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CANADA'S PERIODICAL ON REFUGEES

# REFUGEE

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## Convention and Humanitarian Refugees

This issue focuses on the two fundamental aspects of Canadian refugee policy — the refugee determination system dealing with claimants who arrive in Canada and claim to be Convention refugees, and the designated classes and special measures focused on humanitarian refugees whom we select abroad under relaxed immigration criteria.

In the interview with Gordon Fairweather, Chairman of the Immigration and Refugee Board, and in the one with Lorne Waldman, a prominent refugee lawyer in Toronto, we have two very contrasting views of the current refugee determination system. From one perspective, the system is somewhat short of perfection, but in the process of evolving in that direction. From the critical perspective, the system is about to implode on itself.

In the pieces dealing with humanitarian refugees, the central concern is the self-exiled class, those who fled communist regimes in Eastern Europe (excepting Yugoslavia) and were granted refugee status on humanitarian grounds. With glasnost in the

Soviet Union and the sudden and radical transformation of authoritarian communist regimes in that area into societies in transition to democracy, the application of the self-exiled category as a rubric for receiving refugees from Eastern Europe becomes suspect and brings the whole meaning and rationale for special refugee measures into disrepute.

The articles deal with those issues. This editorial, however, is not concerned with the crisis *within* either the regime dealing with Convention refugees or the one dealing with humanitarian refugees but the emerging one *between* Convention and humanitarian refugees.

In the late 70s Canada received 200 to 400 spontaneous arrivals claiming refugee status. Between 1982 and 1986, RSAC, the Refugee Status Advisory Committee then vested with the prime responsibility of dealing with Convention refugee claimants, began receiving 2,500 to 4,000 claims per year, a tenfold increase. As we enter the 90s, the Immigration and Refugee Board, whether efficient or inefficient, whether approaching ideal standards of fairness or failing any fairness test, will be receiving between 20,000 and, some estimate, up to 40,000 refugee claims per year, another tenfold

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increase. For the first time, the Convention refugee program will surpass the humanitarian refugee program.

In a discussion paper specified for official use only in the early 80s, Raphael Girard, who emerged later as the civil servant charged with drafting Bill C-55 (not to mention C-84), the legislation which is the basis for currently dealing with Convention refugee claims, wrote, "it is not desirable to have a resettlement program straddling two main themes, active off-shore selection and the use of asylum as a pro-active program." Girard argued against tolerating a spontaneous inflow of refugees in favour of off-shore selection program. The for-

mer was subject to abuse, lack of control and was prone to become involved in legal entanglements. The latter was subject to management and planning, was sensitive to the Canadian public's political preferences, could be aligned with our foreign policy priorities and would avoid the cumbersome and tremendously difficult problem of removals.

Some fear that the increasing number of spontaneous arrivals claiming Convention refugee status will result in the government implementing the "safe third country" provision in the new legislation which Raphael Girard had included precisely to deter and limit large numbers of legitimate refugee claimants which have emerged as anticipated. Claimants who could have made a claim in a country they transited on route to Canada would be sent back to that country.

But there is another fear. The danger may not be that the current Convention refugee determination process is in danger by new government initiatives to undermine it, but that the Canadian program which allows a flexible response towards refugees who may not be able to prove as individuals that they are subject to a well-founded fear of persecution may be sacrificed to pay the increasing costs of handling Convention refugee claims within Canada. We may be on the verge of an impending attack and an attempt to dismantle the humanitarian refugee program.

The discussion on the current refugee determination process and the problems with the self-exiled class should be read with this as a possibility.

Howard Adelman, Editor

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## Immigration and Refugee Board Status of Claims

January 1 — March 31, 1990

Initial Hearing Stage	Atlantic	Quebec	Ontario	Prairies	B.C.	National
Claims initiated	212	1883	3308	114	470	5987
Hearings adjourned/postponed	6	76	(24)*	9	41	108
Claims withdrawn/abandoned	5	14	29	4	7	59
Decisions rendered	201	1793	3303	101	422	5820

\* More claims were concluded than initiated.

### Of these decisions

#### Claims rejected:

Eligibility	0	2	7	0	1	10
Credible basis	21	49	91	12	10	183
Claims to full hearing	180	1742	3205	89	411	5627

### Full Hearing Stage

	Atlantic	Quebec	Ontario	Prairies	B.C.	National
Claims heard to completion	72	1228	1600	107	266	3273
Decisions rendered	23	906	1355	90	170	2544
Decisions pending at December 31, 1989	51	519	390	42	97	1099
Decisions pending at March 31, 1990	100	841	635	59	193	1828
Claims withdrawn/abandoned	0	12	23	2	14	51

### Of these decisions

Claims rejected	7	195	189	11	60	462
Claims upheld	16	711	1166	79	110	2082