sri Lanka	1	4491	56	11	189	3854	95	94
2. Somalia	2	2668	60	6	228	2627	91	90
3. Pakistan	10	1119	56	22	273	486	62	58
4. CIS, USSR	6	1087	99	30	445	620	66	52
5. China	3	1067	41	48	944	245	21	19
6. Iran	4	927	58	7	167	740	86	76
7. El Salvador	7	877	91	35	545	296	70	31
8. Lebanon	5	843	50	10	314	370	82	50
9. Yugoslavia	-	765	40	26	112	220	66	55
10. India	-	651	50	45	262	104	24	23
11. Ghana	8	617	91	60	513	190	34	22
12. Guatemala	-	503	29	4	130	267	70	62
Others	-	9433	788	803	3623	3982	44	43
TOTAL		**25048**	**1509**	**1107**	**7745**	**14001**	**64**	**57**

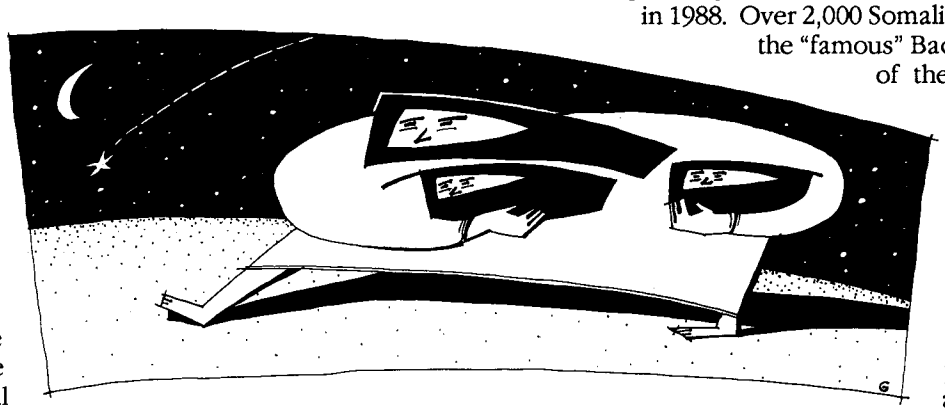
(*) Claims concluded at the initial hearing stage. (**) Includes cases rejected at initial hearing for reasons of ineligibility and found not to be credible.
(***) Includes claims made in 1991 which were awaiting a decision as of January 1992. (Source: Immigration and Refugee Board, Compiled by JRS/Canada)

Somali Refugees and Family Reunification

George Cram

When Bernard Valcourt introduced his amendments to the Immigration Act in Bill C-86 last June, he indicated that the Government was recognizing the priority for spouses and dependent children. These applications would be processed on demand and more quickly than at present and there would be no fixed limits to the total number of applications approved each year. Nuclear family reunification would all be within "Stream 1" - top priority!

During the course of the summer, a special program was announced for Bosnian family reunification. The Somali community immediately asked for equal treatment. They noted specifically that thousands in the Somali-Canadian Community have family members trapped in refugee camps under horrible conditions. Others have relatives who have fled to Syria, Egypt, Yemen, Saudi Arabia, Djibouti, Kenya and Italy, just to name a few. In most cases they are unwelcome in those countries, and in some cases they face physical danger. The community asked for priority processing, delaying medical documentation until after arrival by Minister's Permit, a speedy handling of landing applications following the granting of refugee status, and additional resources to visa posts abroad in order to clear up the growing backlog. In addition to this they asked for a processing time of six months.



The initial response of the Government was to send a special officer to Kenya to assess the situation. His report was in Ottawa's hands early in October. Finally, on Friday November 13 the Minister sent a five page letter to Somalis in Canada. The letter acknowledged the apparent delays and attempted to reassure the community of their commitment and good faith in bringing family members to Canada. To the Somalis in Canada, however, the letter was far from comforting. Essentially, it referred only briefly to the immigration process for permanent residency, sponsorship of families, overseas processing in Kenya, government and privately assisted refugees, transportation loans and integration services. The letter was defensive, its tone patronizing, and it lacked a concrete determination to rectify the situation.

