CANADA'S PERIODICAL ON REFUGEES

REFUGE

Vol. 9, No. 2 December 1989

CCR Fall Resolutions

The recent events in El Salvador, which have greatly exacerbated the human rights and refugee situation in that country, figured prominently in the resolutions passed by the Canadian Council for Refugees during its annual fall conference in Montreal on November 23-25. Two resolutions in particular dealt with the Salvadorean problem as part of the need to continue working to eliminate the root causes of the refugee crisis. It was also resolved to demand a halt to all deportations of Haitians living in Canada (ten days after the CCR conference the government stopped these deportations), to continue the monitoring of cases of deportation of refugee claimants deemed to be in need of protection, and to seek a review of Canada's commitments to the UNHCR now that the latter is experiencing its worst financial crisis.

El Salvador

Be it resolved that:

1. The Executive of the CCR take immediate steps to urge the Canadian Government to:

i) Continue efforts to bring about an immediate cease-fire and a negotiated settlement to the civil war and, in the meantime, maintain its suspension of government-to-government aid to El Salvador;

ii) Actively back the Organization of American States resolution urging all parties which have links to or interest in the region, to abstain from any actions which interfere with the achievement of a real and lasting peace in Central America;

iii) Support NGO relief efforts to provide immediate humanitarian aid to the people of El Salvador;

iv) Press the Salvadorean government to allow humanitarian organizations such as the International Red Cross and the Salvadorean churches to attend to civilians in the affected areas.

2. That the CCR and its member organizations immediately communicate by telegram, public opinion message, telephone call or letter to the Honourable Joe Clark, Minister of External Affairs, Government of Canada, Ottawa.

Protection

Be it resolved:

That the CCR call upon the Canadian government to undertake the following actions immediately:

1. That Canada increase its staffing in El Salvador to process urgent claims for protection, to process reunification cases originating with Salvadoreans in Canada, to ensure protection of Salvadoreans at refugee centres, and to ensure protection of persons approved by Canada in transit to the airport;
2. That Canada remove visa requirements and waive passport requirements for those persons in El Salvador needing urgent protection from Canada;

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3. That those arriving from El Salvador be processed for immediate landings, if this is their wish;
4. That a moratorium on deportations of Salvadoreans from Canada be announced immediately by the Minister;
5. That Salvadoreans in the backlog(s) be processed for immediate landing.

And that the CCR invite the ICCR and the CCIC and their member agencies to endorse these recommendations and urge the Canadian government through both the Ministers of Employment and Immigration and of External Affairs to implement these recommendations immediately.

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REFUGE

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And that the CCR invite the ICCR and the CCIC to participate in a joint committee to monitor protection of persons in El Salvador in the same manner as the joint committee which coordinated Canadian participation at the CIREFCA conference.

Haitians in Canada Threatened with Deportation

Be it resolved:

That the Canadian Council for Refugees gathered in Montreal for the Annual General Meeting, November 23-25, 1989;

1. Deplores the lifting of the moratorium on deportation to Haiti announced by the Canadian government on October 5, 1989;
2. Demands an immediate halt to all deportations of Haitians now in Canada;
3. Requests the Minister of Employment and Immigration, Barbara McDougall, to make use of her discretionary powers to grant permanent residence on humanitarian grounds to those Haitians threatened with deportation.

Be it further resolved:

That the Canadian Council for Refugees further requests the Minister to undertake this action in accordance with Canada's international obligations with regard to the protection of refugees, respect for human rights, and with due concern for equitable treatment.

Trace

Be it resolved:

1. That the CCR continue its pilot program on "Trace" for a further 3 months, employing a person to set up a system of coordination to trace refugee claimants deemed to be in need of protection who have been deported from Canada to their country of origin or an intermediary country;
2. That the mechanism to be explored should include coordination of tracing actions in all regions of Canada involved and all persons and agencies involved, as well as an appropriate system for reporting on tracing actions and the collection of other relevant documentation or information as to where such documentation is easily available.

   The person employed would assist the CCR Executive in proposing a way of financing the "Trace" mechanisms, e.g. through a consortium of agencies.
3. That the CCR seek financial support on a long term basis for these functions.

The Financial Crisis in the UNHCR

Be it resolved:

That the CCR executive and all member agencies communicate the following to the Minister of External Affairs:

1. A request to outline the government's actual and planned financial support of the general and special programs of the UNHCR.
2. A request to review current commitments to general and special programs, with a view to ensuring significant additional resources, commensurate with the increased needs of the UNHCR for both the 1989 and 1990 programs of the UNHCR.

Government-Assisted Refugee Allocations by World Area 1989 and 1990

Area	1989	1990
Eastern Europe	3,400	3,500
Southeast Asia	3,000	3,500
Latin America	3,400	3,000
Africa	1,000	1,000
The Middle East and West Asia	1,800	1,700
Funded management reserve and other world areas	400	300
Total	**13,000**	**13,000**

A Word About Naïvety:

Reflections on a debate in Toronto

by Geza Tessenyi

In the afternoon of the colloquium day at York University, where the paper "Cross-cultural Cooperation among Displaced Persons" (*Refuge*, Vol. 8, No. 3 (March 1989), pp. 4-6) was presented, there was a heated discussion between colloquium participants about democracy and power, in relation to refugees and forced migrants.

