



CANADA'S PERIODICAL ON REFUGEES REFUGEE

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FOCUS: REFUGEE MOVEMENTS FROM THE SUDAN

An Exemplar Report on IRB

Rebuilding Trust: The Report of the Review of Fundamental Justice in Information Gathering and Dissemination at the Immigration and Refugee Board (IRB) of Canada is imposing, far less because of the overlong title than for the carefully reasoned and empathetic treatment of an urgent issue in refugee determination. Couched in efficient and grammatically impeccable prose, this 80-page document deserves to become required reading for all concerned with the substance and method of refugee determination, not least, we hope, for all members of the IRB and of the Citizenship and Immigration Commission (CIC). Reviewer Prof. James Hathaway, buttressed by innumerable testimonies and depositions of Board, legal and nongovernmental communities, has interpreted his terms of reference to review and advise on:

compliance by the Immigration and Refugee Board with the principles of fundamental justice in its information gathering and dissemination activities with particular attention to the matter of contacts between members and refugee hearing officers ... compliance ... regarding information gathering and dissemination

[and] to provide any other advice and make any other recommendations in connection with this review and its findings ... (*Review of fundamental justice* ..., Terms of Reference).

These terms of reference extend somewhat more widely than is traditional for an in-house review, and fortunately so. Hathaway thereby examines some of the immediate context within which IRB members and staff discharge their duties and focuses on impediments to implementation of the nonadversarial procedures. Included among the major objects of attention are adversarial tactics of counsel, the anomalous role of refugee hearing officers and the fulfillment of the board members role of fact-finder and decision-maker. He uses the contextual

approach to provide a structural analysis of serious impediments to the appropriate functioning of the Board and thus averts *cul-de-sac* reductions to personality indisposition or poor managerial style.

Among the forty well considered recommendations, six directly address an issue much in recent Board news — the process of appointment of board members. Taking direct aim at present practices, Hathaway recommends a wider process of advertising for prospective members, and the formation of Regional Advisory Committees, composed of representation from the Board, the bar, a delegate from the Canadian Council for Refugees, the federal tribunal and Privy Council. This committee would construct a

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short list of applicants from which the Privy Council would appoint or re-appoint members. Moreover, any future appointments should be suspended unless and until this procedure is implemented.

Without any necessary reflection on the quality of the appointees, past or present, these recommendations amount to an advise to the Minister to break from the closed and privileged past practices. This line of argumentation responds to concerns that board members, personally charged with the critical and often vital responsibility of determining eligibility for membership in Canada, be *seen* to be selected by a process both transparent and thorough. It is no accident that Hathaway considers these recommendations most urgent in priority. It is ultimately the judgment of these members upon which the fate of claimants waits in the balance.

Yet Hathaway is not content to leave the matter of appointment procedure isolated from wider contextual concerns. The rest of the recommendations frame the appointment issue in a series of roles and role prescriptions — a period of mentored training for Board appointees, a more formal and circumscribed relation to hearing officers together with more efficient deployment of the latter; the fuller performance of CIC Senior Immigration Officers in fact-finding and reportage; and the restoration of the Documentation Information and Re-

search Branch to serve all interested members to the process, not only those administratively closest to decision-making.

Admittedly, Hathaway confines himself to a review of the internal workings of the Board. This able and subtle analysis perforce pays less attention to the relation of the Board to its neighbouring administrative bodies, especially CIC, than to the wider community of those concerned with refugees and perhaps to other types of judicial bodies. Such an inquiry span, while necessary, lies beyond the well-delimited focus of this Report, which accomplishes its task admirably and thereby becomes an exemplar for further inquiry.

Likewise, coordination between the activities of the Board and the community of persons and organizations interested in refugees requires more attention. Training courses and special area- or crisis-related seminars, for example, have been and will continue to be mounted by university and other specialized centres on both regularized and periodic bases from which board members and staff benefit without diversion of their own scarce personnel resources.

We are indebted to Hathaway and the review process for providing an important début in what we hope will be a continuing examination, at once compassionate to refugees and responsive to public concern. ■

C. Michael Lanphier

Letter to Editor:

The article by Arul S. Aruliah and Anusha Aruliah "The Evolution of Ethnic Conflict in Sri Lanka" (*Refuge* 13, 3: 3-8) contains many omissions, biased nuances, and errors of fact.

...It is most disappointing that the editors of the special issue on Sri Lanka, which contained the Aruliah article, did not attempt to get a better balance on the contentious and controversial matters being discussed. Arul Aruliah's fitness to be taken as an unbiased commentator on Sri Lankan affairs, much less on its ethnic affairs, is a case in point. Readers may not be aware that Mr. Aruliah was one time Chairman of the Immigration

(and Refugee Affairs) Committee for Tamil Eelam Society of Canada in Toronto. ... (The authors) in their capsule history of the conflict, make little mention of the role of Tamil nationalism in the evolution of the conflict and make no mention at all of Sri Lanka's neighbour (India) in fostering armed terrorism of Sri Lanka's extremist Tamils.

Asoka Weerasinghe,
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Sri Lanka High Commission, Ottawa

(Editor's note: The foregoing is an extract from a 6000-word letter. If interested in the full text, please write to *Refuge*.)