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# CANADA'S PERIODICAL ON REFUGEES

# REFUGEE

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## **NOT JUST NUMBERS AND NEW DIRECTIONS: IMPLICATIONS FOR CANADIAN REFUGEE POLICY**

### **Introduction**

**Michael Lanphier**

Formal governmental concerns over Canadian immigration and refugee policy and legislation span more than two years of intensive inquiries and reports. This issue of *Refuge* highlights issues arising from the two reports: *Not Just Numbers: A Canadian Framework for Future Immigration*, published in January, 1998; and its successor, *Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation*, which appeared one year later, in January, 1999.<sup>1</sup> These reports followed a year-long investigation, inaugurated in November, 1996, of a special Legislative Review Advisory Group to the Minister of Immigration. This Group was charged with reviewing the whole of Canadian legislation on immigration and protection of refugees. As it traversed the country for an initial assessment, the Advisory Group invited some to deliver oral presentations and other interested parties to make written submissions, all of which would be taken into account and di-

gested into its voluminous 172-recommendation report, *Not Just Numbers*.

The appearance of that much-awaited report aroused a groundswell of reaction in early 1998. The outpouring of concern required the Minister of Immigration, Madame Lucienne Robillard, to extend her initially planned highlighting tour to a veritable second set of inquiries. Groups and interested parties who had been passed

over on the first round insisted on a hearing while engaging the local and national print and electronic media to attend not only to the government's proposed legislative agenda but to counterrepresentations on nearly every topic raised in the initial report.

These vociferous representations have resulted in substantive modifications. They attempted to clarify initial aims of the Advisory Group, e.g., to

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render the legislative and administrative processes more transparent; separation of specifically "immigration" issues from those of refugee protection and strengthening enforcement systems. They also modified certain substantive provisions, several of which are detailed in the articles to follow. They include a softening of requirements of knowledge of official languages and a widening of skill eligibility as prerequisite for immigration. For refugees, the initial recommendation that the arm's length quasi-judiciary Immigration and Refugee Board be transformed into an administrative wing of the Department of Citizenship and Immigration has been veritably ignored.

Equally important, the style of deliberation and decision-making has developed much more into a processual model. Instead of a fixed set of resolutions being tabled for viewing prior to their submission to Parliament in formal White Paper, the Minister now indicates her Department's willingness to consult and to entertain modifications of some magnitude. The style change is palpable in the second report, *Building on a Strong Foundation ...* (referred to herein as *New Directions*). Recommendations are presented as broad orientations for formulating policy, not as policy created. Even the rhetorical style suggests some tentativeness, as the conditional verb form is repeatedly employed in places where the indicative would be expected.

This issue cannot purport to provide commentary on the whole scope of the legislative review process. Rather, it attempts to provide commentary on significant issues relating to refugees which are currently under consideration and which arose from issues in the Advisory Group's 1998 report. Thus articles address both the *New Directions* and *Not Just Numbers* reports.

Notwithstanding the processual dialogic signals in the 1999 *New Directions*, observers still sense orientations in the report which require reconsideration or modification. These are brought forward in varying styles in the following articles. Michael Lanphier notes

that the new report fails to qualify as a white paper owing to its general overview approach to policy which cannot "translate" directly into legislative bills, as expected in White Paper form. Thus some review procedures lack precision. Moreover if the style were that of a "Green Paper," far more comprehensive attention would be expected to all aspects of refugee policy. Yet this report is selective with respect to the topics chosen for attention. Missing is a thoroughgoing sensitivity to the humanitarian qualities which should infuse all of refugee policy and which his mandated both in domestic and international instruments to which Canada is signatory. Yet the report is replete with concerns over security and abuses of the system.

While underscoring many themes in the prior article Sharryn Aiken focuses particularly on protection issues especially with respect to determination of refugee status. *New Directions* points toward important measures to protect persons at risk. This terminology is employed frequently to signal that "refugees" as strictly defined by the UNHCR definition are not the only types of persons of concern. Others may fail to qualify under those criteria but may be in danger because of escalated conflict, generalized terrorism or other peril. Nevertheless, *New Directions* makes no reference to the need for adequate safeguards to ensure that people fleeing persecution will be assured their right to seek asylum. The government's enhanced attention to interdiction and more elaborate screening prior to and immediately upon arrival suggests that Canada may attempt to reduce its role as safe haven for those at risk seeking state protection.