The view of CRS Director Howard Adelman and the presented paper's approach created the frame and the two poles of the debate. Professor Adelman was somewhat skeptical about the effectiveness of the "soft-politics of mutual understanding", framed by horizontal communication in interpersonal networks. He demonstrated, using the historical example of the New Left of the 1960s, that extensive horizontal communications only led to endless meetings with talk, more talk and double-talk, social paralysis and, finally, to disillusionment. The least patient ones, then, taking a decision on "radical efficiency", as a last resort, turned to active violence or pure terrorism. By contrast, he argued, "hard-nosed politics" (his term) may achieve far more success by using traditional, informal ways of political influence within existing hierarchical structures of society, would be the aim of the operation whether the protection of refugees or something else. Later, in his article on "Power and the Powerless" (*Refuge*, Vol. 8, No. 3 (March 1989), pp. 1-3), he returned to the issue and approached it from a slightly different angle: is the intention to build horizontal communication channels among refugees and forced migrants, in order to facilitate multicultural self-reliance and participation, the greater naïvety, or the complete reliance of refugees on the humanitarianism and good will of their hosts? His emphatic final conclusion in that article was addressed to Canadians: "Help restore power to these individuals [i.e., refugees] by utilizing your power."

The same question, though, addressed to refugees, is still unanswered. We might know by now what can and should be done by Canadian or other *citizens*, but we still do not know whether the self-reliance of *non-citizens*, without resorting to desperate and violent actions, is simply naïvety on our part. This is the question to which we are seeking a feasible answer here.

Following the tradition of liberal thinking, the hesitant-humanitarian Hamletian-Raskolnikovian experience might suggest what Montesquieu expressed so clearly in his Persian Letters: if politics seeks to legislate love, it will end in violence. If this is true, then we should be suspicious about our "soft-liner" horizontal politics of mutual understanding, because it could eventually lead to violence. One could stop at this point, because this is one possible (and clearly feasible) answer to the posed question. The problem, however, still remains: in the absence of insider-initiated participation there is an apparent *gap in democracy*, even in otherwise democratic societies. We witness this gap by noticing that access and entitlements to democratic fora are selectively distributed among *de facto* inhabitants of a country.

Looking for an alternative answer, we might listen to the voice of contemporary history. It tells us that horizontal communication-based cooperation has a radically different meaning for the late 1980s and the 1990s from that for any other previous era. The apparent mushrooming of local and world-wide non-vertical communication is the result of the "information revolution", that is, the emergence of new information (and, to some extent, transportation) technologies. Its powerful opportunities have been exploited first, as usual, by the private (that is, business) sphere, particularly in finance, banking and the media. Secondly, and this is less usual, the non-governmental organization (NGO) sphere (that is, the non-business private sector) has arrived, having become aware of the opportunity for much greater efficiency of operation. Today there is a visible global web of these organizations, exercising horizontal communication-based cooperation around the world. Finally, as usual, the public (that is, government) sphere has realized this communication interdependence. Some governments regard it as a threat to sovereignty (the classic example is the controversy between governments of less-industrialized countries and multinational corporations, or the restrictive national regulations on private satellite broadcasts; though, these kinds of communication might be regarded as vertical rather than horizontal). These governments in other fields and the other national and federal governments try to encourage, in varying degrees, horizontal cross-border communication in business or in "human contacts", as personal exchanges are called in documents of the Helsinki-conferences (CESCE).

From this short review of the current state of local and world-wide non-vertical communication, one might gain the impression that new technologies are creating a new frame also for world-wide political activities. It is probably meaningless to identify this frame (or infrastructure) with any traditional political wing. In such an unfortunate and misleading case, the advocating of free, horizontal business interactions could be called the New Right argument, whilst advocating the *same* free, horizontal interaction, but among non-business private actors, could be a typical New Left demand. So far from this, horizontal communication, relying on new technologies, is, in itself, a new and neutral frame, which can be filled with any kind of political, economic or cultural activities.

Robert Mazur says about refugee integration in a Refugee Participation Network (Oxford) paper: "a frequently ignored prerequisite of success ... is that ... integration be a process of communication in which solutions are worked out in an interactive basis". This is indeed a prerequisite of success, because horizontal communication among displaced persons enables the identification of common needs and interests and the action upon this identity is a self-reliant, participatory manner. It does not have to end in violence, as Montesquieu and others, otherwise probably quite rightly, would suggest. There are two reasons for saying this: first, the social impact of new technologies and, second, the multicultural cooperation feature of horizontal communication.

