

## Refugee Policy Legislation, May 5, 1987

On May 5, 1987, the Minister of Employment and Immigration and the Minister of State (Immigration) presented a bill to Parliament to establish a new set of procedures for refugee determination in Canada. The following are the highlights of the Bill:

1 **Initial hearing:** Every arrival in Canada who claims to be a refugee will be seen within a few days by a panel of two people: one, a member of a newly created Refugee Board; the other, an immigration adjudicator to listen to the (oral) claim.

1a The main function of this hearing is to screen out several types of claimants. The following types will be rejected:

1a1 Those who arrived from a "safe third country" (as determined by the Cabinet) who had a reasonable opportunity to lodge a claim there.

1a2 Those judged to have "no arguable basis for their claims" would be returned.

1a3 Those recognized as refugees of another country.

1a4 Those who previously had been rejected as a refugee claimant, except where the claimant has been out of Canada for more than 90 days.

1a5 Those who are already subject to orders for removal from Canada.

The above decisions require the unanimous decision of the two-member panel.

1b The above negative decisions imply removal of the claimant within seventy-two hours.

1c There is right of appeal of the (negative) decision if given leave by the Federal Court to make such a claim on points of law.

1d If one or both members of the two-person panel decides that the claim is arguable, the claimant will be referred to the Refugee Board for an oral hearing.

2 The oral hearing for the claimant will be in the presence of two members of the Board. If the claim is accepted by one or both Board members, the claimant is officially accepted and may apply for landing (the official status for all immigrants) in Canada. If both Board members decide negatively, the claimant is deported. There is right of appeal of a negative decision if given leave by the Federal Court to make such a claim on points of law. Persons will be removed from Canada while their appeal to the Federal Court is being considered. They would be represented by legal counsel.

3 If granted an appeal, the claim will either be accepted or rejected. Those accepted for landing will return to Canada at government expense.

These steps represent three levels to "protect the new refugee determination system against abuse". In contrast with the present system, only three steps, instead of a maximum of eight, are available in the claim process. The system is designed to prevent claimants from prolonging their stay in Canada by exercising appeals.

After initial examination, the Inter-Church Committee for Refugees has severely criticized the legislative proposal on three grounds:

First, **inaccessibility:** The legislation "seeks ways to return (claimants) before a full evaluation can be made. Secondly, **non-independence of decision-makers:** As a whole, the decision-makers are not specialized in Canada on refugee determination or related international matters. They are part of an overall immigration control procedure. Thirdly, **no meaningful appeal:** The Federal Court is not an independent appeal body. Its role would be unworkable because leave must be granted for an appeal and only then on matters of legal procedure, not on the merits of the case.

Citing a short-cutting of human rights practices and standards of justice in Canada, the Committee calls for the withdrawal of the legislation and its replacement with means to "uphold humanitarian tradition as a symbol of hope in a dark world".

### Refugee and Humanitarian Programmes, December 31, 1986

	Government Sponsored Refugee Admissions	Announced Allocations	Privately Funded* Refugee Admissions	Special Programme Landings	Claims in Canada RSAC	Total
Eastern Europe	3,404	3,100	1,952	-	20	5,376
Indochina	3,931	3,200	2,059	-	11	6,001
Africa	846	1,000	318	-	83	1,247
Middle East	305	900	342	1,636	418	2,701
Latin America	3,422	3,200	232	704	377	4,735
Others	238	300	164	262	503	1,167
Reserve	-	300	-	-	-	-
<b>Total</b>	<b>12,146</b>	<b>12,000</b>	<b>5,067</b>	<b>2,602</b>	<b>1,412</b>	<b>21,227</b>

\* Includes those arriving at ports during the calendar year with immigrant visas, and where known, those processed abroad on an emergency basis who enter on the strength of a Minister's Permit pending landing after full compliance with the Act and regulations is demonstrated. (Data from *Refugee Affairs*, Immigration CEIC, March 4, 1987)