



CANADA'S PERIODICAL ON REFUGEES REFUGEE

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The Refugee Crisis

Ten million refugees! Sixteen million refugees! But the real crisis is not simply one of numbers or even of the degree of hardship, both physical and emotional, suffered by all those who are homeless. The real crisis is a moral and political one.

Our globe is completely divided up into states. There are virtually no more nomads. The era of unsettled peoples who moved with lightning speed to conquer new pastures or hunting lands ended in Eurasia in the 17th century, in China and India in the 18th century, in the Americas in the 19th century and in Africa in the 20th century. Corresponding to the disappearance of nomadic life has been the disappearance of frontiers, of the conquest and settlement of "virgin" lands whether in Siberia, the Americas, or the continent of Africa. Settlers from diverse areas had to be consolidated into nations. Frontiers had to be converted into secure and recognized borders.

The 20th century has witnessed the evolution of a world-wide nation-state system with the result that any individual today who is not a citizen is, by definition, stateless, and hence, homeless. In this century, to be stateless, and hence, homeless, is to be cast out of humanity. The only way to have a home and thus to avoid being an "outsider" is to belong to a state: citizenship, therefore, has become not simply a duty, but a necessity and a right. It is a prere-

quisite to living in our contemporary world.

If every individual must be a citizen, the corollary is that states must fulfill fundamental obligations to individuals. First, the protection of its individual citizens from domestic strife and foreign enemies must be a priority of a state. Second, each citizen must be treated equally before the law. Third, the state has an obligation to foster conditions which allow citizens to develop and secure their own prosperity, professional achievement and creativity.

Difficulties arise when states fail in their obligations to their citizens. Rather than functioning as protectors, the governors of a state may actually endanger and threaten its own citizens; rather than guaranteeing equality before the law, the rulers may persecute individuals or groups either by legal means or through individuals and groups not subject to rule of law; rather than fostering opportunities for their citizens, dictators or oligarchies may be their chief exploiters.

A moral and political crisis, however, is experienced in those states which take seriously the obligations to their own citizens *and* also assume some obligation to the suffering individuals of other states. The Canadian government has an obligation to protect our security, guarantee equal treatment under the law, and provide opportunities for the self-realization of its individual citizens. The government has also written into domestic law and entered into international obligations for the protection of refugees who flee governments which act contrary to their obligations to their own citizens.

What happens when international obligations threaten or appear to threaten the obligations governments have to their own citizens? What happens when the government fails to ensure opportunities for its own citizens at the same time as the numbers of refugees are increasing? Moral obligations to others who are victims of exploitation by their

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REFUGE

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Canada as a Principal Power, David B. Dewitt and John J. Kirton. John Wiley and Sons Canada Limited. Toronto. 1983. Chapter 7, "Immigration Policy: The Case of Refugees" is particularly relevant.

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The State of the World's Children, 1982-83, James P. Grant, Executive Director of the United Nations Children's Fund. Oxford University Press. New York, 1982.

Letters

To the Editor,

L'article paru dans *Refuge* Vol 2, no.3 sur les réfugiés du Sud-Est asiatique en France, contient certaines inexactitudes et permettez-moi de vous apporter à ce sujet quelques précisions.

La Commission de recours qui juge du bien fondé ou non du refus d'attribution par l'OFPRA du statut de réfugié au sens de la Convention de Genève ne comprend pas en son sein un représentant de l'OFPRA mais un représentant du Ministère de la Solidarité Nationale (anciennement Ministère du Travail). Le représentant de l'OFPRA n'est là que pour tenter de justifier devant la Commission le refus apposé à un dossier. En aucun cas, il est juge en la circonstance.

Seul l'OFPRA est habilité en France à attribuer à un étranger le statut de réfugié politique. C'est donc lui qui a attribué le statut de réfugié politique aux personnes déplacées du Sud-Est asiatique. Mais il est vrai que ces mêmes personnes l'ont obtenu, dans la plupart des cas, dans le cadre d'une politique d'ensemble et non pas après examen cas par cas des dossiers comme il est normalement de règle.

En aucun cas, la délégation du HCR en France a participé à une quelconque politique de sélection des réfugiés dans les pays de transit. Tout au plus, peut-il formuler quelques souhaits. Il y a eut des opérations d'accueil de réfugiés en France qui n'ont pas reçu l'adhésion du HCH, bien au contraire. Par exemple, je pense à l'opération dite des "enfants de Noël" qui concerna un peu plus d'une centaine de mineurs isolés cambodgiens en décembre 1980.

Il y aurait beaucoup à dire sur la politique française de sélection des réfugiés du Sud-Est asiatique. Elle a varié dans le temps et les critères appliqués ont souvent changé. A ceux que vous citez, je voudrais au moins en ajouter un autre: la qualification professionnelle. Au début, il s'agissait de privilégier les hautes qualifications mais ensuite on préféra se tourner vers les "manuels" parce qu'ils étaient ceux qui ressentaient le moins durement un déclassement professionnel.

La carte des centres provisoires d'hébergement (C.P.H.) en France est aussi très changeante. Des centres ouvrent quand d'autres ferment provisoirement

ou définitivement et cela assez périodiquement. Il n'est pas question de rentrer ici dans le détail mais globalement on peut dire que les C.P.H. se situent en grande majorité dans la France dite "industrielle" par rapport à celle dite "rurale", c'est-à-dire dans la moitié est du pays.

Les allocations attribuées aux réfugiés dans les C.P.H. sont heureusement supérieures à celles que vous mentionnez. En 1979-1980 elles étaient de 10 F. par jour par adulte et de 2 F. par jour par enfant de moins de 15 ans en plus de la fourniture gratuite de la nourriture, soit pour un adulte un minimum de 70 F par semaine au cours des premiers mois, d'accueil. Cette somme était loin d'être un luxe quand on songe qu'elle n'avait pas progressé depuis 1975 malgré une forte inflation.

