



# CANADA'S PERIODICAL ON REFUGEES

# REFUGEE

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## Hope for Refugees in 1987?

The New Year traditionally brings forth resolutions of goodwill and generous wishes. The change of calendar eradicates last year's shortcomings and replenishes the emptiness with new hope. Among refugees and their advocates, new hope does not spontaneously arise with turning a calendar leaf. The legacy of past years accumulates.

Nowhere does this legacy more poignantly remind us of unfulfilled hope than in the count of refugees which has continued to increase through the course of the 1980s. Notwithstanding often crude methods of estimation and rounding off counts to the nearest hundred thousand (!), the cumulative impact delivers a heavy blow. In 1983 just under eight million fit the United Nations definition of refugee. That number had relentlessly pushed upward -- nine million in 1984 and ten million by 1985.

No region has been spared from an increase in refugees. African and Middle Eastern regions, fractured by famine, repressive dictatorships, inter-tribal, ethnic and religious hostilities, have particularly experienced the inevitable consequences for refugee proliferation.

Yet not one Western resettlement nation has significantly increased intake during this period. With no less relentless monotony, Canada, the United States and Australia ceremoniously have announced

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*Jeanne Sauv , Governor General of Canada, accepting, on behalf of the People of Canada, the Nansen Medal from United Nations High Commissioner for Refugees Jean-Pierre Hock  on November 13, 1986.*

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next year's intake to continue at the same level. Projected intake for 1987 for those three countries, including Canada's 12,000 government assisted, reaches only 94,000 refugees. Adding the much lower levels of other Western resettlement countries, the total may reach 100,000 refugees, if all places are filled.

Not only do these nations possess incredible wealth -- in resources, national

## CANADA'S PERIODICAL ON REFUGEES **REFUGE**

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product, and post-industrial technological sophistication -- they are the best informed about the situation of refugees. Government ministries produce lucid and penetrating analyses of upheavals which produce refugees in the first instance and of conditions which turn acute problems into chronic misery. Their region-by-region counts of the number of refugees who could be resettled according to Western standards are well researched. The excellent Canadian report, *Refugee Perspectives: 1986-87* estimates over one million refugees in Europe, Southeast Asia and the Middle East; it does not include refugees in Central America, Pakistan or the African continent, as local resettlement is favoured for "solutions" in those regions. Conservatively, another one million from those areas seek resettlement in the West. Such claims have been reinforced by non-governmental organizations (NGOs) which supplement government information with on-site reports.

Yet in gratuitous aside, announcements from these same governments simultaneously encourage other nations to "share the burden". Little to proclaim, and even less to hope for!

Were the numbers of refugees in overseas camps an insufficient reminder of the legacy, those seeking recognition inland have increased even more dramatically, although in comparison they number fewer than one-tenth those in camps. Yet every country in Western Europe joins the United States and Canada in clamour for a redress of the increasing "burden".

Again the Western nations have demonstrated keen analyses of the situation. In Canada alone the government has commissioned three reports on (inland) refugee determination since 1980. Responses to these reports from parliamentary and other bodies fill as many pages as do the reports themselves. No question appears more frequently or urgently on agendas of NGO deliberations. Existing procedures for determination are slow, costly and fraught with individual and structural inequalities, as repeatedly documented in *Refuge*.

At the time of writing, the question of a revised policy for (inland) refugee determination lies before the Cabinet of the Government of Canada. Hopes for an equitable resolution to the complexities of

determination are high, as befits the New Year. So too are anxieties, both of would-be refugees and their advocates. It is high time to ask how many more deliberations are required before action will be implemented and whether further delay merely complicates one of the most protracted debates in refugee policy.

Is there *any* news to sustain hope for refugees and their advocates? The report and commentary on the pilot programme on "host family" resettlement in three Canadian cities in these pages points to a vigorous and innovative approach to the recurrent dilemma. Its uniqueness lies in the combination of several well-tryed features of resettlement in Canada: among them, government financial support and sustained participation of a small group of Canadian "hosts". The combination fills several gaps; for government-assisted refugees it provided a quicker introduction into everyday Canadian life. Canadian groups can assist without large financial undertaking. And *en passant*, government and private efforts are united for common endeavour!

On the international scene, refugees and advocates alike are most gratified that Amnesty International is celebrating its 25th year of distinguished contribution to protection of human rights. Their work is sustained through influential representations not only by advocates but also the concerned public, as described in the article by David Matas in this edition.

So the New Year begins for Canadian refugee interests with an unresolved mix of hope and anxiety. Legacies must be remembered and attended. Nineteen hundred and eighty seven provides us both the occasion and the renewal for the growing tasks.

C. Michael Lanphier

## Notice to Our Readers

Delivery of the October *Refuge* was delayed by three weeks owing to the temporary loss of the copies in transit from the printer to the mailing house!

We offer our apologies and express assurances that effective measures are now in place to prevent the repetition of such an inconvenience.

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# First Report on the Host Programme: Pilot Projects in London, Winnipeg and Regina

## Summary of Findings<sup>1</sup>

The objective of the host programme is to enhance the settlement process of those government-assisted refugees and other designated persons who qualify for support under the federal Adjustment Assistance Programme (AAP). This objective is to be achieved by matching these persons or families with host groups. The host groups are expected to assist refugees in settling more quickly, in learning English or French, in obtaining employment as soon as possible, and in providing friendship and emotional support. The Adjustment Assistance Programme currently provides funds to government-assisted refugees including those in the "control" programme. Funding is similar to provincial welfare assistance. Also allowances are paid to acquire basic clothing and furniture. This assistance is available to refugees for a maximum period of one year following arrival in Canada. If, at some time during that period, the refugee becomes self-sufficient through employment, AAP funding ceases thereby.

Funding to a maximum of \$50,000 in each community is provided to established community organizations. A programme co-ordinator is responsible for recruiting and training host groups, matching them with incoming refugees and monitoring and supporting their activities. With programme co-ordinators in daily contact with the community, awareness of the refugee situation is enhanced.

The purpose of this report is to determine whether the host group is meeting its objectives. Two sample groups, host group and "control" refugees, were set up in each of the three communities (London, Winnipeg and Regina). Data were collected for the first six months of the programme.

## History of the Programme

Authority was granted to transfer funds from the AAP to the host-group programme in

<sup>1</sup> This is an adapted and edited version of the report issued in August, 1986, by Policy and Programme Development, Employment and Immigration Canada.