The effectiveness of new ways in communication makes it possible for inexpensive world-wide access to be mutually available, and can eliminate endless, fruitless meetings. Meanwhile, and more essentially, the multicultural feature of the displaced community (both in the local and global context) prevents certain violent routine-reactions of one or another ethnic group. This is so, because

the reticent community consensus on violent responses to specific kinds of social challenges does not exist amongst them. On the other hand, the act of deliberate communication already has roots in the intention to understand each other and to cooperate for common ends. Given this kind of post-mortem personal intervention in political matters, it seems more appropriate to deal with the Ghandian experience than with Montesquieu's warning.

Violence aside, the question of "naïvety" still needs an answer. Based on what has been argued so far, one can say that the feasibility of generating awareness, self-reliance and direct democratic relationships among refugees and forced migrants largely depends on their reasonable access to political and material facilities for horizontal social communication, both locally and internationally. Should there be insufficient access to none at all, then refugees will remain in a state or vertical dependence and socio-psychological isolation, surviving on humanitarian assistance, and continuing to be uninvited and paralyzed guests everywhere. Meanwhile manpower-wasting, money-consuming paternalism over refugees reigns.

Alternatively, with the facilities for horizontal communication, these people, wholly dependent today, could feel like adults, useful and at home in their new place of residence, in the same way as those migrants who have enough hard cash in their pockets. Furthermore, they would be able to fill the gap and demonstrate a new pattern of democracy: the reliance on multicultural exchanges, the constructive exercise of their human rights, the taking of direct, personal responsibility for themselves and for their social environment. We are on the threshold of a world-wide information society, where individual responsibility and participation is expected to play an increasing role. Therefore, this "new pattern of democracy" could be a sensible reward for the rest of us as well.

But, as long as refugees and forced migrants do not take on these responsibilities for themselves and for each other, agencies-granted "refugee involvement" will continue to replace the firm penetration of democracy in refugee affairs.

Geza Tessenyi *is the coordinator of the Displaced Citizenship Programme at the Institute of Social Studies, The Hague, Netherlands.*

The Evolution in Perception of the Role of the RHO

by Sam Laredo, Elaine Pollock and Jan Marshall

The new Convention refugee determination system created the need for a unique participant on the determination hearing, the refugee hearing officer (RHO). The RHO is, in short, a neutral participant at the full hearing before the Refugee Division. Authority for the existence of board counsel is provided in the Act and is amplified slightly in the Convention Refugee Determination Division Rules, but little practical guidance regarding the RHO's role can be gleaned from these sources. It is primarily the underlying policy and legal considerations governing the activities of the RHO which have determined the parameters of the role.

Although it has been assumed by some that the role of the RHO has evolved since implementation of the new determination system, in fact there has been no significant modification or rethinking of the role itself. What has occurred over the past several months is an increased understanding of the role on the part of the Convention Refugee Determination Division (CRDD) members, counsel and the RHOs themselves. There is a broader acceptance of the RHOs' participation in hearings resulting in a level of participation which actually accords with the role's established boundaries.

The primary difficulty encountered in explaining the role is that it is unusual and does not correspond with the familiar adversarial framework. This, of course, stems from the context in which the RHOs function. The determination hearing before two members of the IRB has been termed "non-adversarial", an expression which is accurate if not particularly illuminating.

Essentially, at the full hearing there is no party to the hearing who acts as an adversary to the claimant. But for a handful of cases, the legislation does not allow for the presence of a party whose role is to advocate a negative determination. (Except in certain specific circumstances, the Minister does not participate in the proceedings). During the hearing the panel is present to perform the adjudicative function and the claimant, usually with counsel, is present to provide evidence in support of the claim and to advocate a positive determination. The position of RHO exists in order th have a participant who is trained to perform the investigative function before and during the hearing, to assist the panel during the hearing and to help ensure the hearing process is fair and complete. Importantly, the premise underlying the delineation and performance of these functions is that the RHO is a neutral participant in the proceedings and therefore does not take a particular position regarding whether or not the claimant ought to be determined a Convention refugee.

As a neutral participant, the RHO need not raise only those issues or analyses which might be to the benefit of the claimant, nor does the RHO focus only on those aspects of the claim which might be detrimental to the claimant's case. Rather, the RHO raises evidentiary and legal issues for the purpose of providing the panel with an informed view of the claim before it. In other words, the RHO does not avoid raising potentially damaging issues simply because the hearing is termed non-adversarial. Instead, the RHO places those issues in perspective and provides alternative analyses of the evidence and the law in order to assist the panel in formulating its decision.

The RHO

The authority for the creation of the position of the refugee hearing officer is found in section 67 (1) (a) as enacted by An Act to amend the Immigration Act, 1976 (formerly Bill C-55), S.C. 1988, chapter 35, section 18. The section provides that the Chairman of the Immigration and Refugee Board "may make rules (a) governing the activities of, and the practice and procedure in, the Refugee Division and the Appeal Division, *including the functions of counsel employed by the Board;*" (emphasis added)

Another important point which has needed clarification is that the RHO is not required to be passive in order to ensure neutrality. Vigorous, persistent and probing questioning of the claimant by the RHO and assertive participation during the hearing has been thought by some to be inconsistent with the spirit of a non-adversarial hearing. As a result, it has been necessary to emphasize to the other parties that the RHO can only be effective if he or she fully participates in the hearing; being assertive in eliciting all relevant evidence is not synonymous with being adversarial.