En ce qui concerne les solutions individuelles, le Secours Catholique, contrairement au SSAE n'a jamais été habilité à subvenir aux besoins des réfugiés autrement que par des aides ou des dons dont il assurait l'entière responsabilité sans qu'elle relevât en rien de l'Etat. Tout au plus, peut-il agir comme intermédiaire pour transmettre des dossiers aux autorités reconnues et compétentes.

A aucun moment, je pense, on peut parler de coercition quant à l'implantation des C.P.H. dans les départements français. La persuasion que vous évoquez est le terme exacte aussi bien avant qu'après l'accession des Socialistes au pouvoir en mai 1981.

Vous avez raison de souligner, je crois, qu'on a essayé en France d'insérer les personnes sans dresser de clivages ethniques comme cela a été le cas lors du rapatriement des Français musulmans d'Afrique du Nord vers 1960. Malheureusement, ce clivage ethnique vient quelquefois des ethnies minoritaires elles-mêmes qui peuvent avoir tendance à se replier sur elles du fait même qu'elles sont minoritaires.

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Michel Mignot's observations concerning formalities and other arrangements for resettlement of refugees in France are important. Some of my own observations on these issues were omitted from a longer draft of my article.

C.M. Lanphier



The Refugee Crisis (cont'd from p. 1)

own governments tend to be reduced. Considerations of equality before the law are restricted to citizens (thus excluding refugees who might have benefited from them); but these same restrictions are removed when such considerations can be applied to the detriment of refugees. In some cases, even our obligation to individuals whose physical security is actually threatened may be affected. This is the source of the moral and political crisis.

Canada's economic crisis is part of a world crisis which has fostered situations in which the number of refugees has increased. At the same time, pressure mounts to keep them out; the government is urged to attend to its own citizens who lack adequate housing or any employment. We do not believe we can fulfill our obligations to our own citizens as well as our obligations to refugees. What do we do?

There are people today whose economic welfare has been totally undermined by their own government's policies. They live on the edge of despair, revolt or risk death to flee to a new situation which might offer a glimmer of hope. To counteract the flow of these increasing numbers of economic refugees, we have begun to restrict our humanitarian programs even toward those emanating from territories governed by economic systems contrary to our own. In the past, our humanitarian refugee program has not been geared to respond to the suffering of citizens exploited by their own governments. If the regime was simply a negligent one or even a criminal one, as in Haiti, we did not consider those who fled the economic exploitation to be refugees. However, when policies denying economic opportunities were ideologically motivated we used our humanitarian programs to help those who fled. We extended an outstretched hand to East Europeans but not Haitian self-exiles. The degree of intake was not proportionate to the degree of exploitation and suffering but was related to the ideology of a system regarded as contrary to our own. But even the humanitarian programs applied to the latter group become more restrictive.

Judicial norms are distorted to restrict the entry of refugees fleeing regimes which offend all norms of justice. The principle of equality before the law is applied where it is inapplicable and, along

with the principle of mitigating circumstances, both are ignored where they are relevant. For those who live in countries where there is no equality of treatment before the law, where justice is swift, arbitrary and not itself subject to judicial norms, there is a legitimate fear of persecution. But to enter Canada these individuals may breach our laws — lie on their declarations of entry or alter a passport. To them we may apply the principle of equality before the law even if they are genuine refugees; because they breach our laws, immigration officers may determine that such individuals cannot be given refuge. To others, we deny equality before the law because we do not insist on the right of refugee claimants to be represented by counsel. The principle of equality before the law, which is a procedural norm, is not used to ensure procedural equality. It is distorted and applied to the offence, in spite of the fact that another judicial norm requiring a consideration of mitigating circumstances to ensure justice would clearly differentiate between a situation in which a refugee who flees a government he does not trust and alters a passport to obtain a safe haven as very different from a case in which one of our own citizens alters a passport for criminal purposes.

In the area of pure protection, where the physical security of the refugee is clearly in danger, our refugee policy seems to serve impartially. The onus of proof is on those who must establish a fear of persecution, though they may be given the benefit of the doubt.

Granting asylum for those who flee in fear of their lives is a litmus test of whether a government has a refugee policy. The degree of liberalization of that policy, however, is measured by two other yardsticks. First, is the principle of equality before the law applied to the judicial norms for processing a claim and not to particular offences? If it is, the policy is liberal. Second, are the humanitarian policies applied in relationship to the degree of exploitation and suffering of those who flee independent of whether that exploitation is rooted in ideological or criminal motives? If it is, the refugee policy is ultra-liberal.

Our doors are not shut to refugees. But they are closing. The forces favouring restrictive policies, focussing on the welfare of our own citizens at the expense of refugees, seem to be in the ascendant compared to the forces for liberalization.

Canadian News

Indochinese Arrivals — We're Slipping

Canada admitted 112 Indochinese refugees for resettlement in February and 189 in January of this year. During the same two-month period, Australia admitted 1,468, the U.S.A. 3,224, France 828 and Germany 223. Little New Zealand took in 81 and even Finland admitted 119. What happened to Canada's leadership role in providing third country resettlement for these refugees?

* * *

Anti-Piracy Program

Canada and 11 other countries are attempting to find ways of extending a program to combat pirate attacks against Indochinese "boat people" on the South China Sea. The program has led to a decrease in these armed attacks since it began last August. Donations in 1982 totalling U.S. \$3.6 million from 12 countries, including \$150,000 from Canada, helped the government of Thailand to carry out operations against such attacks. There is a need for further funding to ensure that anti-piracy operations will continue.

Over 1,400 Vietnamese left their country in March under the Orderly Departure Program organized by UNHCR. This compares to the departure of 1,661 "boat people" in the same month.