1985. Host projects were initiated in London, Winnipeg and Regina in March 1985. Since then, six more pilot projects have begun in Quebec City, Kitchener, Windsor, Saskatoon, Calgary and Vancouver. (The present evaluation treats the programme only in the initial three cities which began after a six-month delay caused by organizational difficulties.)

## Sample Selection

In each of the three cities, London, Winnipeg and Regina, the Canada Employment Commission (CEC) created sample groups of 35 host-group refugee and 35 "control" refugee group units (individuals or families). Refugees in the "control" portion of the sample were selected from government-sponsored refugees who arrived during the same period as those in the host group. Both sample groups were eligible to receive all the services normally provided government-sponsored refugees in the community.

The two sample groups (host group and "control") were matched as far as possible in each community by age range, gender of household head, mix of geographic origin and family size, so that comparisons could be made of two groups from roughly equivalent backgrounds. Overall, more than 75% of the refugees in the study are male. The largest proportion of refugees comes from a Southeast Asian background, with those from Central American and European region ranking second and third, respectively. Among the host-group refugees, family size is larger, with the control group representing single persons and smaller-sized families in greater frequency.

This report is preliminary. As the refugees in this pilot programme had been resident in the community for six months or less, there was insufficient time to demonstrate the full effect of the host group programme on settlement. For example, at the time of data compilation (early 1986), no difference appeared between those refugees matched with host group and refugees in the "control" group with respect to rate of employment. Fewer than 20% of the total sample were employed; most were still enrolled in language training.

## Social Adaptation Criteria

### 1. Accommodation

Most refugees, whether host or "control" group, moved into permanent accommodation within the first week in the community. Few differences are apparent: refugees showed a longer period in temporary accommodations, especially in Winnipeg, where matching with host groups did not occur until after the refugee had moved into permanent accommodation.

### 2. Language Acquisition

Not all refugees receive language training. It is provided only to those whose facility is judged to be insufficient to gain employment (approximately 80% of both host group and "control" samples). Data on language acquisition show three benefits of the host group programme. First, retention in the programme was higher among host-group refugees. Only 3% of the host group dropped out of language training, as compared with 15% of the "control" refugees. Secondly, some 32% of the host group refugees reported that their English improved rapidly, as compared with 13% of the "control" group. Thirdly, nearly 70% of the matched group reported "very frequent" or "frequent" use of English, as compared with only 55% of the "control" group.

### 3. Adjustment Assistance Programme Contributions

At the end of the first reporting period, fewer than 20% of all refugees were employed. The majority have not been in the country long enough to have completed language training -- a normal prerequisite to seeking employment. Host groups appear, however, to become actively involved directly or indirectly in the job-search process. Of the seven host-group refugees in the London sample who are employed, four found employment through their host group. Host groups also assist refugees in preparing for the job market.

### 4. Employment

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## 5. Canada Employment Commission Involvement

There are no clear differences between the host group and "control" group in terms of the number of visits of a refugee to the CEC offices. Canada Employment Commission officers have reported, however, that refugees in the host groups visit less often and that the interviews are brief. Most routine community-related questions come less frequently from host groups.

## 6. Social Adaptation

Both host-group and "control" refugees have a low level of knowledge about community services, with the exception of health facilities. In Winnipeg, however, most of the host-group refugees showed awareness of social agencies and day care. Few of the "control" group indicated any knowledge of these areas. Consumer behaviour (shopping) is rather well developed, especially among host groups. Use of other community services has been limited among all refugees, again with the exception of health facilities.

Almost all refugees who responded to the questionnaire express satisfaction with the rate of their resettlement. Generally, more host-group refugees express happiness with the rate of resettlement. Refugees matched with host groups have more Canadian friends. Some 89% of the host-group refugees, compared with 44% of the "control" group, reported having Canadian friends. Differences are less marked for acquaintances; 80% of the host-group refugees, and 64% of the "control" group refugees reported having acquaintances who are Canadian. A greater proportion of host-group refugees also report having neighbours who come from their former country.

## 7. Relocation

Relocation to another city in Canada was infrequent, involving 10% of all refugees. Nearly 90% of the movers were in the "control"

group refugee sample. They offered a variety of reasons for relocation, e.g., join friends, job, etc.

## 8. Community Awareness

Spontaneous comments by hosts and others contacted during the evaluation exercise suggest that the host-group programme has a positive impact upon the local community. As host-group co-ordinators are in daily contact with the community, a better understanding of refugees and their situation develops even though those contacted in the community may not be involved in the programme as host-group members or otherwise.

## Suggestions for Improvement

The host-group programme appears to be well designed and is operating smoothly. The programme co-ordinators' reports contain the following ideas for enhancing effectiveness and relieving the heavy workload for co-ordinators:

1. Communication between programme co-ordinators, CEC counsellors and Canada Employment and Immigration Commission (CEIC) regional offices should be increased for the purpose of improving programme planning.
2. Co-ordinating agencies should be responsible for financial accounting and control rather than the programme co-ordinators. Also, financial monitoring by CEIC should be increased.
3. A local advisory committee should be established to give direction and assistance to the programme co-ordinator.
4. The CEIC national office should develop promotional materials to foster consistency of community awareness and understanding of the Host Programme. This support and information mechanism would eliminate the need for agencies to develop their own individual packages.
5. The CEIC national office should produce background information on different refugee groups to assist programme co-ordinations in training host groups.
6. More refugees with special needs should be brought into the country under the Host Programme. It is well designed to assist refugees with special needs.

No major changes were suggested for the structure of the programme.

## Analytical Considerations

While both Regina and London matched refugees with host groups within one week of arrival in Canada, Winnipeg matched refugees with host groups after they had already been in the country for several weeks. In all areas of the study, the impact of the host groups will be less, the longer the time period between arrival and matching.

Owing to different times of arrival of refugees and staging of the evaluation, the "after six months" evaluation criterion was made more flexible. In Winnipeg, for example, the majority had been in the community for more than nine months at the time of the evaluation, whereas most of those in Regina had been in the community for less than three months. The range of length of stay of "control" group refugees varied between three and eight months. All areas of the analysis are thereby affected. The matched group would not have had the same opportunity to show signs of adaptation as would the "control" group. Among the differences, a sample group that has been in the country longer will show lower average AAP contributions (per-person per-week) than would a group with a shorter stay.