The RHO not only elicits as much relevant evidence as possible but offers alternative interpretations of inconsistencies in that evidence to the panel and provides information on possible applications of the law in the area, without attempting to persuade the panel to take a particular position.

The training that newly-hired RHOs undergo has been modified somewhat since the first training session in October 1988, primarily in response to the type of concerns explored above. Initially, the training sessions emphasized the "non-adversarial" aspect of the role; however, this seemed to lead to occasional confusion in practice. The RHOs expressed uncertainty regarding the extent and tone of their participation in the hearings and, quite understandably, often chose to exercise caution when faced with a novel situation. Some counsel expressed resistance to any involvement of the RHO in the hearing process and some panel members were unsure of the purpose of the RHO's presence at hearings. It has been difficult to ensure that all participants at the hearings have a fully informed perspective on the role of the RHO; people absorb new concepts at very different rates. It is also worth noting that the role of the RHO, being new, was subject to misunderstanding.

Soon after implementation of the new system, it became clear from the type of functional guidance being requested that most RHOs understood that they were not to act as adversaries at the hearing but were unsure of how far they could go in eliciting all the relevant evidence for the panel.

One example of this is the small controversy surrounding the use of the term "cross-examination". Cross-examination is associated with adversarial proceedings simply because almost all legal proceedings are adversarial. Consequently, cross-examination has come to be seen as the means by which one attempts to discredit the testimony of a party. In fact, *The Concise Oxford Dictionary* defines "cross-examine" as to "examine (esp. witness in lawcourt) minutely to check or extend previous testimony". This is, in effect, what the RHOs are supposed to do in questioning the claimant; they must organize, test and expand the testimony for the benefit of the panel, but from a neutral perspective. However, in an effort to avoid relaying conflicting signals to the RHOs, and to counsel, there was a tendency to avoid referring to "cross-examination" in the early RHO training sessions.

The concerns raised by RHOs started to make it clear that camouflaging neutral cross-examination behind the word "questioning" had actually contributed to uncertainty. As a result, in recent months the RHOs have been encouraged to be more persistent and probing in their questioning, or, in other words, to engage in cross-examination. Questioning that stops short of cross-examination is normally so ineffectual as to be unnecessary.

Another area which had been the focus of much discussion was the issue of whether RHOs should have access to information and evidence obtained by Case Presenting Officers (CPOs) before and during a claimant's initial hearing held before an Adjudicator and a member of the Refugee Division. Some were of the view that RHOs shoud make use of all information obtained by CPOs, as well as the evidence from the initial hearing, in order to allow the RHO to "cross-examine on previous inconsistent statements" and to bring forward evidence which would undermine the claim. Another view was that the RHO should avoid making use of an evidence from the initial hearing since to do so would be inconsistent with the "non-adversarial" spirit of the determination hearing.

In the final analysis, it became evident that the greater the information before the panel, the better the decision. The risk to the claimant was contingent on his or her ability, at the Refugee Division hearing, to respond to questions regarding inconsistencies in the story. Evidence from the initial hearing which appeared, at first blush, to undermine the claim might be easily explained; apparently incriminating evidence might in fact be irrelevant to the issues central to a final determination. In any event, before making use of such evidence at the hearing, the neutral nature of the RHO's role requires that in all circumstances the evidence be disclosed beforehand to the claimant and counsel. The RHOs do not indiscriminately present any and all evidence which may have been forewarned by a CPO; the RHO and CPO perform very different functions within very different proceedings.

Much of the uncertainty regarding the extent and tone of the RHO's participation at the hearing has been resolved and there is a far greater acceptance of the presence of the RHO than existed when the RHOs first appeared at hearings. Nonetheless, on-going training of RHOs remains important since new issues continue to arise and established practices occasionally need re-evaluation. Just as important, however, are the continuing efforts which are made to enhance the understanding of the Refugee Division members and Immigration Bar of the role of the RHO; the RHO's ability to effectively participate in hearings is directly related to the other participants' perceptions of the role.

CRDD Rules Concerning the RHOs

Rule 2 of the *Convention Refugee Determination Division Rules*, SOR/89-103, provides that in these rules "'refugee hearing officer' means a person referred to in paragraph 67 (1) (a) of the Act who acts as counsel to the Board".