Toronto Office Skills Training Project

The Toronto Office Skills Training Project, funded by L.E.A.P. (Local Employment Assistance Programme) has been established to prepare women from Southeast Asia for clerical work in offices. The project is designed to offer an integrated program of ESL instruction with training in job skills, life skills and on-the-job training. The project went into operation on May 9 with its first group of trainees. For more information contact Janis Galway at 69 Sherbourne Street, Suite 421, Toronto, Ontario M5A 3X7. Phone (416) 368-9355.

Detaining and Prosecuting Refugee Claimants

The Detention of Refugee Claimants

It appears that the Department of Immigration has, as a standard practice, detained refugee claimants upon their arrival in Canada because they are indigent.¹

The Department's position appears to be that if a refugee claimant does not have sufficient funds or personal contacts in Canada prepared to assist him, then there is reason to believe that once released he will not report back for the continuation of his immigration proceedings.² The Department has also advanced the argument that the detention of indigent refugee claimants is for their own good, a kind of protection against the cruel realities of life on the streets of Canadian cities.

Detention of refugee claimants on the ground that their indigence may prevent them from reporting for the continuation of proceedings is not justified. How can a person be deprived of his freedom on such flimsy grounds? Surely this could not have been the intention of the Canadian legislator in drafting the Immigration Act nor of the signatories to the Geneva Convention. As well, I suspect, a good case could be made that such a position derogates from the protection in the Charter of Rights and Freedoms against arbitrary detention or imprisonment.³

Secondly, the argument that detention of indigent refugee claimants is a means of protection for "their own good" is weak. It affirms Canada's refusal to provide any kind of financial support to needy refugee claimants.⁴ Such a position cannot be justified in view of Canada's international oblig-

ations: under Article 25 of the Universal Declaration of Human Rights, everyone has a right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services. Finally, the conditions in which the refugee claimants are detained are by no stretch of the imagination for "their own good". The main detention centre for Mirabel International Airport does not meet some of the basic minimum requirements applicable to prisons, such as a provision for outdoor exercise or fresh air.

Some refugee claimants may "pose a danger" to the Canadian public. This is another reason invoked by the Department of Immigration in order to justify the detention of refugee claimants.⁵ A claimant may find his statements upon entry being used against him in an Immigration inquiry to justify his detention. For example, a claimant may have explained to Department officials that the authorities of his country of origin had sought to arrest him in connection with an alleged criminal act even though the claimant

explains that he was never involved in the alleged or any other crime and that the prosecution was in fact a form of persecution due to his political convictions. The Department demands that the claimant be detained at least until such time as the necessary security checks may be made. These checks are usually nothing more than a verification with the local Interpol branch in the claimant's country, an office staffed by local police. It is difficult, if not impossible, to imagine obtaining any objective information in this manner. Further, the procedure is time-consuming and the refugee claimant remains in detention until a response is received.

Everyone agrees that there is some legitimate need to prevent the infiltration of criminal elements into Canada. However, the means to this end must not be completely out of proportion with the end itself. The *systematic* detention of refugee claimants who voluntarily recount these kinds of incidents of persecution creates more injustice than can be rationalized by any need to protect the physical well-being of Canadians.

¹Stephen Foster is basing his conclusions on his personal experience at Mirabel International Airport where a great number of Canada's refugee claimants arrive.

Editors Note: Indigents are detained for three possible reasons cited by Employment and Immigration: (1) failure to report at a hearing; (2) outstanding criminal charges; (3) or if it is felt that they will suffer physical privation such as starvation or homelessness if they are not kept in detention.

²S.104 (3) of the Immigration Act, 1976, provides that an adjudicator may detain a person where in his opinion the person "would not otherwise appear for the inquiry or continuation thereof or for removal from Canada".

³The Constitution Act, 1982, Part 1, Canadian Charter of Rights and Freedoms, S.9: "Everyone has the right not to be arbitrarily detained or imprisoned". Clearly the expression "everyone" is to be juxtaposed to the expression "every citizen of Canada" as used, for example, in S.6; the former includes refugee claimants.

⁴Editors Note: On March 17, 1983, the Treasury Board approved a new program of Financial Assistance to Indigent Refugee Sta-

tus Claimants. This program replaces the now defunct Special Adjustment Assistance Program through which refugee status claimants had been able to obtain subsistence funding from Employment Centres. In some regions (e.g., Montreal) this became somewhat of a mini-program, but it was not policy-based.

Under the new program, the Treasury Board approved a sum of \$100,000 for the 1982-83 fiscal year and \$400,000 for the 1983-84 fiscal year. The \$100,000 has been distributed on a regional basis (\$50,000 to Quebec, \$40,000 to Ontario and \$10,000 to B.C.). The regional breakdown for the \$400,000 (83-84) has not yet been determined. Eligible under this program are individuals whose claim for refugee status has not been determined by the Minister (although a definition of when a refugee status claimant becomes and ceases to be such is not yet defined.) The government gives the funds to a voluntary organization which in turn provides the funds to the refugee claimant. (In Ontario, for example, the government signed a contract with the United Church of Canada on March 31, 1983, giving them \$40,000.) The assistance to be provided (no refugee claimants have yet received funding under this program) is to cover the basic needs of life which represent the minimum requirements

for day-to-day survival. The maximum amount must not exceed the existing welfare rates for the province in which the funds are distributed.

Author's Note: There was, until late 1982, a program of financial aid for indigent refugee claimants in the Montreal area. The Department cut the program stating that the great majority of refugee claimants were refused refugee status and that the Canadian public was simply not prepared to support these disguised immigrants. The Department's reasoning (even if it did represent the view of Canadians, which is very doubtful) was fallacious in two ways. Firstly, it failed to take into account the overriding need of those refugee claimants who are accepted (some of whom left Canada prior to even receiving an answer because of their impossible financial situation). Secondly, it incorrectly assumed that because the majority of refugee claimants are rejected that the majority of indigent refugee claimants are also rejected. I would suggest (although I have no statistics) that the majority of indigent refugee claimants in the Montreal area in 1982 — many of whom were Guatemalans — would have been accepted.