The response rate for questionnaires sent to refugees was low in all communities, especially among those in the "control" groups. This differential may be due to the assistance which the host-group refugees were able to receive from the host-group members.

## Conclusion

The host group is showing a very positive trend in terms of language acquisition and frequency of use of English. There is also a lower drop-out rate among the host-group refugees. In the longer term, language acquisition is expected to result in higher employment and general adaptation. Very few in the matched group have relocated to other communities since their arrival. Also most of the matched group indicates having Canadian friends and acquaintances. These factors indicate a higher level of integration into the community for the host group as compared with the "control" group. Reports from the CEC's and host-group co-ordinators illustrate clearly that the host-group project is increasing community awareness of the refugee situation. This effect will have a positive impact on how all immigrants are accepted by Canadians, which in turn will be reflected in the immigrants' increased ability to integrate into Canadian society.

# Comments on the First Report

by C. Michael Lanphier

The First Report focuses upon two distinct and major outcomes of the host group adaptation pilot project: cost and social adaptation. In light of the stated objectives, it was predicted that refugees who were assisted by host groups would depend less upon formal cash assistance from governmental sources, especially the Adjustment Assistance Programme (AAP). Rather, they would be assisted by host groups to obtain goods and services in the community through informal and personal networks available to host-group members. As in the case of private sponsorship, it was expected that donations would supplement and reduce the number of goods which would be purchased in the early stages of settlement. Yet the Report indicates that refugees with host-group experience received about the same (and in certain cases slightly more) assistance from AAP than did host-group refugees. The comparison may not be exact, as the family size of refugees under the host-group programme is larger. Higher AAP expenditures may thereby be attributable.<sup>1</sup> In any event, under the conditions in the pilot programme, no cost savings in governmental assistance are evident.

As the evaluation occurred after the first six months' administration of the programme, very few effects on rates of labour force participation could be evident. As most refugees were enrolled in language training, only a scant number was available for work. If anything, the greater retention of host-group refugees in language programmes indicates that entry to the labour force may be thereby retarded. Doubtless host groups were encouraging refugees to take advantage of language training in order to *improve their chances of gaining a level of employment more closely keyed to their respective interests and abilities*. Host-group members were sought out by refugees as sources of information about the job market among other things. Consequently refugees did not need to consult Canada Employment Commission (CEC) counsellors, as indicated by lower frequency of visits to CEC counsellors in London and Regina. Yet the CEC remains important to all refugees as the main source of information about job availability. If host-group counselling is

<sup>1</sup> The relation between family size and amount of AAP payments cannot be detailed from the data presented in the Report. Payments are lowest of all three cities in London, where larger families are more frequently found among host-group refugees.

Social Adaptation: Host Group and "Control" Refugee Groups		
(mean percent showing adaptation)		
Type of Adaptation	Host group	"Control" group
Knowledge		
Community services <sup>a</sup>	11	4
Community services plus health	15	5
Use		
Community services <sup>a</sup>	4	2
Community services plus health	8	4
Consumer behaviour <sup>b</sup>	40	20
Interpersonal <sup>c</sup>	41	15
Number cases	88	99

Source: CEIC: First Report on the Host Programme, Tables 17-20.

<sup>a</sup> Legal aid, human rights commission, rent review, social agencies, ombudsman, day care.  
<sup>b</sup> Knowing how to shop for food, for clothes, for appliances, for furniture, for household goods.  
<sup>c</sup> Happy with settlement rate, Canadian friends, Canadian acquaintances, neighbours from former country.

effective, however, successive evaluations should find larger numbers of host-group refugees employed, particularly in jobs which require higher skill levels and mastery of written and spoken English or French.

The most notable effect of the host-group programme on initial adaptation should be a higher degree of social adaptation to everyday life in Canada: the acquisition of knowledge about the local community, use of some community services and the development of a pattern of acquaintanceship with Canadians. Host-group intervention, after all, is a *social*, not an economic, agent of adaptation in the first instance. Some economic effects inevitably occur as a result of social arrangements -- no less in the case of the host-group programme than other forms of social networking. The type of activities in which host groups assist refugees points to a smoother introduction to Canadian life, including economic life, over a protracted period of time.

From that standpoint of the larger Canadian community, the programme may be a unique catalyst for increased awareness of refugees in the community: community members must become involved with newcomers. Host-group co-ordinators have reported that involvement extends not only to host-group members but to their friends, neighbours and associates.<sup>2</sup> The recruitment process (of prospective host-group members) alone may sensitize members of the community to the need for involvement. Agencies (through recruiting, etc.) become sensitive to the importance of continuing community participation. Agency personnel

<sup>2</sup> Presentation to Standing Conference workshop, Winnipeg, November 29, 1986.

feel that recruitment contacts may have some effect in reducing resistance to refugees.

Overall, twice as many refugees who have experienced host-group assistance show signs of adaptation than do "control" group refugees, despite the generally low level of use of community services during the first six months after arrival. As the accompanying table indicates, knowledge of community services is somewhat wider than use of them, but in either case host-group experience appears to provide refugees with information which may lead to earlier use of these services. The effects of host-group assistance are most evident with respect to developing familiarity with the market place. Two-fifths of the host-group refugees, compared with one-fifth of the "control" group refugees, on average, indicated experience in shopping for a wide variety of goods. The most striking differences occur in the interpersonal sphere, again with two-fifths of the host-group refugees, in contrast with fewer than one-fifth of the "control" group refugees, establishing social ties with Canadians. With regard to several areas of social adaptation, therefore, host group arrangements have a marked initial effect on the rate of settlement into Canadian society.

Technically, the evaluation exercise is an important first step which may be improved in the following respects.

1. Reconciliation of goals. At present, the two goals -- a higher level of accomplishment in language classes and early entry into the job market -- cannot be simultaneously satisfied. It might have been more prudent to expect that the entry of the host-group refugees into the labour force would be somewhat delayed, compared with the "control" group refugees, with a higher language retention rate and at a somewhat higher skill level.