Rule 13 reads as follows: "The Refugee Division may be assisted with a claim or application by a *refugee hearing officer* who may, subject to the direction of the Refugee Division,

(a) file documentary evidence;
(b) call and question witnesses; and
(c) make written or oral observations." (emphasis added)

This article was prepared by **Sam Laredo**, *Acting Director, Refugee Hearing Officers, IRB, with the assistance of* **Elaine Pollock** *and* **Jan Marshall**, *refugee hearing analysts.*

An Appeal on the Merits:

A remedy for a procedurally flawed system

by Michael Schelew

More than eleven months have passed since Canada has implemented its new refugee determination system. During that time, many refugee claimants whose claims have been refused either at the initial hearing or at the full hearing have approached the Canadian Section of Amnesty International for assistance. After reviewing many of these refused claims, the Canadian Section is of the view that there are grounds for concern regarding the application of the credible basis test at the initial inquiry and the interpretation of the Convention refugee definition at the full hearing. The fact that the new refugee determination system is recognizing the large majority of refugee claimants as genuine refugees does not diminish our concern. Nor is our concern diminished by virtue of the fact that the majority of refused claimants reviewed by us were found not to be of concern to Amnesty International.

Amnesty International is not opposed to a credible basis test per se because we are of the belief that genuine refugees have nothing to fear from such a test. However, Amnesty International is concerned with the application of the credible basis test and its interpretation by decision-makers. In our view, the initial inquiry procedure was intended by Parliament to be a screening-out process for the most obvious cases of abuse. The phrase that comes to mind to describe such abuse would be those cases that are manifestly unfounded. It was our expectation that all refugee claimants who made allegations of persecution from a refugee-producing country would be referred to a full hearing where the credibility of those allegations could be examined more thoroughly and where the merits of the claim would be evaluated. Regrettably, this has not always been the case. There have been several notable cases where persons alleged persecution from a refugee-producing country and the panel members at the initial inquiry found there was no credible basis for the claim. In our view, incorrect decisions have been made where panel members have confused the credible basis test with the question of credibility or where panel members were not informed about the pattern of persecution existing in the claimant's country of origin.

One suggested way to reduce the likelihood of incorrect decisions at this initial stage of the process is to formulate clear guidelines on how to apply the credible basis test. Interpretive guidelines on the definition of Convention refugee where issued by the Refugee Status Advisory Committee in 1982. In our view, guidelines on how to interpret the credible basis test would serve both claimants and decision-makers. Inconsistent decision-making would be less likely to occur and, hopefully, the overall quality of decision-making would improve.

The Canadian Section has discovered that mistakes are being made at the full hearing where the claimant's story is reviewed on the merits. We have seen decisions where the finding of lack of credibility has been arbitrary or where it was obvious that the Refugee Board members did not understand the pattern of persecution in the country of origin of the claimant. The problem of poor decision-making at the full hearing stage and even at the initial inquiry of the determination process is compounded by the limited rights of appeal to the Federal Court under the legislation. Appeals are limited to areas of law or jurisdiction. There is no appeal on the merits of the claim. Furthermore, leave to appeal is required in all cases. To date, leave to appeal has been granted in relatively few cases. If the Federal Court is going to hear an appeal, its review mandate is so narrow that the merits of a case cannot be reviewed.

The Canadian Section of Amnesty International has long advocated a centralized review on the merits of a claim. Such a mechanism could reverse any incorrect decisions made at the initial inquiry or at the full hearing. In our estimation, such a process will be both fair and expeditious. A centralized paper review would ensure that the decentralized panels of the Refugee Board would apply the same criteria during all initial inquiries and full hearings. The centralized review can set the standards for the panels throughout the country and correct a decision by a panel that has not respected various principles and guidelines established by the centralized review through its decision-making. This will ensure that all refugee claimants are dealt with by the same interpretations of the credible basis test and of the definition of Convention refugee which are evolving concepts given that methods of persecution vary. To the extent possible, a centralized review will provide consistency and coherency to our national inland refugee determination policy. Presently, decisions from various panels of the Refugee Board may vary. A decision often depends on who sits on the panel hearing a particular claim either at the initial inquiry or at the full hearing.

The centralized review should have the authority to reverse a negative decision on points of law, on the facts of the claim and on questions of mixed fact and law. In other words, if a local panel of the Board erred in its interpretation of the Convention refugee definition or the definition of credible basis, then the centralized review can reverse the decision. Amnesty International believes that a centralized review should also have the authority to send a claim back to a differently- constituted panel. This situation could arise when the centralized review is of the opinion that there are serious questions as to credibility based on the written materials before it. Whereas the appeal will be in writing, it may be difficult for the centralized review to be certain that the claimant lacks credibility. If there is such an uncertainty, then the matter should be referred to another panel for a second oral hearing. Amnesty International is of the view that a centralized review should avoid deciding questions of credibility of claimants on written material only when there are serious doubts as to credibility. Of course, if the centralized review has no doubt that the

claimant is not credible, then the matter will not have to be referred back to another panel for a second oral hearing.

