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# CANADA'S PERIODICAL ON REFUGEES

# REFUGEE

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## Betrayal

We thought this would be the last issue in a long time dealing with refugee status determination in Canada. We had written an editorial to that effect. (It is included as an ironic postscript.) Naively, we had expected legislation more or less to follow the essential thrust of the recommendations of a Parliamentary Committee, of the Plaut report, of the religious communities, ethnic groups, humanitarian organizations such as Amnesty International, of academic experts in the field.

Current proposals in preparation for consideration are an insult to Parliament, a travesty of the consultative process, disrespectful of the results of thoughtful and humane consideration, and another formula for embarrassment for the Mulroney government. Refugees have been betrayed. Religious, humanitarian and ethnic leaders have been duped. Rabbi Plaut has been misused. And the considerations and fundamental conclusions of a Parliamentary Committee with a majority of Tories have been rejected.

Instead of the long overdue final move toward a more rational and humane refugee status determination process, humane because it accurately identifies legitimate claimants and does not allow them to languish in limbo, and rational because it effectively puts a stop to large numbers of illegitimate claimants abusing the refugee status determination process, what has been proposed is the castration of any system, however rational and humane it might be.

Restrictive legislation would be introduced to prevent refugee claims from being presented. And the power to make the decisions would be in the hands of adjudicators, not a central authority as recommended by international guidelines and all concerned non-government organizations on this issue. Within 72 hours, the adjudicator could have sent the refugee claimant flying (literally) because, for example, he or she was a Baha'i from Iran who happened to have come here by way of Germany.

The proposals separate the admissibility issue from the merits of any claim. Instead of universal access, there would be limited access. For example, access could be restricted by insisting that, in order to be eligible to make a claim, a refugee must not have come via another country where the refugee could have claimed refugee status.

No due process. Supreme Court Justice Bertha Wilson has written that everyone present in Canada was entitled to the

consideration of a judicial process in such situations. But the proposals would have adjudicators at the airport make the decisions. Whatever safeguards are proposed, decisions made within 72 hours will almost never satisfy principles of fairness. The proposals snub the conclusions of the highest court in the land. It is as if the Supreme Court had not ruled that refugee claimants must be offered the protection of the Canadian Charter of Rights. Hawke's Parliamentary Committee need not have seconded Plaut and recommended universal access.

The Minister of Employment and Immigration, Flora MacDonald, at the last meeting of organizations concerned with refugees said that she had some reservations about universal access. But she claimed she had listened to the arguments of those concerned. The fact is that a consultative process is abused when the discussions proceed on one track with a variety of alternatives and, at the last minute, a radically different procedure

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