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# Host Programme for Refugee Settlement

by Gordon Barnett

2. The list of indicators was somewhat heterogeneous. It combined cost-efficiency, employment, language training and several measures of acculturation. While all of these are features of refugee adaptation, they could be ordered in terms of priority and sequence.
3. The matching of the host-group refugee sample with "control" groups resulted in heterogeneous sample groups, despite attempts to make them similar. As the host-group sample contained more families of larger size, especially in London, two effects may not have been given adequate consideration. Families with a larger number of dependants may require higher subsidies and have more elaborate material and social requirements. The process of adaptation to Canadian life would take longer. Secondly, some of these larger families will have two or more breadwinners. Their adaptation needs would be more squarely oriented to the job market. Once employed, their needs for material assistance would be less. In future sample-matching exercises, more emphasis should fall upon the quality of family life, with closer comparisons of families with different age compositions.
4. Effects of an accidental difference of late matching of refugees with host groups in Winnipeg were unmeasured. Doubtless the greater role of Canada Employment and Immigration Commission (CEIC) personnel in finding housing and other matters immediately after arrival made these refugees more reliant upon government assistance, despite their being matched with host groups. Effects of "late matching" should be explored further.
5. More attention should have been awarded to comments of refugees themselves. Initial refugee adaptation should be seen minimally as a tripartite process: the roles of government, private and refugees are distinct and require separate attention. While the first two were amply described, the third, reactions of refugees, was overshadowed by attention to provision of services for refugees, rather than with refugees.

In sum, the host group programme represents an innovative approach to assistance in settlement of refugees in Canada. It depends upon concerted activity on the part of many small groups of concerned volunteers to assist individuals and families who have just arrived in Canada as refugees. The strongest feature of the programme is the collaborative undertaking between governmental and private-group efforts in a complementary fashion. The kind of assistance which host groups offer varies from time to time, group to group and individual to individual. It is of necessity somewhat difficult to detect. Nonetheless, the First Report succeeded in detailing important initial effects in social adaptation. Other effects of cost savings and increased labour force participation were not evident. It remains for successive evaluations to trace these longer-term outcomes.

*C. Michael Lanphier is the Director of the Refugee Documentarion Project at York University and Editor of Refuge.*

The Host Programme was implemented in the Spring of 1985 following lengthy consultations with immigrant-serving organizations and church groups, with the intent of joining the best elements of the private sponsorship programme and the government sponsorship programme.

The objective is not only to enhance the settlement process of government-assisted refugees, but to improve community support services to all refugees by increasing community awareness of the refugee movement.

To implement the Host Programme, funds were borrowed from the Adjustment Assistance Programme, which provides income support for indigent refugees during their first year in Canada. It was proposed that refugees receiving the assistance of a host group would require less income support, and the savings would pay for the cost of the Host Programme.

It was expected that host groups might find permanent accommodation for the refugees thus reducing their stay in hotels, might provide furniture and clothing, again saving funds, and might assist refugees to find employment, thus reducing their need for income support.

Host programmes have now been implemented in Vancouver, Calgary, Regina, Saskatoon, Winnipeg, Kitchener, Windsor, London, Quebec City, Moncton and Halifax. The cost of each individual project ranges between \$20,000 and \$45,000.

The benefits of the Host Programme, while far from being fully assessed, are already evident and are examined in some detail in C. Michael Lanphier's comments on the First Report. Positive tendencies are emerging in the areas of language acquisition and social adaptation. These positive trends are all the more impressive when one realizes that in most of the communities the refugees referred to the host groups are cases which are most likely to encounter settlement difficulties.

Other positive effects of the Host Programme came to light during group interviews (focus groups) of both hosted and non-hosted refugees, carried out in Regina, Winnipeg and London.

Reports from Host Programme co-ordinators indicate that the programme has had a positive impact on community awareness. Co-ordina-

ordinators have appeared at church meetings and other public gatherings and have sponsored discussion groups and conferences. Radio, television and newspaper coverage has followed.

The objectives of the programme are being met: the settlement process has been enhanced and community awareness has been increased. But what of the savings to the Adjustment Assistance Programme -- the funds which were borrowed to implement the Host Programme? The initial evaluation material received does not show these savings. The most obvious reason is that it is too early to draw distinctions in terms of income support needs. Perhaps no savings will be realized as the 12-month Adjustment Assistance Programme period may be too short to demonstrate the difference between a hosted and non-hosted refugee. Perhaps savings will be realized later in terms of social services not being required by the better adapted hosted refugees.

On the other hand, the expectation of savings may not have been well-founded or well-understood. For instance, while many host groups are prepared to assist the refugees with both clothing and furniture, they do not feel that these items should be provided in lieu of the government's contribution, but rather whatever they provide should enhance the refugee's situation.

Looking to the future, we have yet to face the difficulty of sustaining community support over the long-term. This will likely be the main challenge of the pilot projects over the next two years. In addition, we should return to the discussion of cost and savings before we seek to expand the programme. Unless a new process is instituted which will provide the savings foreseen during the early development stage of the Host Programme, expansion will have to be based on a new deal. According to Heather MacDonald, Host Programme Co-ordinator in Winnipeg, "We have made mistakes, but we must have learned something -- because daily I receive calls from new arrivals asking ever so politely to be included (in the Host Programme)."

*Gordon Barnett is currently Director, Settlement Branch, Employment and Immigration Canada, Ottawa.*

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# Amnesty International and Refugee Reforms

by David Matas

## Introduction

Amnesty International (AI) is a human rights organization with a limited mandate. It is opposed to torture and the death penalty. It opposes political imprisonment for those who neither use nor advocate violence. It advocates fair trial.

Amnesty International is concerned about refugees who, in their home countries, face the same human rights violations AI combats. Refugees forcibly returned to their countries may be executed. They may be jailed for no other reason than for their opinions. They may be denied a fair trial. Indeed, many refugees already suffered torture, political imprisonment or unfair trial before they fled.

A refugee should not be forcibly returned from Canada to a country where his life or freedom is threatened. That is a Canadian international obligation, by virtue of the Refugee Convention which Canada has signed and ratified. It is also an AI concern by virtue of its mandate.

The Canadian refugee determination process should be a fair one, with universal access. In the absence of these standards genuine refugees will be returned to countries where their lives or freedom may be threatened.

Amnesty International insists that its members only work against human rights violations abroad. The reasons are three-fold. One is to protect the AI member from danger he may risk, at least in some countries, from opposing his own government. The second is impartiality. Opposing a foreign government is less likely to be seen as taking sides in the foreign country's political debates. The third is internationalism. Amnesty International wants its members to widen their concerns beyond their own frontiers.