A centralized review may also wish to send a claim back for a second oral hearing in situations where there are serious gaps in the claim which make it impossible for the centralized review to determine if the person has a credible basis for the claim or if, at the second hearing, there is a genuine protection need. These gaps could have occurred because the claimant was unrepresented and did not provide the sufficient detail necessary to establish a credible basis or a well-founded fear of persecution. Serious gaps in a claimant's testimony can also occur when the claimant is represented by incompetent counsel or an incompetent immigration consultant. If the centralized review thinks that further questions must be clarified, then the matter may have to be sent back for a second oral hearing. A matter may also need to be sent back for a second hearing if the translation is so poor that the centralized review cannot understand the claim.

A question may arise regarding the handling of new evidence that is only being presented on the appeal and was not before the decision makers at the oral hearing. The centralized review can develop criteria for accepting new evidence. There is already jurisprudence which states that new evidence is admissible in certain types of situations when it was not within the knowledge of the parties at the hearing and there was no negligence on the part of counsel in ascertaining whether the knowledge was available or not. As well, the new evidence could be evaluated in light of its credibility. In certain situations, given the nature of the new evidence, it would not be credible that the evidence was not brought forward at the time of the oral hearing. It is open to the centralized review to conclude that the new evidence is fabricated or is not relevant enough to reverse a negative decision by the Board.

In order that the centralized review be expeditious, it is imperative that refugee claimants appeal within a prescribed period of time. We believe that if a written appeal in its entirety is filed within a precise time period after the receipt of the written reasons for refusal, then there will not be undue delays. Transcripts will also be necessary given that the centralized review must have the opportunity to review the transcript of the refused claim.

The Canadian Section is of the view that refugee claimants would have enjoyed a high degree of procedural protection if their claims had been refused after an oral hearing and after a written appeal on the merits as well as points of law. Consequently, we believe that at this stage, a further appeal with leave to the Federal Court of a negative decision of the centralized review is more than adequate. Whereas leave to appeal will be granted on points of law only, very few refugee claimants will be given the right to appeal to the Federal Court. Therefore, the refugee determination procedure will have ended for the large majority of claimants after their application for leave to appeal to the Federal Court has been denied. At that time, enforcement proceedings should begin forthwith.

Given the high acceptance rate at the initial inquiry and at the full hearing, the Canadian Section is of the view that the numbers exercising their right to appeal to a centralized review will not be large. In our view, a well-trained body could handle the review mechanism we have suggested in a manner that would be expeditious and would not require many decision-makers.

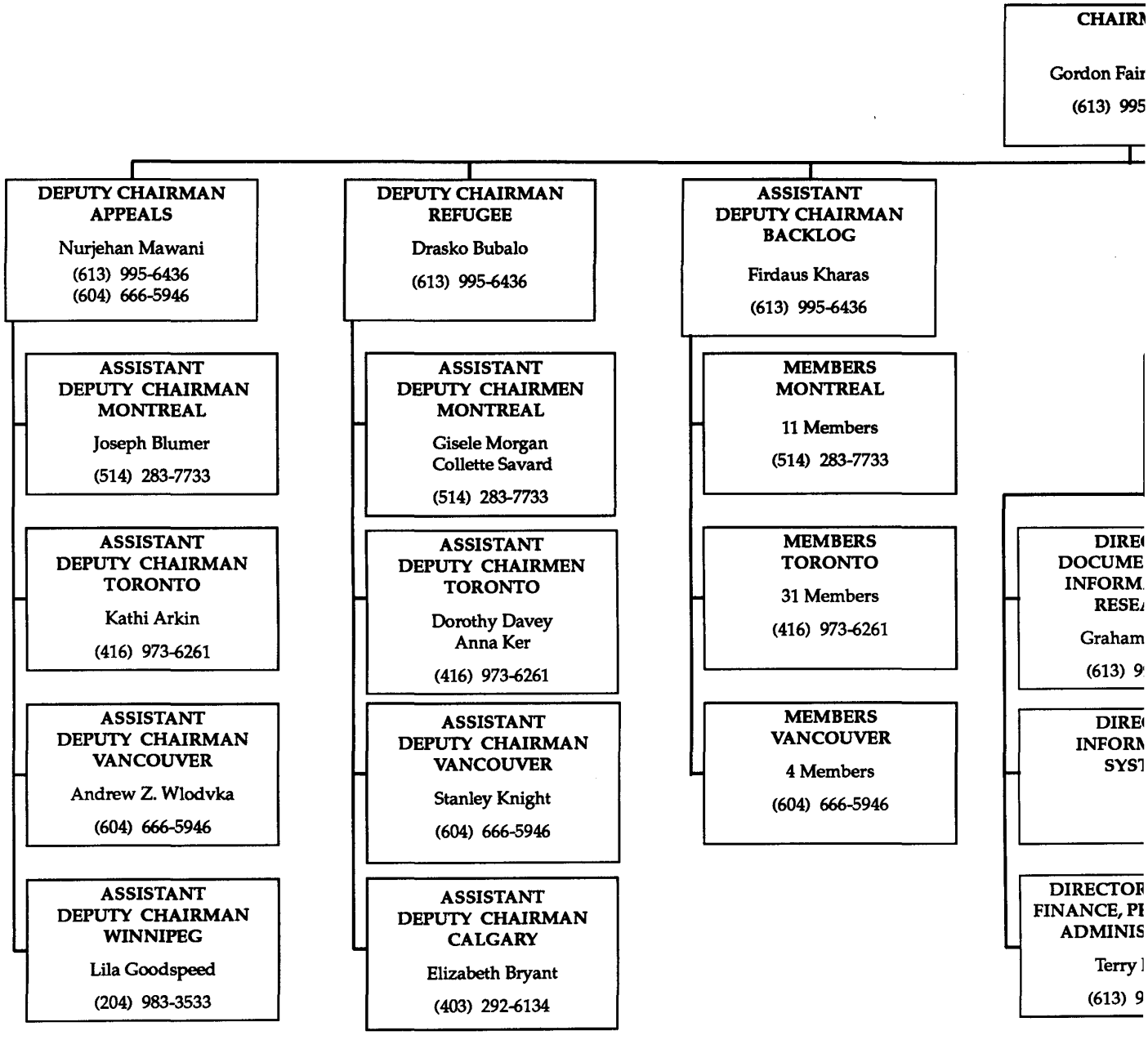
The Canadian Section believes that refugee claimants need a high degree of procedural fairness given that genuine refugees who are not accurately identified will face arbitrary detention, torture or execution if removed from Canada to their countries of persecution. A refugee determination system without an appeal on the merits is procedurally flawed. Furthermore, the lack of an appeal on the merits is in violation of the Conclusions of the Executive Committee of the United Nations High Commission for Refugees. It must be kept in mind that the large majority of refugee claimants seeking protection at our borders are genuine. This fact alone should make policy-makers concerned about fair procedures so as to ensure that genuine refugees will be accurately identified and therefore protected. The criminally-accused in our country do not have an appeal on the merits because our political/judicial system does not lead to arbitrary detention, torture or execution. Regrettably, the political/judicial systems facing genuine refugee claimants if incorrectly identified in Canada and returned do lead to such repugnant results. It is this fact that justifies the need for an appeal on the merits for refugee claimants.