Prosecution of Refugee Claimants

A number of refugee claimants arriving at Mirabel International Airport with irregular travel documents have been prosecuted either under Section 95⁶ of the Immigration Act or Sections 324–326⁷ of the Criminal Code. The penalty provided for in Section 95 is a maximum fine of up to \$5,000 and/or imprisonment of up to two years. Under the Sections of the Criminal Code the penalty includes imprisonment of up to 14 years. In addition, the consequence of the conviction under these sections of the Criminal Code is that the refugee claimant becomes inadmissible to Canada even if accepted as a refugee.⁸

A typical scenario might be as follows: a refugee claimant arrives in Canada with a forged passport (which he was obliged to obtain to travel here) and makes a claim for refugee status at the airport. At that time, or as soon as he has overcome his apprehension about being deported to his homeland should the irregularity be found out, he voluntarily explains to the Immigration authorities the problem with his travel documents. To his surprise, he suddenly faces prosecution in the criminal courts for illegal use of a forged passport to enter Canada.

The Department of Immigration and the R.C.M.P. branch responsible for enforcement at Mirabel International Airport seem to have agreed to amend their earlier policy of prosecuting all cases including refugees. They have apparently decided that they will not prosecute cases where the refugee claimant voluntarily explains his illegal entry or attempted entry *prior* to his inquiry.

The claimant will be given a final chance to “come clean” before the inquiry, but if he fails to do so he will be prosecuted.⁹ This is the Department’s interpretation of the proviso “without delay” in Article 31 of the Geneva Convention.¹⁰ Obviously this kind of arbitrariness serves to enforce the need for judicial supervision and application of Article 31 by the courts or some body bound by the rules of natural justice.

Grahl-Madsen, the leading authority on international law relating to refugees, states the following:

“. . . Article 31(1) obligates the Contracting States to amend, if necessary, their penal codes or other penal provisions, to ensure that no person entitled to benefit from the provisions of this paragraph shall *run the risk* of being found guilty (under municipal law) of an offence.¹¹ (emphasis added)

Thus, Canada has failed to meet its international obligations in not amending its penal legislation as required to take Article 31(1) into account. Neither Section 95 of the Immigration Act nor the Criminal Code contain any proviso relating to Article 31. Refugees in Canada definitely run the risk of being found guilty under these provisions of law.

Moreover, Canada has failed to meet its international obligations by ignoring the Geneva Convention and imposing penalties on refugee claimants without regard to Article 31. I suggest that this action also constitutes a breach of the spirit and intent of Canadian domestic law, specifically Section 3 of the Immigration Act which

provides as follows:

It is hereby declared that Canadian Immigration policy and the rules and regulations made under this Act shall be designed and administered in such a manner as to promote the domestic and international interests of Canada recognizing the need . . . (g) to fulfil Canada’s international legal obligations with respect to refugees and to uphold its humanitarian tradition with respect to the displaced and persecuted.

It is worth noting that Article 31 does not mean that Canada may never prosecute refugee claimants for illegal entry or presence. As Grahl-Madsen points out:

By prohibiting the imposition of penalties, Article 31 does not prevent a refugee being charged or indicted for illegal frontier crossing or unlawful presence, *if one of the purposes of the proceedings is to determine whether Article 31(1) is in fact applicable*. As pointed out by Mr. Herment, the Belgian delegate at the Conference of Plenipotentiaries, cases concerning refugees may be submitted to the courts, which would decide whether extenuating circumstances should or should not be taken into account in any given case.¹² (emphasis added)

Canada’s domestic law (i.e., the Immigration Act and Criminal Code) must be amended to give the courts or some other judicial or quasi-judicial body the jurisdiction to determine the applicability of Article 31(1) before subjecting a refugee to penalties.

As the situation stands there is no mechanism available to fairly determine the application of Article 31 to a refugee claimant (save the decision of the Minister upon the recommendation of the Refugee Status Advisory Committee — upheld on appeal — that the person is not a refugee which *a fortiori* excludes the application of Article 31). The only fair solution, until the proper amendments to Canada’s laws are made, is not to proceed with any prosecutions or at least to delay proceedings until the person has been determined not to be a refugee.

Stephen Foster is a Montreal-based lawyer, specializing in immigration and refugee law.

⁵S. 104(3) of the Immigration Act, 1976, provides that an adjudicator may detain a person where in his opinion the person “poses a danger to the public”.

⁶Section 95(b) of the Immigration Act (1976) states that every person who “comes into Canada or remains therein by use of a false or improperly obtained passport, visa or other document pertaining to the admission or by reason of any fraudulent or improper means or misrepresentation of any material fact” . . . is guilty of an offence and is liable on conviction on indictment or on summary conviction to a fine, imprisonment or both.

⁷Sections 324–26 of the Criminal Code cover acts of forgery, falsification of documents and use of knowingly false documents.

⁸I recently defended a refugee claimant prosecuted under S. 326. Luckily, the judge at the preliminary inquiry refused to allow the case to proceed to trial. I note in passing that I have been advised by the Department of Immigration that in future they will reserve prosecution under the Criminal Code for “terrorists” and the like and use the Immigration Act to prosecute ordinary cases.

⁹This was explained to me in late February by the R.C.M.P. officer responsible for the case in another improper prosecution which I am defending.

¹⁰Article 31(1) of the Geneva Convention provides as follows:

The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

¹¹*The Status of Refugees in International Law* by Atle Grahl-Madsen, A.W. Sijthoff-Leyden, 1966, p.211.

¹²*Ibid*, p. 210–211.

