

But the problem is far more complex than the simplistic resolution passed at the CCR meeting conveys. The Canadian and Security Intelligence Service is mandated by our parliament, not just our government, to undertake security checks. The Refugee Board is an independent tribunal; it should *not* and must not be concerned with whether a refugee claimant is a security risk. CSIS must have that as its major concern. CSIS cannot be expected to rely on the Refugee Board for such a determination. CSIS must do its own independent checks, including questioning torture victims who might also be security risks, as unpalatable as that may seem. The questioning of torture victims is not intended to test the credibility of those victims - that is a problem for the Refugee

Board. The Board is concerned with whether a refugee claim is credible. CSIS has a different concern - to assess whether the individual is a security risk. CSIS may be faulted for insensitivity, for possibly relying on information supplied by the victim's torturer, etc. But to suggest that CSIS simply accept the credibility of someone because their "credibility" in a very different sense and context has been vouched for by the Refugee Board goes too far.

Family reunification is another issue that immediately appeals for our support. But the effect of the resolution passed by the CCR, as I read it, is to request that the Minister of Immigration admit the members of families (wives, children, parents, brothers and sisters, ?) of individuals who are not refugees but are in Canada illegally.

Let me provide one more example. In the resolution concerned with sponsorship models for the 90's, after beginning with an opening that is at best misleading if not just false ("Members of the Canadian Council for Refugees have consistently supported the principle of private sponsorship" when, in fact, some members openly criticized private sponsorship as an attempt by the

government to dump its responsibilities for refugees onto the private sector), the resolution goes on to make two contradictory requirements. First, "Selection of refugees for whom private sponsorship applications have been submitted should be accepted," and secondly, "NHQ must ensure an accessible, speedy and credible review process for sponsorship refusals." Quite aside from the very questionable request to make sponsorship requests automatically accepted, if the advice were accepted then there would have been no refusals as a basis for a review process. One can't ask for no refusals and a review of refusals at one and the same time.

These criticisms are not just the meandering of a cantankerous old academic more concerned with sound logic than refugees. It is a concern with the process, care and integrity with which the CCR passes resolutions. The passing of a resolution should not simply be an opportunity for the NGO sector to vent understandable frustrations - a real danger. The CCR meetings should provide an apparatus for more carefully composing, debating and voting on such resolutions. *Howard Adelman, Editor*

## CANADA'S PERIODICAL ON REFUGEES REFUGE

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### Letter to the Editor:

#### LIMITED FACTS FROM IRB STATISTICS ON REFUGEE CLAIMS?

Just a note to alert you and the editors of "Refuge" to the fact that the statistics from the Refugee Board are limited and can misrepresent the situation.

When the new law came into effect, the Immigration Department began a new recording procedure which registered as claimants those persons who arrived in Canada, were not admitted any other way and who indicated a wish to make a refugee claim. Previously, the Immigration Department had registered everyone who was reported as an irregular arrival as a "potential refugee claimant". Thus between 1988 and 1989 the number of claims fell for this technical reason alone.

Using the new definition, the

Immigration Department monitors refugee arrivals. The reports are called "Refugee Determination System-Monthly Report" of which we receive tables 1, 2, and 3. No one knows how accurate their figures are because there is no independent assessment. However, the statistics released are plausible. They tell the story before the Refugee Board becomes involved at the first screening hearing and after the Board has finished.

From this perspective, up to October 31, 1990, over 50,000 asylum seekers arrived. The reports show that almost half the claimants came via the United States. At some major border points automatic return, refoulement, occurs to the United States. You recall the new law provides for return to the



USA until Canadian officials are available to conduct the first screening hearing. The scale is large - an estimated 500-1000 persons refouled per month. At these major border points the wait in the USA is at least a month. (Of course this refoulement to the USA discriminates against persons coming via the USA. Also, denying rights on the grounds of administrative convenience is counter to the Supreme Court of Canada decision on Singh *et al.*)

A new backlog or 'frontlog' is accumulating. Testimony before the 1987 Senate Hearings on the then proposed new law revealed that backlogs occurred in the part of the procedure controlled by the Immigration Department leading up to the first inquiry. At that time the churches argued that the new law did not deal with this problem because it retained the inquiry, now the screening hearing, controlled by the Immigration Department and presided over by an Immigration Adjudicator. The government statistics reveal that this is once again the case. The 'frontlog' now stands at over 17,000 cases and the average delay before the screening is reported as seven months. As of October 31, 1990, of the over 50,000 arrivals, only some 10,000 cases have been heard to completion and only about 7,000 refugees confirmed. It is hard to see this as success.

The Immigration statistics also show that 850 deportations have taken place. Voluntary sector groups have identified over 100 cases where serious mistakes in screening hearing or full hearing have occurred. These cases have been documented carefully. The inadequate "leave" for judicial review did nothing because it could not deal with the substance of a decision. Refugee serving groups report the lack of meaningful appeal as another major problem. It is true that this Minister has been persuaded to allow almost all of these cases to remain. However, not even those found and determined by voluntary groups to be refugees could be protected.