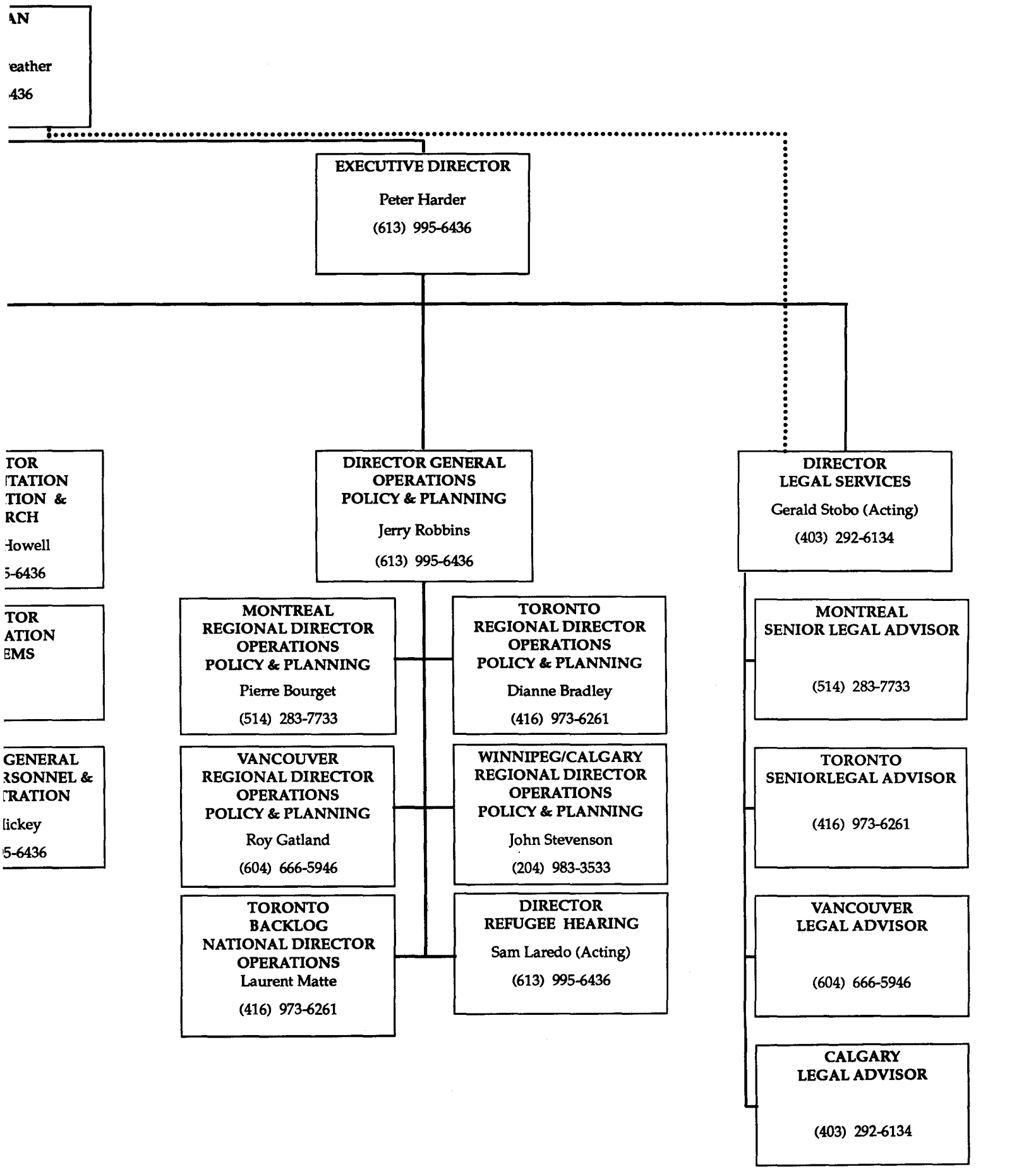
The Canadian Section believes that a centralized review can change Canada's procedurally-flawed refugee determination system to a system that meets internationally-accepted standards for refugee determination. The implementation of a centralized review will also go a long way in allaying the fears of those who are involved with refugee determination that genuine refugees risk refoulement due to unfair determination procedures. The Canadian Section believes that incorrect decisions reviewed by the Section at both the initial inquiry and full hearing stages of the procedure prove that a review on the merits is necessary. Federal politicians and officials from the Departments of Immigration and External Affairs maintain that genuine refugees should be given Canada's protection. This position rings hollow if the same politicians and bureaucrats are not prepared to ensure that the refugee determination procedures are fair. If Canada's decisions-makers are not prepared to implement a fair appeal procedure, then the Canadian Section of Amnesty International will continue when necessary to appeal directly to the Minister of Immigration of the day regarding cases of concern to the organization. In the absence of an appeal mechanism, ministerial discretion is often the only avenue available to ensure that genuine refugees are not returned to face arbitrary detention, execution or torture if forcibly removed from Canada.