On the positive side, the Minister promised to increase staff in Nairobi early in 1993. As well, he urged Somali-Canadians to begin the necessary paperwork for reunification, pointing out that completed forms are the key to initiating the process. Unfortunately, Mr. Valcourt did not promise the use of Minister's Permits to facilitate early arrivals. Similarly, with regard to travel arrangements and cost, he only promised that he will consider the options involved.

The difficult problem of assisting the immigration of care-givers (those who look after children left behind by fleeing parents) has barely been touched when only 100 additional visas were added to the Nairobi allocation for 1993. When one considers that Canada has accepted over 15,000 Somali Refugees during the past two years, a very large number being splintered families, the inadequacy of this number is placed in sharp relief.

Meanwhile, the Somali community is showing signs of stress. Mental breakdown as a result of the long separation from immediate family has been increasingly reported by social service agencies working with Somalis in Canada. The human cost of these long delays is immense. Somali refugees began to arrive in Canada in large numbers in 1988. Over 2,000 Somali cases were a part of the "famous" Backlog Program. Most of these families are still waiting.

As a result, refugee advocates will need to keep pressure on the Government for a more adequate response. To ask for a six month processing time is not an outlandish request. Similarly, it is not unreasonable to insist that younger children left in refugee camps be brought to Canada under a Minister's Permit. Indeed, it is in harmony with the spirit of Bill C-86 to give family reunification priority processing in all visa offices abroad - not just Nairobi. Finally, advocates must demand a solution to the transportation loan question, not just a new study of options.

It stretches credibility to believe that Canada cannot design a reunification program that will bring dislocated family members to Canada within a six month period from the filing of the appropriate papers. Other countries can and do attain that degree of efficiency. That is all the Somali community asks of Canada. It is a reasonable request and support should be voiced from all of us, not only for Somalis but for all the dispossessed in our midst. ■

> *"When there are some things in the service of God Our Lord which are more urgent, and others which are less pressing and can better suffer postponement of the remedy even though they are of equal importance, the first ought be preferred to the second."*
>
> *(Const. S.J, 623)*

Considerations for Sanctuary Today

Sanctuary claims a history stretching back to ancient Egyptian, Hebraic, Greek and Roman times. At its most basic level, it was a measure to prevent mob violence or family blood feuds. By fleeing to a shrine or temple sacred to a god, the accused or guilty party obtained immunity, within the precincts of the sanctuary, until the demands of justice could be met. In Christian times, the right of intercession for the refugee on the part of the priest or the custodian of the church even became part of Canon Law. In its fullest sense, sanctuary has something to do with: (1) a prophetic response to an urgent situation, (2) the belief in the sacredness of certain places, and (3) the desire of a community to commit itself to the oppressed and exiled.

A contemporary response of sanctuary to Canada's recent unjust removals of *bona fide* refugees would surely obtain the status of a media event. The risk is that once placed in a church the refugee can easily be found and quickly deported to the dangerous situation they fear in their own country. Charges could also be laid on those who offered asylum and their supporters. Noteworthy, however, is that throughout the history of the North American Sanctuary Movement (the 'underground rail-road' which served slaves from the 18th century to Salvadorans in the 1980's) never has a publicly declared sanctuary space been violated by the authorities. Furthermore, sanctuary supporters would be appealing to not only the Law of God ('thou shall not kill' and 'love thy neighbour') but also to International Law and the Canadian Charter of Rights and Freedoms.

The most probable reaction of the authorities, however, would be for them to not react at all and let the whole event fade away. Indeed, this was the situation in Vancouver this year when a United Church declared itself a sanctuary for Stephen O., a Nigerian refugee claimant facing deportation. After the initial media splash the 'prophetic event' ran out of steam since it seemed that no one took notice. Stephen O. moved out of the church after a month and retreated into hiding.

