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REFUGEE

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THE REFUGEE STATUS DETERMINATION PROCESS: TASK FORCE REPORT

The report on Canada's refugee status determination process prepared by the Task Force on Immigration Practices and Procedures which was established by the Honourable Lloyd Axworthy, Minister of Employment and Immigration, was released in November, 1981. The report provides a comprehensive examination of the policies and practices employed by Canada both at home and overseas in determining who is a refugee and who may come to Canada as a refugee, in the context of Canada's international obligation with respect to refugees.

The Task Force establishes that Canada's refugee determination procedures ought to reflect "Canadian standards of procedural fairness as they have become manifest in our general legal concept of a 'fair hearing'." In a decision on refugee status, a person's life may be at stake; and our standards for procedural fairness in refugee determinations, and our willingness to allocate the resources necessary to achieving that standard, ought to be comparable to those we demand of our other tribunals charged with decisions of equally serious consequence.

Procedures for claims in Canada

The bulk of the report deals with the process of making a refugee claim in Canada. This process currently involves an examination of a claimant by a senior immigration officer; the review of a transcript of that examination by the Refugee Status Advisory Committee (RSAC); the giving of advice by the RSAC to the Minister; a decision by the Minister or his delegate with respect to refugee status; and in some cases an appeal to the Immigration Appeal

Board and possibly to the Federal Court of Appeals.

The report recommends many specific changes in these procedures which could be implemented without emendation of the Immigration Act, including the appointment of sufficient members to the RSAC for it to discharge its duties fairly and cease such current time-saving practices as screening out "manifestly unfounded" claims. The Task Force also stresses the need for the members of the RSAC to be independent of any government departments, lest they be influenced by such foreign policy considerations as what effect a finding of persecution might have on Canada's relations with the country involved, or such immigration considerations as a claimant's ability to settle in Canada successfully, which are not proper considerations in refugee determinations.

The report also observes that the "give and take" of oral argument is important to our concept of a fair hearing, and suggests ways that oral hearings could be incorporated into the existing process at various stages.

However, the report suggests that it would ultimately be preferable to amend the Immigration Act to replace the present fragmented refugee determination process with a central tribunal which would hear and determine refugee claims.

Overseas Policy

The report also discusses some of the inequities inherent in our system for processing claims abroad. For example, a handicapped or unskilled refugee could not legally be expelled from Canada. However, such a person *could* be denied admission

REFUGEE is dedicated to encouraging Canadian citizen participation in helping refugees, by providing a forum for sharing information and opinion on domestic and international issues pertaining to refugees.