*Continued on page 16*

## CANADIAN COUNCIL FOR REFUGEES RESOLUTIONS NOVEMBER, 1990 (EDITED)

### BE IT RESOLVED THAT THE CCR :

#### *Family Reunification:*

1. **demand** the Minister of Employment and Immigration end the separation of families immediately by taking steps to reunite them in Canada;

2. **demand** the Canadian government act on its promise and implement and publish specific effective procedures to reunite children and 'familial' caregivers immediately regardless of the caregiver's status in Canada;

#### *Refugee Claimants:*

3. **request** the Government of Canada to end the practice of sending refugee claimants back to the U.S. prior to the hearing of their refugee claims;

4. **denounce** in very clear language subjecting refugee claimants who may have experienced torture to hours of intense, hostile questioning by the Canadian Security and Intelligence Service, to the Prime Minister of Canada, the Solicitor-General of Canada and the Minister of Immigration and seek a response to ensure an end to such practices and that the Human Rights Commission be made aware of such practices;

#### *Backlog:*

5. **demand** that the Minister keep her promise that cases in the Backlog be dealt with on a first come, first served basis, and cease the discriminatory practice of expediting cases believed to be manifestly unfounded;

6. **communicate** dissatisfaction to the Minister with the practice of denying landing for claimants in the backlog (for reasons related to their inability to support themselves financially and obliging such persons, many of whom are single mothers, elderly or with medical handicaps, to attend a full refugee hearing) and **demand** that the practice be stopped;

7. **endorse** and support through its members and executive the ICCR brief, "Civil Rights and the Refugee Claimant Backlog" recently submitted to the UN Human Rights Committee by letters to the Ministers of EIC, External Affairs and the Justice Department;

8. **consider** seeking funding to mount an individual legal challenge based on the principles of the delay of justice and the cruel and inhuman treatment inflicted, in violation of the UN covenants and the Canadian charter;

#### *Iranians:*

9. **write** to the Minister requesting that she instruct her officials to stop forcing Iranians to make application to the Iranian consulate for travel documents;

#### *Sri Lankans:*

10. **call upon** the Minister of Employment and Immigration

- immediately to impose a moratorium on the removal of Sri Lankans from Canada;

- permit Sri Lankan nationals in Canada subject to removal orders to apply for permanent residence;

and **urge** all CCR members to communicate this request to the Minister on their own behalf;

#### *People's Republic of China:*

11. **request** that the Minister of Employment and Immigration **administer** the program for nationals from the People's Republic of China (PRC) consistently and fairly;

**implement** the expectation that candidates would generally be accepted on humanitarian grounds (and not forced to make refugee claims);

**allow** their families in the meantime to come to Canada on Minister's Permits;

**extend** work authorizations;

#### *Lebanese:*

12. **ask** the Minister of Immigration to extend the moratorium on the removal of Lebanese from Canada;

#### *Funding:*

13. **requests** an immediate change in the ISAP eligibility criteria to include services to refugee claimants;

**and that**

the ISAP budget be increased to represent a minimum of 10% of the Federal Immigration Budget;

**and that**

the Executive of the CCR communicate this message immediately to the Minister.

**IMMIGRATION AND REFUGEE BOARD - 1990 STATISTICS**

Period: January 1 - December 31, 1990

	INITIAL HEARING STAGE					
	ATLANTIC	QUEBEC	ONTARIO	PRAIRIES	B.C.	NATIONAL
Claims Concluded	824	6,586	11,854	552	1,653	21,469
Withdrawn/Abandoned	0	48	150	19	46	263
Decisions Rendered	824	6,538	11,704	533	1,607	21,206
Claims rejected						
- Eligibility	1	9	19	4	4	37
- Credible basis	68	219	464	93	85	929
To Full Hearing	755	6,310	11,221	436	1,518	20,240

	FULL HEARING STAGE					
	ATLANTIC	QUEBEC	ONTARIO	PRAIRIES	B.C.	NATIONAL
Claims heard to completion	411	6,057	7,205	408	1,045	15,126
Decisions rendered	356	5,456	6,572	347	892	13,623
Claims rejected	154	1,247	1,114	35	363	2,913
Claims upheld	202	4,209	5,458	312	529	10,710
Withdrawn/abandoned	18	116	159	17	64	374
Decisions pending *	55	617	652	61	154	1,539
Claims pending **	217	3,194	8,828	250	1,023	13,512

\* Decisions pending include all claims heard to completion since January 1, 1989, for which no decision had been rendered by the end of the reporting period.

\*\* Claims pending include all claims referred to the CRDD full hearing stage, that have not been finalized (i.e. by a positive or negative decision or by withdrawal or abandonment) as of the end of the reporting period.

Continued from page 3

### LIMITED FACTS ...

A serious aspect of any procedure is how it treats people. Analysis of the new law must give weight to the July 1990 Discussion Paper of the Canadian Council for Refugees "Problems on the Path to a Just Society: A Human Rights Analysis of Canadian Immigration Law and Practice". It reports persistent instances of harassment in immigration interviews, detention with insufficient evidence, unjust and ineffective detention review and release practices, lack of safeguards to limit inappropriate restraint practices - chains, strapping to beds, drugging for deportation and a

lack of independent investigation. To this evidence must be added the two surveys which indicate that a majority in the refugee backlog may face serious re-traumatization. The Inter-Church Committee for Refugees issued a report "Civil Rights and the Refugee Claimant Backlog". A group of five Montreal agencies prepared a report "The Psychological Consequences of Waiting for Refugee Status in Metropolitan Montreal". A member of the UN Human Rights Committee confirmed during the October 1990 examination of Canada

that long delays for traumatized people can be a form of cruel treatment.

From the perspective of the Immigration Statistics and our evidence, the procedure is poor. There is no protection in law. There are mistakes in practice. Degrading treatment abounds. There is likely cruel treatment of about 100,000 people.

Yours sincerely,  
Tom Clark, Co-ordinator  
Inter-Church Committee for Refugees  
Toronto