This is where the two other aspects of sanctuary pick up the slack. First, sanctuary appeals to the sacredness of a place - that the last safe place of refuge from injustice in Canada is in this church, this mosque, this synagogue, this place of God. Very clearly, a symbol takes up residence in an actual neighbourhood: "someone is living in our church!" Over time, the community of support begins to see the symbolic 'other-in-exile' as 'neighbour', begins to understand the issues, and ultimately deploy its resources. The impact of such a symbolic gesture could result in many other places of worship undertaking the same action. In essence a grassroots inter-faith network could be formed in order to build up a solid prayerful front - one vigilant enough to out-wait a possibly slow government response.

Second, and underlying both sanctuary as an event or place, is the solidarity of a community whose membership

includes three sectors: the refugee, the group offering protection, and God. Of essence here is the commitment to undertake a mature group discernment that takes account of the refugee's specific situation, the risks involved and the options available to this community. Although public sanctuary has been the traditional manifestation of this link, the gambit of possible action widens vis-à-vis the growth of creativity through assimilation with the refugee's concerns. On the one hand this creativity could tend to promote more radical symbols of their oneness with the exiled, such as handcuffing themselves to refugees between the pre-removal review and the border. On the other hand, the community may decide to extend an invitation to Immigration officials and policy makers to renew efforts at dialogue - to form a greater community aimed at fostering responsibility, concern and love for the refugees at hand.

Either way, spiritual discernment will always take place in a context both political and physical. Ultimately, the degree to which the community takes account of the concerns of the refugee in their midst as well as their actual place of worship, is the degree to which sanctuary will transform itself into a symbol both profound and timely. ■

"Speak, yourself, on behalf of the unwanted;
uphold the rights of the poor and the needy"
(Proverbs 31, 8)

Continental NGO Coordination

As countries on both sides of the Atlantic take steps to harmonize protection policies and establish regional protection accords, non-government organizations are increasingly working with their counterparts across borders. In late November, a conference at York University on the impact of North American integration on migration provided an opportunity for NGO's from Mexico, Canada and the United States to meet and discuss issues of common concern. The process of developing greater NGO coordination throughout the continent will continue at a similar conference scheduled for September, 1993 in Washington.

One concrete action from the Toronto meetings was the following statement concerning up-coming talks between governments of the three nations:

STATEMENT TO THE CANADIAN PARLIAMENT, THE CONGRESO DE LA UNION OF MEXICO AND THE U.S. CONGRESS FROM NON-GOVERNMENTAL ORGANIZATIONS

We, voluntary organizations from Canada, Mexico and the United States are deeply concerned about reports of closed tripartite meetings of senior immigration and refugee officials of Canada, Mexico and the United States. We understand that the next meeting is scheduled for December 1992 in Montreal.

Canada, Mexico and the United States are recognized for foreign policies which seek to further international human rights, democratic development and free, tolerant and participatory societies in their region. The right to seek and enjoy asylum from persecution is critical in that it is often the only mechanism for protecting a person's right to life and freedom.

We are concerned that discussions bearing on fundamental rights and international obligations are taking place in the context of border control. Migration and refugee problems cannot be solved by the harmonization of border control practices alone.

Furthermore, these conversations must be opened for participation by NGOs and others involved in asylum issues. The rights of persons forced to seek asylum cannot be adequately represented by government departments preoccupied by the control of arrivals. We view the secrecy which surrounds these meetings as a serious abridgement of democratic process. Governments and the people they serve must consult about issues of mutual concern.

We urge the following with respect to the tripartite meetings:

1. That the governments give prominence to their human rights commitments and to the maintenance and enhancement of rights of asylum in North America in these discussions.

2. That the governments ensure oversight by the Canadian Parliament, the Congreso de la Union of Mexico and the U.S. Congress, and that meetings be opened to concerned non-governmental organizations, the UNHCR and the media.