Rights in Latin America: Report by Canadian Church Group

ad of militarism, governments are growing less inclined to view human committee on Human Rights in Latin America (ICCHRLA), an organization ad to countering this trend by "resisting human rights violations and by ling violator nations accountable for what they do to their citizens." To it human rights violations that occur in Latin America and present detail- lian delegation of the U.N. Commission on Human Rights (UNCHR). * low, this year's report calls special attention to the plight of the "disap- ing in Latin America over the past 30 years. The ICCHRLA urges Canada ize enforced disappearance "as an international crime and a crime against

widespread war. The ICCHRLA urges Canada to press for a political settle- ment of the conflict in El Salvador and to call upon all states to end interven- tion and the supply of arms to that country.

Guatemala

Guatemala continues, with El Salvador, to be one of the worst violators of human rights in Latin America. Since the March 1982 coup by General Rios Montt, large-scale massacres of the peasant, mostly indigenous population have continued as part of a systematic government policy. Medical, academic and church personnel, politicians, trade unionists and journalists also continue to risk and suffer harassment, threats, abduction, torture and death by assassination. In a country where the budget priorities are geared to the military (one estimate, 82%) evidence shows malnutrition, illiteracy, high infant mortality rates, and poverty to be widespread. The ICCHRLA recom- mends that the Canadian government condemn the massive pattern of human rights violations in Guatemala, particularly the "genocide" of the indigenous, rural population.

Chile

Since the military took power in 1973, the international community has annually debated the human rights situa- tion in Chile. The ICCHRLA finds that civil and political rights, and social and economic rights, have still not improv- ed and in some instances have deteriorated. Weakened by global recession and by the failure of its domestic, "open market" policies, the

Chilean economy is in a severe slump which has led to a loss of government support even in traditional, right-wing sectors. However, the military dic- tatorship remains entrenched and repression is its chief response to declining support and growing protest. As in past years, the Special Rap- porteur of the UNCHR reported that Chilean authorities refused to co- operate in his examination of viola- tions of human rights in Chile. In the perpetual "state of emergency" in Chile, arrest without warrant, illegal entry, kidnappings, banishments, secret detentions and the consistent use of torture are all "institutionalized" practices of the state. The ICCHRLA urges Canada to express its concern over the state of human rights in Chile and to call on General Pinochet to clarify the situation of the "disap- peared".

Haiti

The past year has brought new proof of the instability of the "Baby Doc" Duvalier regime and its inability to reform itself. The dismissal of reform politicians, the continued practice of arrest and disappearances, and a developmental policy which is detri- mental to the needs of the people pro- vide evidence that the Haitian govern- ment's promises of change are a deliberate pretence to gain aid and im- prove world opinion. The ICCHRLA recommends that Canada not support the proposed construction of the Verettes-Lachapelle dams which would displace thousands of peasants and reduce food-producing land; and that Canadian policy on aid to Haiti, if not suspended, be conditional upon respect for human rights in that country.

Uruguay

Since 1972, Uruguay has been ruled by autocratic, military-controlled regimes which have repressed all fundamental human rights. Documented evidence shows serious abuse of political prisoners, especially at the notorious Liberated (men's) and Punta de Rieles (women's) prisons, as well as suppres- sion of labour unions, censorship of the media, and abductions and disap- pearances. SERPAJ/Uruguay (Service for Peace and Justice), the first human rights organization in Uruguay since 1973, is already subject to harassment and arrest. The ICCHRLA urges Canada to condemn the mistreatment of political prisoners in Uruguay and to press the UNCHR for a special study of the human rights situation in that country.

Guyana

The Guyanese economy is on the verge of bankruptcy with severely reduced productivity levels, large-scale layoffs in the public sector, and widespread malnutrition caused by restrictions on food imports. The Guyana Human Rights Association and other observers place the principal responsibility for this situation not on the world reces- sion, but on the policies of the Forbes Burnham regime. While the primacy of the party is the highest priority of the government, economic, political and social rights are eroded. Elections are fraudulent, numerous instances of uninvestigated violent deaths have oc- curred, media is restricted, and human rights personnel are harassed. The ICCHLA recommends that Canada condemn political repression and economic deprivation in Guyana and calls particular attention to the plight of the opposition newspapers and freedom of expression in that country.

Copies of the Submission which the Inter-Church Committee on Human Rights in Latin America presented to the Canadian Ambassador to the 39th Session of the United Nations Commission on Human Rights are available from the ICCHRLA office for \$6.50 (including postage and handling). ICCHRLA, 40 St. Clair Avenue East, Suite 201, Toronto, Ontario M4T 1M9. Telephone (416) 921-4152.

*Among the countries that the ICCHRLA does not document in the 1982 report are Cuba, Grenada and Paraguay.

Equalization to Integration

Private and Government Sponsorship of Refugees

Private sponsorship was introduced as a mode of augmenting the intake of refugees into Canada above and beyond those brought in under direct government sponsorship. The model has been a tremendous success, but there have been numerous proposals to equalize and/or integrate the two schemes because of the differential successes as well as the inequities of the two models. The Minister of Employment and Immigration has already introduced a number of measures to reduce inequities through changes in the eligibility criteria for training and in benefits for privately sponsored refugees, and has pledged to establish a program of joint sponsorship.¹

Before an integrated model is implemented as a third stage in partnership of the public and private sectors, several steps would be helpful. First, a careful review of the objectives of such a model would be necessary. Also, an assessment of existing data relevant to such integration and an examination of what policies would need to be altered and what short and long term consequences might be anticipated for each model of integration could then follow.

A refugee resettlement policy relevant to the creation of an integrated model would need to take several factors into account.

1. Limiting Parameters

— There should be no mandatory private sponsorship of government sponsored refugees.

— The policy should not exclude private sponsorship of refugees.