Michael Casasola likewise focuses upon resettlement policy both in *Not Just Numbers* and *New Directions*. He relates the general orientations especially in the latter document to more specific and detailed reporting of a model generated by the resettlement working group of the Canadian Council for refugees. He recommends that more sustained collaboration between the governmental and non-governmental organizational sec-

tors would result in greater accommodation to needs of refugee newcomers. Moreover, Canada would be the beneficiary of much improved legislation.

With respect to persistent questions of implicit and structural discrimination by gender, Jennifer Hyndman presents an analysis of implications of selection policy in *Not Just Numbers*. The distinction between immigration policy emphasizing adaptivity to the Canadian economy and refugee policy emphasizing protection policy has multiple effects, she argues. In the globalizing of the world economy, immigration serves to "renationalize" policy which has been denationalized by the economic exchange. For refugees, Canada's interest appears to be best served by developing new models of international responsibility sharing the identification of those in need with other states. In this context the selection of women and children should receive priority. Yet if the emphasis falls on "sharing" this responsibility, the result may be fewer refugees admitted to Canada for resettlement. Not only may fewer women enter Canada as an ironic outcome, but women in certain categories may be disfavoured in immigration policy, especially domestic workers who often arrive with high educational and professional skill qualifications.

The concerns of Shawn Beck and Janice Sanford on behalf of the refugee claimant community at Toronto's Romero House deal largely with determination and its relation to governmental administration. The overriding preoccupation in the *Not Just Numbers* report lies in the apparent linkage of the determination system with the bureaucracy of the Ministry of Immigration. This

linkage would only reinforce existing apprehensions that the determination process already is weighted too heavily in favour of a culture discrimination against the applicant. If new "protection officers" reported directly to governmental bureaucracy of the Ministry of Immigration, rather than to a judicial agency, their loyalties would either be divided or lie with the very administrative unit which reviews their performance. Overall, the perspective of the claimant is insufficiently represented in *Not Just Numbers*. There remains a danger that claimants, already in a vulnerable situation in a judicial process in a new country, yet a process which can determine their whole future, may not receive the due attention to their urgent needs and concerns.

Fortunately, the 1999 *New Directions* report recommends that IRB not be redefined into an administrative arm of the Department of Citizenship and Immigration. The issue of arm's length relationship between the adjudicative determination process and administrative remains a general concern for many, especially for those who are themselves claimants, past or future.

This issue also contains a comparative article by Finnish researcher Kathleen Valtonen comparing initial resettlement experiences of refugees in Turku, Finland with similar groups in Toronto. She focuses not only on the experiences of the newcomers but also on arrangements for service deliveries in the two countries. While Canada's non-governmental organizations have been well established for refugee resettlement, Finland has an elaborate welfare system which provides an

important alternate form of settlement support.

Overall, this issue underscores the importance of Canada's role as world leader in refugee policy and resettlement. Recent policy developments especially in Europe on harmonization of determination activities signal a change in attitude on the part of governments with respect to granting asylum to persons at risk. As an international player in the arena of refugee and asylum activities, Canada cannot be immune to the increasing emphasis on control and abuses which permeate European policies of the 1990s. Thus the statements from the Minister of Immigration are timely and force not only government but organizations and others interested in resolving difficulties in the continuing international refugee crisis to declare their priorities.

Symbolically, as we stand at the point of Millennium, there is no more appropriate time. Nor is there more urgent a question. ■

#### Notes

1. Both reports are published by the Minister of Public Works and Government Services Canada for Citizenship and Immigration Canada. The corresponding titles in French are: *Au-delà des chiffres: L'immigration de demain au Canada*, and *De solides assises pour le 21e siècle: Nouvelles orientations pour la politique et la législation relatives aux immigrants et aux réfugiés*, respectively. They are available on-line at the Government of Canada website:  
<<http://cicnet.ci.gc.ca>>. □

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