List of endorsing organizations to date:

Mexico: *Centro de Estudios Fronterizos, Mexican Academy of Human Rights, Coordinadora Nacional de Organismos de Ayuda a Refugiados en Mexico;*

Canada: *Canadian Council for Refugees, Interchurch Committee for Refugees, Jesuit Refugee Service;*

United States: *Church World Service Immigration and Refugee Program, United States Catholic Conference Migration and Refugee Services, Lutheran Immigration and Refugee Service.* ■

CCR Initiates Task Force on Family Reunification

Problems in processing family sponsorships force people to wait for years before being reunited with their families Prolonged family separation is painful, heartbreaking and unnecessary. The Canadian Council for Refugees believes that the waits are far too long - the Minister himself told the CCR that no one should wait more six months for their wife, husband or child. All the sympathy in the world, however, will not bring families together faster. **We need concrete changes in procedures, processing and resources.**

Following the success of the Task Force on Overseas Protection, the CCR is initiating a new Task Force on Family Reunification. This group will be directed by John Frecker, previous commissioner to the Law Reform Commission of Canada. The task force proposes to undertake research and thorough documentation of the problem in order to propose concrete solutions concerning processing and policy issues.

We need your help! You are the experts and we need to hear from you. Can you document where the processing of your family or your client's family was held up? Was it with the identification documents which the embassy required? The medical checks? The office in Canada? If you have done research, or know someone who has done research on family reunification please contact us.

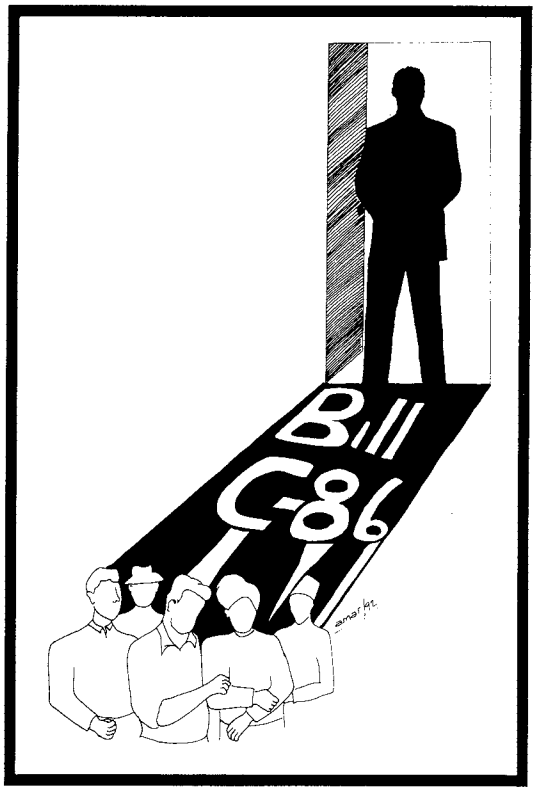
We need to document the psychological and social aspects of prolonged family separation: Is the process of settlement and adaptation held up by family separation? What effects does separation have on the long term health of the individual and the family? We hope to gather evidence from your work and experience of the effects of long term family separation.

You are invited to present your stories, your problems, your ideas and your solutions with regard to the processing of sponsored family members. The Task force on Family Reunification held its first hearing in Winnipeg on November 15, 1992. Subsequent meetings will be scheduled in Toronto, Ottawa, Montreal and Vancouver in the new year. Written submissions sent by mail are most welcome also.

Please contact our office for dates, times and further information: Nancy Worsfold or Janet Dench, CCR, 6839 Drolet, #302, Montreal PQ, H2S 2T1. (514) 277-7223 Fax: 227-1447. ■

Bill C-86 Protest Across Canada

Bill C-86 was introduced in the House of Commons on June 16th. After a day and a half it went into second reading. The Parliamentary Sub-committee that was designated to study the bill held only 12 days of hearings. Faced with a thick and complex piece of legislation, NGOs had little time to prepare adequate presentations for these hearings. The committee delayed its Clause by Clause review from September 28th to November 3rd because of the constitutional referendum. They ended up sending the bill back to the House with 86 amendments, only one and a half of which reflected the proposals of the NGO community. Significant concerns such as SIO powers, Safe Third Country provisions, restrictions to right of appeal and retroactivity were systematically stonewalled by the conservative majority. All 86 passed in the third reading of the bill on November 24th.