2. Selection

(a) *Numbers* — The number of refugees taken in should not decrease, and, if possible, should be increased.

(b) *Choice* — The refugees selected should be those most in need. At the same time, the refugees selected should reflect those desired by sponsors in Canada. (These two objectives are not inherently compatible but they are not inherently irreconcilable either.)

(c) *Speed* — The new model should not inhibit the requirement of an emergency response to crisis situations.

3. Adaptation

(a) The model should ensure all ref-

ugees resettled in Canada have equal access to services, programs and allowances.

(b) The model should ensure that no private sponsorship group carries an unanticipated totally disproportionate share of the burdens of sponsorship. (Among Indochinese sponsorship groups, 16% of the refugees required support beyond one year and 60% of these were supported by their sponsors.)

(c) The model should be consistent, if possible, in giving priority either to language and cultural adaptation or to economic self-sufficiency.

(d) The model should attempt to give government sponsored refugees the same advantages provided by the personal private networks for privately sponsored refugees that enabled them to obtain jobs four weeks earlier than government sponsored refugees and, perhaps (as in Quebec), achieve a higher participation rate in employment.

(e) The model should attempt to provide as many refugees as possible with a personal volunteer support system which has shown to be so effective and beneficial in the resettlement of refugees, a benefit which most government sponsored refugees do not now presently enjoy.

4. Costs

The new model should not cost any more in total costs or in the cost per government sponsored refugee and, if possible, should utilize the savings, through the use of private sponsorship, to augment the whole refugee intake program since, "the voluntary sector, properly supported, can provide the needed services more adequately than the Government directly, and at considerably less cost."²

5. Co-operation

Any model proposed should be one which enhances and affirms real co-operation between the government and the private sector so that private sponsors do not feel as if they are merely being used. They should be given opportunities to participate in the formulation of policies affecting refugees. Second, any model proposed should facilitate the development of a *three-*

way partnership which includes the refugees themselves as well as the government and private sectors.

Comparative Data

Comparative studies of cost and adjustment factors related to private and government sponsorship reveal that, for example, in the case of the Indochinese refugees, the settlement costs of private sponsorship were \$753 less per refugee (a 33 1/3% saving) than the costs of government sponsored refugees, after deduction of the base costs of transport, overseas costs, etc., for all refugees. The savings result from shorter support periods on average, donated chattels (clothing, furniture, and appliances), and some donated professional services (legal, dental and accounting).

Privately sponsored refugees obtained employment on an average of 4 weeks earlier than government sponsored refugees in spite of the fact that government sponsored refugees had better language skills and higher educational qualifications.

Also, the satisfaction with the personal support system contrasted with the disappointment refugees experienced in obtaining attention from overworked government counsellors.³

Alternative Sponsorship Models

Simple cost sharing and per capita grants would significantly increase the costs to the government and would not provide private support for government sponsored refugees. A combination loan/grant scheme might solve the cost problem but not the human support one. The friendship family model for government sponsored refugees has worked well in some areas but has had difficulty in larger urban areas.

An incentive scheme (which continues the principle of the government matching proposal initiated with the Indochinese Refugee Sponsorship Program but applied to the economics of individual sponsorship) might be tried. There are at least two variations.

Scheme A

For every government sponsored refugee co-sponsored by the private sec-

TABLE 1
(In 1981 dollars)

	Costs per Refugee		Grant Available for Priv. Sponsor
	(1)	(2)	
Estimated cost sponsorship per refugee	2100	2100	
33 $\frac{1}{3}$ % savings of private sponsorship	-700	-700	1400
Estimated Cost of Government-Private Co-sponsorship	1400	1400	

TABLE 2
(In 1982 dollars)

	Costs Per Refugee			Grant For Priv. Sponsor	Available For Base Costs
	(1)	(2)	(3)		
Estimated cost of gov't sponsorship	2250	2250	2250		
One-third Saving	-750	-750	-750	1500	750
Estimated Cost of Gov't-Private Co-sponsorship	1500	1500	1500		

tor, the government would pay one-half of the estimated costs of a refugee sponsored by the private sector. In 1981 dollars, after deduction of \$1400 base cost for all refugees, the calculation would be as illustrated in Table 1 above.

As is the case now, church groups or collectives of individuals would sign up to co-sponsor refugees selected by the government. If they did so under an umbrella agreement, the umbrella organization would receive \$1400 for the expenses of the co-sponsored refugee plus a grant of \$700 towards an additional privately sponsored refugee. Individual groups could accumulate credits towards a future sponsorship or assign their credit.

If fully utilized for 14,000 government sponsored refugees, it could result in 7,000 privately sponsored refugees. Since the normal number of anticipated privately sponsored refugees might be about half that number, there would be an additional base cost of \$1400 per refugee or about an extra \$4,000,000 cost to the government.

Scheme B

For every three government sponsored refugees co-sponsored by the private sector, the government would pay the estimated costs of a refugee sponsored by the private sector. In 1982 dollars, after deduction of \$1500 for base costs, the calculation would be as illustrated in Table 2 above.