Refugee work is an exception to this principle. Although AI looks to members in the home country to deal with refugee concerns, the principle of internationalism is respected, since refugee work inevitably relates to foreign human rights violations. By definition, no one is a refugee in his own country. As well, refugee laws and procedures are everywhere complex. An AI member in the home country is best placed to understand and respond to these complexities. Finally, allowing national AI sections to deal with refugee concerns in their countries frees the International Secretariat of

AI to work on torture, the death penalty, political imprisonment, and unfair trial in the countries where these violations take place.

The Government of Canada recently introduced some changes in the present refugee determination system, and proposed an altogether new system. Both the present changes and the new proposal give Amnesty International -- Canadian Section (English Speaking) (AI-CS (ES)) cause for concern. Our four concerns are: access, appeals, abuse control and deterrence.

## Access

A fair refugee determination procedure is meaningless if the claimant cannot invoke the procedure. At present the Canadian procedure is accessible. Anyone in Canada or at a port of entry can make a refugee claim. The only ones excluded, by statute, are those who have completed their immigration inquiries but want a second access, or those who had access but took no advantage of it and did not go to inquiry. In general, before anyone can be removed from Canada, he has to go to an immigration inquiry. At the inquiry the person can make a refugee claim. Even a person ordered deported by the Minister, without an inquiry, can make a refugee claim.

The proposed Government change is to restrict access for four types of claimants:

- Those recognized as refugees elsewhere.
- Those who delayed making a claim after their entry into Canada.
- Those who have unsuccessfully claimed refugee status in Canada before.
- Those who are under a removal order from Canada.

The last two categories are similar to those denied access now. Those recognized as refugees elsewhere now are granted access to the Canadian refugee determination system, but are not necessarily allowed to stay, even if Canada recognizes them as refugees. A refugee who has made a claim at inquiry is lawfully in Canada only if he is given a Minister's Permit. The Department of Employment and Immigration does not give Minister's Permits to refugees as a matter of course. If a refugee has been recognized as a refugee elsewhere and has a right to return to the country previously granting him refugee status, the policy of the Department is not to grant the person a Minister's Permit.

The real concern about access relates to the second restriction, those who have delayed making a claim after entry into Canada. There are all sorts of reasons why a genuine refugee might delay making a claim. He may hope the situation in his home country will improve, only to realize, after some time has passed, that it is deteriorating. A delayed claim is not necessarily an abusive claim.

The Government proposal indirectly recognizes this point by providing immigration officials the discretion to grant claimants access. This discretion is reviewable by the Federal Court.

However, immigration official discretion with a review by the Court is no substitute for direct access. For one thing, this provision violates the principle of independence. Refugee determination must be independent from immigration admission determination. In the absence of a determination by an independent body, refugee claimants might be denied access because immigration officials feel the claimants are being given an opportunity to remain in Canada, to which they would not have been entitled if they had to meet normal immigration criteria. Immigration officials might deny access to the refugee determination system in order to maintain the integrity of the immigration system.

The present refugee determination system recognizes this principle of independence. The members of the Refugee Status Advisory Committee (RSAC) who advise the Minister of Employment and Immigration on refugee decisions, are supposed to be independent from the Department of Immigration. However, the principle is abandoned when it comes to access.

There is also the problem of competence. An immigration official who denies access is, in effect, making a refugee determination. To do so, he must be familiar with conditions in the country the refugee has fled and with refugee law. It is unlikely that immigration officials will have the expertise to function effectively in making access decisions.

Similarly, review by the Federal Court is no answer to incompetence of the original deciding authority. The Federal Court is an appropriate body to review an expert administrative tribunal. It cannot compensate, with an expertise it does not have, for incompetence of the original decision-maker.

In 1985, the Supreme Court held that, by virtue of the Canadian Charter of Rights and Freedoms, refugee claimants are entitled to oral hearings, even though the Immigration Act said that they were not. In my opinion, a refugee claimant denied access is denied the oral hearing to which the Supreme Court of Canada says he is entitled. There is every reason to believe that a limitation of access is unconstitutional.

Unconstitutional or not, denial of access is unfair to refugees. Amnesty International believes that access should be universal.

## Appeals

Currently, the Minister of Employment and Immigration, who determines refugee status, appeals to the Immigration Appeal Board (IAB). The IAB appeal is a process of re-determination which, since the 1985 Supreme Court decision, requires an oral hearing. After the Supreme Court decision, Parliament amended the Immigration Act to allow for an oral hearing in every case. From the IAB, a claimant can go to the Federal Court of Appeal, on a motion to set aside the IAB decision. The available grounds before the Federal Court Appeal are excess of jurisdiction, error in law, failure of natural justice, and arbitrary finding of fact. The claimant can go to the Supreme Court of Canada from the Federal Court of Appeal on a motion for leave to appeal.

The Government proposal would remove the Minister, the RSAC and the IAB from this process. A newly constituted Refugee Board would determine refugee claims by way of oral hearing. Instead of being able to go to the Federal Court of Appeal on a motion to set aside, the claimant could go to the Court only by way of leave to appeal. The grounds for leave would be limited to those that exist now on a motion to set aside a decision of the IAB: excess of jurisdiction, error in law, failure of natural justice, and perverse finding of fact.

One problem with this proposed appeal system is that access to the Supreme Court of Canada is cut off. Though the proposal does not explicitly prevent access, that would be the end result of its implementation.

In a 1979 refugee case, the Supreme Court of Canada held that it has no jurisdiction to grant leave to appeal for those who had been denied in the court below. This case ruled on an old law in effect before April 10, 1978, which stated that cases went to the Federal Court of Appeal only by way of leave. In the 1979 case, the Supreme Court of Canada held it could not look at the issue, because the Federal

Court of Appeal had refused leave to appeal. This decision placed in question the fairness of the refugee determination process. The Government now proposes to make the old law relevant again. If the proposed system had always been in place, the Supreme Court decision granting oral hearings to all claimants, held under the present appeals system, could never have been made.

Under the proposed system the Federal Court of Appeal would not deny leave in every case. For those cases granted leave, the claimant would have access to the Supreme Court of Canada, should he lose at the Federal Court of Appeal. The problem arises where a claimant loses on an issue at the Federal Court of Appeal, after the granting of leave, and chooses, for whatever reason, not to go to the Supreme Court of Canada. Once leave is denied, access to the Supreme Court is foreclosed.