During the summer, the *Canadian Coalition for a Just Refugee and Immigration Policy* formed quickly to demand the withdrawal of the bill and drafted a common statement of principles. After a series of conference calls linking up the regions of Canada, the Coalition decided to propose a package of significant amendments to the bill. Once drafted, over 150 organizations representing 300 different agencies - a total of over 2.5 million Canadians - endorsed the Coalition Statement of Principles and the proposed amendments. Substantial sectoral support came from NAC, CLC, and CAW who not only saw to educating their membership but produced policy statements, briefs and press releases around the bill. Funding for this National Coalition, through the Jesuit Refugee Service, has come from these sectors as well as a few individual agencies.

In its bi-annual conference of November 12-14 in Winnipeg, the Canadian Council for Refugees discussed various aspects of the bill. A resolution was passed in which the CCR extended its support to the amendments submitted by the Canadian Coalition for a Just Refugee and Immigration Policy. The resolution went further to raise concerns about the unconstitutionality of the bill and pledged to explore the ways of challenging the bill if it passes as Law.

As **Refugee Update** goes to press, the Bill is before the Senate for debate and review by its designated committee. If passed by the Senate it goes to Royal Assent and becomes Law; if sent back to the House it could possibly die before next year's election. The Coalition can only hope that the Senate does not disregard its own amendments to the bill proposed in its Pre-study released last summer. These amendments were parallel to the Coalition's own recommendations. At stake is the integrity of the Senate as an institution, yet they are feeling the Government's pressure to finish with the Bill plus 3 other bills by December 18th!

Here is just a sample of some Coalition work undertaken across the country:

Newfoundland: A meeting was planned with Ross Reed for September 24th. The Federation of Labour sent a letter to the Editor to which Mr. Valcourt responded, but severely misrepresented the issue. Contact was also made with the Provincial Government arguing that the Bill would hurt the province financially.

New Brunswick: Churches organized an Ecumenical Service and established an information forum. A press conference was convened to expose the Bill. Protests continued after September 24 with an attempt to meet with the Chair of the Senate Committee.

Montreal: *Table du concertation de Montréal pour les Refugiés* organized an information sharing meeting and asked for letters to be sent to MPs. The Montreal Refugee Coalition, along with the Committee to Aid Refugees, also held an information session. A successful demonstration was organized on September 24th with excellent media coverage. Many travelled to Ottawa to attend the Clause by Clause review.

Ottawa: The Coalition undertook a letter writing campaign to the government and newspapers, many groups submitted briefs, they held a protest on Parliament Hill and made their presence felt at the Clause by Clause review and the House debates.

Toronto: NAC held an educational event and went to a local MP for discussion on Bill C-86. On September 23rd an Interfaith Vigil Service rallied 300 people from different faiths to protest the Bill. The Toronto Coalition held an evening of theatre, music, and a debate with Andre Juneau, about the bill on October 21st. On November 9th an International Day of Action Against Racism and Fascism was organized with a rally and evening panel on refugee and immigrant rights. There was a noisy protest during Valcourt's brief stop in the city on other business and the group consistently 'piggy-backed' onto other related events in the city. Print, radio and TV covered all of the above protests well.

Hamilton: The Coalition here organized four meetings over the summer. There was a well attended protest on September 24 outside of the Immigration Office. Statements were made by a broad representation of groups and Coalition work significantly involved the churches.

London/Windsor: The City Council was confronted to withdraw their support of a resolution by the City of Brampton praising Bill C-86. Press conferences, debates, radio interviews, feature articles in newspapers and a video for cable TV was organized by this active region.

Saskatoon: A very successful all-night public vigil was held in the downtown area September 24th.

Calgary: Coalition was formed around their Inter-church Committee who held a press conference. There was a well-attended rally September 24th. Attempts were made to meet with Blaine Thacker and Doug Fee.

Edmonton: A speaking engagement was announced and received press coverage. The provincial agencies submitted briefs and held a press conference on September 24th.

Vancouver: Vancouver Refugee Council contacted 78 multi-cultural agencies for a meeting. A subsequent speaking engagement followed and a march involving 300-400 people, all of which received positive press coverage. The Sikh community held further demonstrations against the bill and the Vancouver Star produced a feature on the issues at stake. ■

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