If there are now an estimated 3,000 private sponsors per year and the program above were fully utilized to increase private sponsorships to 4,000, Scheme B would produce enough revenues to contribute towards the base costs of 2,000 such sponsorships. Since the government now pays the base costs of all 3,000 privately sponsored refugees, there would be a new saving of \$1500 for 1,000 refugees or \$1,500,000. These funds could be used as a contingency fund:

(a) to pay for improved back-up services to refugees;

TABLE 3

Objective Selection	Scheme A	Scheme B
(a) Numbers	Would increase 20%	Would increase 6.6%
(b) Choice - need - sponsors	Responds to both but even more sensitive to sponsors	Responds to both
(c) Speed	No inhibitions to emergency response	No inhibitions to emergency response
Adaptation		
(a) Equal access to Services	As at present but there would be extra costs for the additional refugees	Would increase services slightly for all refugees
(b) Equity to Sponsors	No contingency for special cases	Contingency fund for special cases
(c) Priority language or economic adaptation	Both schemes increase the bias to economic self-sufficiency over language acquisition in the initial phases as this is a bias of private sponsorship	
(d) Network for Economic Adaptation	Greater burden on fewer people	Decreased burden per person but more people needed
(e) Personal Contact for Gov't sponsored refugees	There would be a greater incentive for the private sector to co-sponsor gov't refugees and fewer people would need to be involved; therefore, there would be a greater probability for more gov't sponsored refugees to be co-sponsored	Lesser probability that as many gov't sponsored refugees would be co-sponsored
Costs	More cost to gov't.	Less cost to gov't so more left for improvements & contingencies

(b) to subsidize any private sponsorship that ran into extraordinary costs above the average.

Comparison of Scheme A and Scheme B — See Table 3 Above

If both schemes are compared in relation to the objectives outlined above, Scheme B is clearly better from the government perspective except for the fact that there is a decreased possibility that all government sponsored refugees would be supported by private networks. From the private perspective, Scheme A seems better since more refugees would be brought in and a higher proportion would be responsive to

private priorities, but it would not have the advantage of Scheme B in offsetting inequities in private sponsorship or in improving back-up services.

Conclusion

Whatever plan is utilized, it is imperative that the process for developing a new model exemplify the process of co-operation of the private and government sectors. It should not emerge by fiat. The present process of federal/private sector consultations hopefully will not only result in a new, more effective model, but will also build a base for more systematic co-operation of the public and private sectors.

¹Speech to TESL, CANADA, Edmonton, Alberta, Nov. 11, 1982, p. 14 -15. "I have also initiated . . . a proposal to undertake joint sponsorship between the federal government and private sponsors for refugees." cf. also the Minister's speech to the Canadian Polish Congress, Winnipeg, Manitoba, Nov. 12, 1982, p. 11.

²Evaluation of the Indochinese Refugee Group

Sponsorship Program." Canada Employment and Immigration, 1982.

³cf. Lawrence Lam, "Vietnamese-Chinese Refugees in Montreal," Ph.D Thesis, York University, April, 1983, pp. 229-234. See also, M. Lanphier, "Sponsorship of Refugees in Canada," *Migration News*, 1982.

Canada's Refugee and Humanitarian Programs 1982

	Gov't Sponsored Refugee Admissions*	Privately Funded Refugee Admissions*	Special Program Landings	Landings: Claims in Canada — RSAC	Total
Eastern Europe	6044	3251	3302	124	12721
Indochina	3983	1184	-	15	5182
Africa	333	39	-	59	431
Middle East	80	177	506	114	877
Latin America	718	36	1499	270	2523
Others	137	59	-	-	196
	<u>11295</u>	<u>4746</u>	<u>5307</u>	<u>582</u>	<u>21930</u>

*Includes those arriving at ports of entry during the calendar year with immigrant visas, and where known, those processed abroad on an emergency basis who enter on the strength of a Minister's Permit pending landing after full compliance with the Act and Regulations is demonstrated.

Not included in the above totals are 1188 persons who were admitted on emergency basis in 1981 and were landed in 1982. Because of changes this year in accounting for admissions, these people appear neither in 1981 nor 1982 statistics. They are distributed as follows: Eastern Europe 115, Indochina 489, Africa 93, Latin America 453 and others 38.

Source: Refugee Affairs. Employment and Immigration Canada.

Refugio El Canada

Two U.S. Projects Aid Central American Refugees

Two projects were recently established in the United States to assist Central American refugees who want to resettle in Canada. These individuals are unable to obtain refugee status in the United States which does not recognize them as political refugees.

For each individual applying for refugee status in Canada through DELIVERANCE and the Year of Jubilee, there is an initial selection process which takes about twelve weeks.

The first six weeks are spent in Texas at DELIVERANCE where the refugees are screened to determine whether they can be admitted to Canada as refugees and also, to determine their potential for employment and

cultural adaptation.

If they pass the initial screening, the refugees then spend six more weeks — this time in Georgia — at the Year of Jubilee where they are given intensive training in English and cultural orientation. From Atlanta, they are flown by the Canadian government to their intended destination. They are greeted by either the Canadian government or the Mennonite Central Committee, depending on whether they are government or privately sponsored.

More information may be obtained by writing to Marcena Upp at DELIVERANCE, 2314 Arbor St., Harlingen, Texas, 78550, U.S.A. (512) 425-7959.

Refugee Documentation Project

The Refugee Documentation Project at York University is concerned with acquiring and preserving archival materials pertaining to refugees in and from all parts of the world. (The Project's library is open between 10 a.m. and 5 p.m. on weekdays.) Donations of documents, papers, reports or other library materials are encouraged.

If you have worked with refugees or have conducted research on refugees or refugee-related issues, please write and tell us about your work. A function of the Project is to create an index of Canadian individuals and organizations concerned with refugees in order to establish a referral network among people needing information on refugees.

World News

UNRWA Schools Closed in West Bank

Ninety-eight United Nations Relief and Works Agency (UNRWA) schools were closed in the West Bank from 3 to 9 April at the order of the Israeli occupation authorities, affecting 39,568 Palestinian refugee children (in addition to the 26,000 children in government and private schools in the West Bank which have been closed for the same period).

The closure orders followed weeks of unrest among the Palestine Arab population and an outbreak of sickness which affected hundreds of girls in government schools.

UNRWA doctors have investigated, and found that none of the schools run by the Agency is affected.

* * *

Vietnamese Attacks on Cambodian Refugee Camps and Incursions into Thailand

The Vietnamese military offensive, begun on March 31, 1983, has resulted in the destruction of several Khmer refugee camps along the Thai-Cambodian border.

