



# CANADA'S PERIODICAL ON REFUGEES

# REFUGEE

Vol. 12 • No. 2

July 1992

## Special Issue on New Amendments to the Immigration Act

### Processing Bill C-86

Bill C-86, the new proposed Immigration Act, is the first total overhaul of our immigration legislation since our existing Act was tabled in 1976. The Bill became law only in 1978. The new proposed legislation was tabled in the House of Commons in mid-June. The expressed intention is that it become the law of the land before the end of the year.

No decision a country makes, including decisions on our constitution, is more important than who and how new members will be allowed to join. Canada was constituted by immigrants. Eighteen percent of our current population were born elsewhere. Canada is a country of people as well as basic laws, and immigration laws determine who will make up a significant proportion of Canada's body politic in the future.

It is critical that new immigration legislation be given careful consideration. This is particularly important since there is a great deal of evidence that Bill C-86, the most all-encompassing legislation on immigration in Canadian history, was hastily put together. Yet the intention is to give the legislation rapid

consideration in committee during the summer months and pass it in the early part of the fall session. Bill C-86 deserves closer scrutiny.

At the time the proposed Bill was made public in mid-June, the government produced a great deal of literature explaining the legislation's intent and analyzing the major changes. Unfortunately, few journalists, concerned citizens or specialists were able to obtain copies of the actual Bill. Twelve scholars in our research centre are working from one copy of the Bill, which I obtained personally in Ottawa. (It was unavailable at the time from the government printing office.)

It would not be so serious if the Bill was to be carefully vetted in due course, but NGOs and academics have been contacted and many were leaving for summer holidays. Some had previous commitments. They were told to send any written submissions to the House Committee by July 15 or, at the latest, by the end of July. A number have told me that they have already been given dates for hearings in July; they will be allowed ten minutes to make a presentation,

followed by about ten to twenty minutes of discussion.

Such hasty consideration would not be such a serious matter if the changes were not so important to the future life of this nation. We are a country made by immigrants. The way we deal with immigrants and refugees gives our country its character. At the recent informal consultations of the Western states on immigration held in Toronto in June, my European friends in attendance were impressed at the balance between justice and efficacy that Canada had achieved in its immigrant and refugee legislation. We have developed one of the most just and rational systems for dealing with immigrants and refugees. The present Bill is intended to make significant improvements to that process. I believe that it does. The Bill proposes many excellent changes. It also has serious flaws. Let me cite just one.

The Bill has a provision for bilateral and even multilateral agreements for dealing with refugee claims. Such a legislative provision anticipates the future when refugee claims will be dealt with on a multilateral basis according to



CANADA'S PERIODICAL ON REFUGEES  
**REFUGE**

YORK LANES PRESS  
 Centre for Refugee Studies  
 Suite 351, York Lanes  
 York University  
 4700 Keele Street, North York  
 Ontario, Canada M3J 1P3  
 Phone: (416) 736-5843 • Fax: (416) 736-5837  
 Electronic Mail via Bitnet Address:  
 REFUGE@YORKVM1

*Editor*  
**Howard Adelman**  
*Associate Editor*  
**Valerie Ahwee**  
*Asst. Editors*  
**John Dent**  
**Heather N. Green**  
*Managing Editor*  
**Arul S. Aruliah**

*Refuge* is dedicated to the encouragement of assistance to refugees by providing a forum for sharing information and opinion on Canadian and international issues pertaining to refugees.

It is published ten times a year by York Lanes Press for the Centre for Refugee Studies, York University, Canada. *Refuge* is a nonprofit, independent periodical supported by private donations and by subscriptions. It is a forum for discussion, and the views expressed do not necessarily reflect those of its funders or staff.

All material in *Refuge* may be reproduced without permission unless copyrighted or otherwise indicated. Credit should be given to the author or source, if named, and *Refuge*. Submissions on related issues are welcome for publication consideration.

Current subscription rates for one year (ten issues) are:

Canada Can. \$50.00

All other countries U.S. \$60.00

Single issues are available at \$6.50 per copy.

Please enclose payment, made payable to York Lanes Press, with your order.

ISSN 0229-5113

fair and agreed-upon rules. Refugees will then be allocated to receiving states on a previously agreed-upon burden-sharing formula. This will avoid asylum shopping and at the same time ensure that all states live up to their obligations under the Refugee Convention in a fair and equitable manner.

The Bill also strengthens the provisions for the very opposite beggar-thy-neighbour approach encompassed in the never-implemented safe third country provisions of Bill C-55, which became law in 1990. The safe third country provision asserts that if a refugee claimant traversed or sojourned in another country en route to Canada, Canada could send the claimant back to that country and deny the individual access to the Canadian refugee claims system. The provision is intended to place the total refugee burden on those countries that are most accessible to refugees in flight. Since we are at the end of the refugee pipeline because of our geographic location, this could dramatically cut access to the Canadian system.

Some have tried to justify such drastic measures by pointing to the large number of claimants Canada receives, but the number of claims have fallen, not risen. From a peak of 37,000 claims, the numbers now average 30,000 per year. This is about one claim per 1,000 of population. Germany receives one claim per 250 of population. We receive less than the average of one claim per 840 of

population of Western resettlement countries and far fewer than countries of first asylum that border refugee-producing states. We do not carry our fair share of the burden of claimants even now.

The new legislation will allow claimants to be expeditiously and, by and large, fairly dealt with, though there still is no adequate provision for correcting inevitable mistakes. The real danger in the Bill is that we will cut access to the system dramatically and unfairly. In fact, one study of the Bill suggests that provision for accessing the system is being transferred to immigration control officers—a refugee claimant who is determined to have traversed a safe third country will be denied access to the Canadian system at the border.

Such a provision is totally at odds and contradictory to a philosophy of shared responsibility. On this issue, the Bill reads like a scissors-and-paste effort put together by competing factions of mandarins to produce an incoherent and contradictory hybrid.

A recent study by one of my colleagues, to be published in the *Canadian Review of Sociology*, concludes that "immigration policy in Canada rests on a potentially unstable foundation of disparate values and conflicting interests." It would be a pity if those conflicting interests were exacerbated by a legislative process that provided too little time for those who disagree to air their concerns. Not only would the result

**Contents:**

<b>Processing Bill C-86, Editorial</b> .....	1
<b>Minister of Immigration on Bill C-86</b> .....	4
<b>Refugee Issues Misrepresented in Amendments, CCR</b> .....	5
<b>CRS Discussion of Bill C-86</b> .....	6
<b>No Integrity without an Appeal</b> <i>Esther Ishimura</i> .....	18
<b>CCR Spring 1992 Session Resolutions</b> .....	19
<b>Asylum Seekers and the Refugee Determination Procedure,</b> <i>Refugee Council of Australia</i> .....	22
<b>French and other Selected European Perspectives on Asylum</b> <i>Liisa Coulombe</i> .....	25
<b>Book review: Repatriation Under Conflict in Central America</b> <i>Sheilagh Knight-Lira</i> .....	26