A second problem with the proposed system of appeal to the Federal Court of Appeal is that a leave to appeal is not the same as an actual appeal. A person denied leave has been denied an appeal.

Even a person granted leave does not have a true appeal, because there is no appeal on error of fact. The Refugee Board could be wrong in fact, but, as long as its error was not arbitrary or perverse or capricious, the Federal Court of Appeal would have no power to correct the error.

This system is a violation of international standards. One of the guarantees for refugee determination procedures recommended by the Executive Committee of the United Nations High Commission for Refugees (UNHCR), is an appeal that involves a formal reconsideration of the refugee decision. The Canadian proposal violates the recommended guarantees, by not providing formal reconsideration of the factual issues.

The recommended guarantees are not part of the Refugee Convention. They are, however, designed to safeguard against violations of the Convention. Where there is no appeal, the likelihood of violation of the Convention, by forcible return of a refugee to a country where his life or freedom would be threatened, is greater.

The proposed refugee appeals system is also a violation of Canadian standards of justice. An erroneous refugee determination may result in death to the claimant denied. In contrast, a Canadian criminal suspect faces far less dire

consequences and is given a good deal more protection. The accused is given two trials of fact, the preliminary inquiry, and the trial itself.

In addition, courts of appeal in criminal cases can overturn a conviction, where an error of fact is made. The error of fact does not have to be perverse or capricious. It is enough if the verdict is unreasonable, or cannot be supported by the evidence.

Amnesty International has proposed a centralized paper review of negative decisions based on the merits of the claim. The appeal authority would have the power to reverse or confirm or refer the claim for another hearing before a different panel of the proposed Refugee Board. This model is only one of several possible models. What is important is not that this particular model be adopted, but that the principle of appeal is accepted.

## Abuse Controls

A properly functioning refugee determination procedure must control abuse. Abuse can be controlled through speed and the imposition of visa requirements.

A prompt refugee determination not only curbs abuse by non-genuine claimants, but also benefits the genuine refugee who is in limbo while his claim is being processed. One advantage of the Government proposed reforms is that, by removing several unnecessary steps, they would reduce delays, prevent backlogs and eliminate incentives to abuse.

A determination process can, however, be so speedy it ceases to be fair. That is basically what has happened with the proposed removal of the right of appeal. As in the case of limitation of access, the motive, no doubt, was to prevent delays building up in the system in order to lessen the incentive for abuse. However, speed is gained only at the expense of fairness. It is a sacrifice that should not be made.

Imposition of a visa requirement is another technique for curbing abuse. It is appropriate as a measure to control refugee claimant abuse from source countries which are not gross and flagrant violators of human rights. Imposing a visa requirement is not appropriate in every circumstance. Where refugee claimant abuse is insignificant, where the source country is a gross and flagrant violator of human rights, and where the number of refugees coming to Canada is manageable, such a requirement is not only unnecessary, it further jeopardizes the refugee's welfare.



In such instances, those wanting to flee persecution cannot leave. They will not be given visitor visas, since they have no intention of returning home. They will not be given immigrant visas unless they meet immigration criteria.

These principles, again, put AI-CS (ES) in conflict with announced Government policy. We believe that the Government has unnecessarily and unfairly imposed visa requirements on countries that have not generated significant refugee claimant abuse, and are gross and flagrant violators of human rights, like Guatemala. We believe the Government should have imposed a visa requirement on Portugal, a country that was generating significant refugee claimant abuse, and is not a human rights violator, much sooner than it did.

The refugee claimant abuse from Portugal has been blamed on unscrupulous immigration consultants and lawyers advising Portuguese to make false refugee claims. Amnesty International believes, however, that the Government must share the blame since it remained inactive long after the fraud appeared. This inactivity did not, in itself, condone the fraud. But it did provide the fraud opportunity and scope.

## Deterrence

The last concern of AI I want to mention is deterrence. There is a direct link between the failure of the Government to respect the principle of non-deterrence, and the failure of the Government to impose a visa requirement on Portugal.

The point of principle here is that refugee claimants who are fleeing persecution should not be deterred from making refugee claims. The Government should not have a policy of making lives so miserable in Canada for refugee claimants that they are discouraged from making their claims.

At the same time as the government imposed the visa requirement for Portugal, it also made work permits for refugee claimants more difficult to get. Refugee claimants are not entitled to work permits, but they are eligible for them. Until the changes announced on July 16th, their eligibility commenced at the time of the inquiry, when they made their claims. After that date claimants became eligible for work permits only after their examinations under oath, usually some months after the inquiry.

The delay in eligibility for work permits can mean destitution for claimants. Refugee claimants are eligible for welfare in some parts of Canada, but not everywhere. A claimant eligible neither for welfare nor for a work permit may not have any means of support. Because of that he can be discouraged from making a claim or may be tempted to withdraw his claim. Abusive claims may be discouraged by this but, unfortunately, so may be genuine ones as well. Genuine refugee claimants now suffer because the Government was not quick enough in controlling abuse.

## Conclusion

How has the Government come to do what it has done? The reforms recently announced and proposed are the culmination of a long drawn-out reform process. In November 1981 a Task Force on Immigration Practices and Procedures recommended a number of changes in refugee procedures in a report titled "The Refugee Status Determination Process". Some of these recommendations were implemented shortly after the release of the report.

The government did not, however, act on the Task Force's recommendation for oral hearings. The Task Force Report was followed by Ed Ratushny's report of May 1984, titled "A New Refugee Status Determination Process for Canada", which also focused on the need for oral hearings. Gunther Plaut's report of April 1985, titled "Refugee Determination in Canada", examined the different ways an oral hearing system could be implemented.

Two weeks before this third report was presented to the Government, the Supreme Court of Canada ruled that oral hearings are constitutionally required and that they should be granted by the IAB. In response to the Court's ruling, the Department of Employment and Immigration set about developing its own reform process. As a result, what began as a process of making the system fair for genuine refugee claimants through oral hearings, ended up as a process of abuse control directed against non-genuine refugee claimants. The focus shifted from the genuine claimant and the problems he faced to the non-genuine claimant and the problems he caused.

The principle of independence accepted for refugee decisions, was ignored when formulating refugee policy, because the reforms the Government proposed were developed by the Immigration Department, with Immigration personnel, for immigration reasons. The emphasis was abuse of the non-genuine

claimant, rather than the needs of the genuine claimant, because abuse is the main Immigration concern.