A statement released on April 7, 1983 by External Affairs Canada called on Vietnam to desist from further aggressive acts and to cooperate in the pur-

suit of peace and development in Southeast Asia.

* * *

Ireland and Japan Increase Contributions to UNRWA

Ireland has doubled its 1983 contribution to UNRWA and Japan has increased its contribution by \$1 million to \$8 million.

UNRWAs operating budget for 1983 is \$205.9 and its estimated income including the above increases is \$165.2, giving a possible budgetary deficit of over \$40 million (not including the Lebanon emergency programme which is being separately financed).

Spotlight on Africa

Refugees in the Sudan

Country Of Origin	Total Number	Number Settled	Resettled Abroad (1982)	Area of Refuge	Number of Settlements	Number Repatriated (1982)
Ethiopia	440,000	102,000		East	23	417
Uganda	165,000	130,000		South	30	9
Zaire	5,000			South		91
Chad	10,000			West		
	620,000	232,000	1,200		53	517

Refugees in Zaire

Country of Origin	Total Number	Number Settled	Resettled Abroad	Area of Refuge	Number of Settlements	Number Repatriated
Angola	215,000	18,000		Bas Zaire Kinshasa Bandundu Shaba		
Burundi	11,000			Kivu		
Rwanda	22,000			Kivu		
Uganda	70,000	45,000		Haut Zaire (N.E.)	6	Significant Numbers
Zambia	1,800			Shaba		
	319,800	63,000			6	Significant Numbers

Source. UNHCR. Figures as of December 31, 1982.

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Spotlight on Africa

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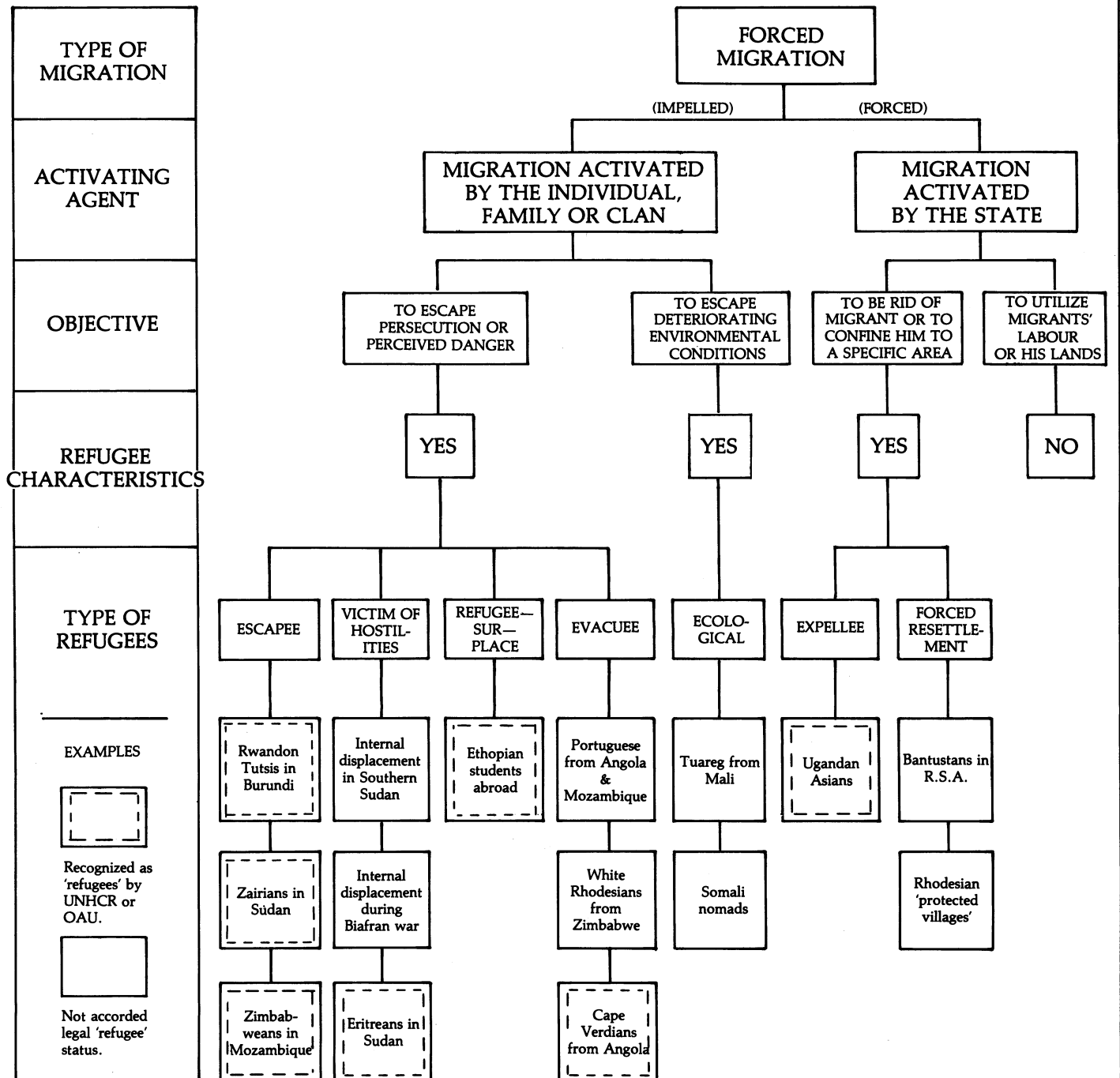
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	319,800	63,000			6	Significant Numbers

Source. UNHCR. Figures as of December 31, 1982.

A TYPOLOGY OF FORCED MIGRATION IN AFRICA



From "Some Comments on Definitions and Typologies of Africa's Refugees," John R. Rogge. *Zambian Geographical Journal*. No. 33-34, 1978-79.