So we now have proposed limited access. We have proposed limited appeals. We have limited accessibility to work permits.

Canada has had a humanitarian tradition in its acceptance of refugees. The Government, by its recent steps and proposed policies, has departed from that tradition. Amnesty International urges the Government to return to basic principles for protecting refugees by allowing universal access, by allowing appeals, by using visas to control abuse, but not preventing genuine refugees from arriving, and by not deterring refugee claimants who are here.

David Matas is co-ordinator of the legal network of AI-CS (ES). He was the author of the Task Force Report "The Refugee Status Determination Process". The present article is an edited version of his remarks delivered to the Canadian Human Rights Foundation Summer Course on Human Rights at Charlottetown, PEI, July 22, 1986.

## Publications

The following publications are still available from the Refugee Documentation Project:

- *The Indochinese Refugee Movement: The Canadian Experience*, edited by Howard Adelman (Toronto: Operation Lifeline, 1980), \$5.00.
- *Guide to Sponsorship of Refugees in Canada* (Toronto: Refugee Documentation Project-Operation Lifeline, 1981), \$17.00.
- *Homeless Refugees and Displaced Persons in Southern Lebanon* (Toronto: Refugee Documentation Project, 1982), \$17.00.
- *Unaccompanied Children in Emergencies: The Canadian Experience* (Toronto: Refugee Documentation Project, 1984, reprinted 1985), \$27.50.
- *Report: UNRWA Archives* (Toronto: Refugee Documentation Project, 1985), \$17.00.
- Back editions of *Refuge*: Single \$1.50, double \$2.75.

All prices are exclusive of postage.

## A Perspective on Salvadorean Refugees: Interview with Rubén Zamora

Rubén Zamora served as Minister of the Presidency in El Salvador under the first junta following the coup that toppled the government of General Carlos Humberto Romero on October 15, 1979. Zamora resigned from the junta early in January 1980. His brother, El Salvador's Attorney-General Mario Zamora, was assassinated on February 25, 1980. His life threatened, Rubén Zamora eventually had to flee, and has lived in Nicaragua and Mexico ever since. He was instrumental in the creation on April 1, 1980 of the Democratic Revolutionary Front (FDR), a coalition of political and student groups, trade unions and mass organizations. At present he is the chief negotiator of the FDR and its guerrilla arm, the Farabundo Martí National Liberation Front (FMLN). Zamora visited Canada early in November and met with senior officials at the Department of External Affairs, Members of Parliament, NGOs, and the National Conference of Catholic Bishops. He delivered lectures at several Canadian universities and found time to give the following interview to *Refuge*.



**Alex Zisman:** In spite of the election of a civilian government led by José Napoleón Duarte, and the call to eradicate human rights violations and return the country to an "effective democracy", the exodus of Salvadorean refugees has not diminished considerably, and at certain times has even substantially increased. How can one account for this?

**Rubén Zamora:** I believe that the explanation of this phenomenon has a political character. In El Salvador we have a civilian President of the Republic, but the regime continues to be military in nature in so far as the government is one of counterinsurgency. What determines the actions of Duarte's government is precisely this counterinsurgency policy which generates bombardments and artillery attacks against the civilian population. This obviously continues to produce refugees who have to abandon their places of origin and move away to other places. Refugees continue to flock because fundamentally nothing has changed.

**Alex Zisman:** How do you view the situation of Salvadorean refugees within the present Central America context?

**Rubén Zamora:** I believe that a large percentage of Salvadorean refugees in Central America, Mexico and other countries wish to return to El Salvador whenever that becomes

*Rubén Zamora: "Being a refugee, in spite of all the sadness and the difficulties it entails, can also become an asset."*

possible. This is an important phenomenon, because in some countries the refugees can acquire some knowledge, some types of training, which will be very useful once El Salvador becomes a truly just and democratic society. Nevertheless, we must clearly distinguish the case of countries such as Mexico, with a vast metropolis such as Mexico City, where Salvadorean refugees are dispersed among the city's 18 million inhabitants, from that of other countries such as Honduras, where the refugees have kept close to the Salvadorean border, and form communities which are strongly structured, where an attitude to return and a Salvadorean identity are firmly held. So much so that these communities have been able to fight and fend off the attempts by the United States and the Honduran governments to remove them from the border. It seems to me that the attitude of Salvadorean refugees in Nicaragua towards their country of origin is similar to that of their counterparts in Honduras. The future of the refugees lies in resolving the Salvadorean problem and, contrary to what the Reagan Administration is saying -- that a revolution in El Salvador would only create a flood of refugees -- I believe that if a just, democratic and peaceful regime could be achieved in El Salvador, many thousands of

refugees would return immediately to the country to live and produce there as they did before.

**Alex Zisman:** Both in El Salvador and in Guatemala some unofficial factors prevail -- namely the effective control and presence of the military -- which prevent an immediate return to true democracy. Nevertheless we are led to believe that the conditions are ripe to encourage a return of refugees. What do you have to say about this?

**Rubén Zamora:** I believe that one of the tactics deployed by the Duarte government to legitimize itself before the international community has been precisely that, to try to tell everybody that they can return and that no problems exist. We have even detected in some cases attempts to forcefully induce refugees to return to the country. It seems to me that Duarte's claim does not correspond at all with reality. There are concrete cases of refugees who have returned to the country and even refugees in the United States who, because of United States immigration law, were deported back to El Salvador, have fallen in the hands of the security forces and disappeared. In this respect we believe that the conditions to ensure the return of refugees could only exist when the country really achieves peace and justice. Only

then will the returning refugee have not only a minimum of security in his personal life, but also some means to develop an economic activity. And this implies of course, socio-economic reforms in the country. It also implies that the country must achieve peace to allow reconstruction to take place.

**Alex Zisman:** Canada has implemented a visa system to screen potential refugees from countries such as El Salvador. What could be the implications of such measures?

**Rubén Zamora:** I do not believe in the effectiveness of such measures. The United States also has this visa system and it is fairly restrictive. Nevertheless the flow of illegal immigrants into the United States continues. Sometimes these systems only lead to corruption at the embassies of the country implementing them, since economic interests are also at stake. In this respect I believe that a much more flexible policy is not only more humanitarian for a country such as El Salvador which evidently is in a state of war, but could even prevent a series of social evils such as extortion and deceit, sometimes experienced by our citizens who have to leave for other countries precisely because of the legal restrictions imposed upon them.

**Alex Zisman:** What options do you see for the Salvadorean refugees all over the world? How should they face the present situation?

**Rubén Zamora:** First of all I believe that refugees should try to maintain their cultural identity. I do not think the correct thing to do is to accept that the situation of temporary exile should be turned into one of permanent resettlement. On the contrary, we must always hold high the ideal of return to our own country. Hence the need to maintain a cultural identity as much as possible through community centres and refugee organizations as well as through traditions, information and analysis of what is taking place in El Salvador. But, at the same time, I also believe that as Salvadorean refugees we must understand that we cannot -- and that it should not be our intention to -- become merely a burden to the country where we arrive. On the contrary, as useful human beings, we should be able to develop a constructive, productive attitude to the country granting us refuge. In this regard I believe that exile, or the fact of being a refugee, in spite of all the sadness and the difficulties it entails, can also become an asset, the asset of being able to contribute some of the richness of our culture to those countries receiving us. We can enrich their culture while trying at the same time to learn and to receive some of the cultural and productive richness of these countries, so as to be able to contribute more to our own country when we return.

## Political Refugees from Peru: Interview with César Elejalde Estenssoro



*César Elejalde Estenssoro: "I imagine that those [Peruvian citizens] claiming refugee status because of political persecution are doing so in order to have a reason to justify their illegal presence in foreign countries."*

Since 1980 a ruthless guerrilla movement -- the Maoist-inspired Sendero Luminoso or Shining Path -- has been frantically trying to undermine Peru's democratic foundations amid a vicious escalation of subversion and state repression. The conflict, pitting the secretive and well-organized Sendero extremists against elements from the armed forces, has claimed thousands of dead and disappeared. Numerous victims were civilians hopelessly and unwillingly caught in the middle of a dirty confrontation. Several Peruvians, allegedly threatened by the political implications of this violent conflict, have become refugee claimants in Canada. César Elejalde Estenssoro, Ombudsman and President of the National Council of the Magistracy of Peru, spoke to *Refuge* about some aspects of his country's present situation during a brief stopover at Toronto's Lester B. Pearson International Airport.

**Alex Zisman:** Over the last few years a small but nonetheless significant number of Peruvian citizens, fearing political persecution in their country of origin, have requested refugee status in Canada. Do you have any reason to doubt the validity of these claims?

**César Elejalde Estenssoro:** We have not received in Lima any accusations at the Human Rights Office of the Public Ministry concerning refugees. I imagine that those claiming refugee status because of political persecution are doing so in order to have a reason to justify their illegal presence in foreign countries. From an economic

perspective the situation in Peru is very difficult, and many people want to leave the country.

**Alex Zisman:** Yet various observers claim that persistent human rights violations both by Sendero Luminoso and the armed forces give ample reason for many people, including those caught in the middle of the conflict, to seek refugee status. What do you have to say about Peru's human rights record?

**César Elejalde Estenssoro:** In Peru we are experiencing an authentic democracy. The Peruvian Constitution establishes in its first article that the object of the State and the Nation is to ensure that individuals have all the pertinent guarantees. The aim of the whole Constitution is to respect human rights. The first article refers to the fundamental rights of a person, an unusual thing within the structure of Peru's previous constitutions, which always started by declaring that Peru was a republican country, etc. One has access to adequate legal appeals such as the right of protection and habeas corpus, which protect the rights of individuals with extremely expedient legal procedures. There are no political prisoners in Peru. The prisoners who call themselves political prisoners are the terrorists. They become common delinquents because they are not accused for their ideas but for their deeds, attacks against human lives, against both private and state property. There is no persecution of any sort in Peru with the exception of those who are sought by justice for deeds typified in the penal code. Nobody is condemned without an adequate trial. I very much doubt the truth behind the statements of those who flee Peru claiming that they are being politically persecuted.

## Book Review

Glen L. Hendricks, Bruce T. Downing, Amos S. Deinard, editors

*The Hmong in Transition*  
Staten Island: New York: Center for Migration Studies, 1986

by John Van Esterik

This collection of papers on Hmong refugees is the product of a conference held at the University of Minnesota in 1983. Despite international contributions, Hmong refugees are viewed largely from an American perspective. Canadian readers, however, can learn a great deal about Hmong society in terms of language training, health care, and adaptation.

The first of four parts is prefaced by an introduction on the meaning of culture and tradition. Culture is always undergoing dynamic change and Hmong culture is no exception. The first three papers take into account the nature of the dynamics of culture in adaptation, economic factors in refugee exodus, and processes of identity maintenance. This section concludes with a revealing and useful

discussion of geomancy among the Hmong and its place in Hmong interethnic relations.

Part two addresses the adaptation of the Hmong refugees to the United States. This part includes five individual papers plus a section on a symposium that reports on an Office of Refugee Resettlement (ORR) study of Hmong adaptation in the United States.

Included is a report on training programmes in Minnesota for Hmong women that seek to place women in entry level menial sewing and cleaning jobs, a practice that will inevitably create a disadvantaged group of women. Another discussion of the resolution of a case of sexual assault in one Hmong community is ethnographically rich and sensitive. A paper on patrons and clients in a Hmong needlework cooperative does not give reference to the growing literature on patron-client patterns among Southeast Asian refugees.

A summary overview of an ORR study reports that the population is growing, Hmong students are experiencing difficulties in schools, welfare dependency is high, and employment projects have not had great success.

Part three concentrates on Hmong linguistics and this population's acquisition of English.

Part four, on health-care issues, emphasizes that professionals in this field should be aware of differing cultural attitudes among refugee groups to health care and to western medical practices. Included is an excellent discussion of Hmong shamanism as a form of psychotherapy. Guidelines for the mental-health professional dealing with Hmong refugees follow. Hmong terminology, beliefs, traditional healers, symptomatic descriptions that may be provided by Hmong patients, and various cross-cultural problems are outlined. This is an essential compendium for any health-care worker among Hmong in North America.

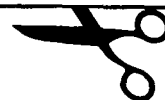
Research on the sudden death syndrome among Hmong and other Southeast Asians and papers on maternal-child links and undue lead absorption among Hmong children are included in this section.

This important if somewhat dated (1983) reader can be used by scholars, service providers, health care workers, and other interested individuals to learn about Hmong culture, adaptation, language, and health-care beliefs and problems.

John Van Esterik teaches Social Science and Anthropology at York University.

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