Michael Schelew *is the spokesperson on refugee affairs for the Canadian Section of Amnesty International.*

Open Forum on the IRB

Refuge is starting in this issue an open forum on the IRB. Our goal is to maintain an ongoing, lively and constructive exchange of opinions on this topic. We look forward to contributions, particularly from panel members, lawyers, RHOs, case officers and interpreters, on pertinent aspects concerning the functioning of the IRB.





The Interpreters at the IRB

by Alex Zisman

Refugee claimants being processed in Canada have a right to use interpreters. By faithfully reproducing in the target language what is said in the source language, the latter make it possible for claimants, panel members, counsel, refugee hearing officers (RHOs) or case officers at the Immigration and Refugee Board of Canada (IRB) hearings to properly communicate with each other. When interpreters are required, the accuracy and fairness of the proceedings hinge substantially upon their performance.

Interpreting demands much more than the mere display of fluency or proficiency in a given set of languages. Based on a culturally-entrenched search of equivalent meanings, interpreting requires a comprehensive grasp of context, a familiarity with backgrounds, permeated by social, historical, economic and geographic clues and references.

Not unlike sharpshooters, interpreters must be precise under stress or pressure. Mental agility, discipline and endurance, together with emotional stability, are also necessary attributes.

From its very inception the IRB expressed a desire to hire the best available interpreters on a freelance basis. But, after tapping resources through traditional grapevines (federal or provincial channels, translation agencies, university and individual contacts) the IRB found itself having to recruit candidates without a formally regulated screening procedure in place.

With no specific guidelines to properly appraise candidates before hiring them, rigorous testing was largely spared. Experienced candidates were usually hired by the regional offices once they showed familiarity with basic procedures. Novices were encouraged to attend hearings as observers to familiarize themselves with the job and see whether they could cope with its requirements. In Calgary, candidates were given a small glossary compiled by the regional office and were hired only after assuring officials that they could confidently translate verbatim the terminology listed. Other offices either had no glossaries ready or were waiting for official approval before handing them over to interpreters. In the latter cases the interpreters were merely briefed on procedures before being sent to work.

Although there has obviously been a need for further and ongoing technical training of interpreters at the IRB, this has not yet been forthcoming, in sharp contrast with the meticulous and periodic preparation provided to panel members and RHOs alike.

Interpreters have only been formally instructed to abide by specific and clearly defined rules of professional conduct. They must remain impartial, keep a polite distance from all those involved in the hearings and avoid conflicts of interest. To a certain degree, these measures have a specific purpose. They serve as precautionary and even preventive devices designed to minimize the possibilities of a mistrial.

While the IRB readily monitors the behaviour of interpreters at its premises both during and outside the hearings, a dearth of specific guidelines and evaluating mechanisms leaves each of its regional offices free to compile its appraisals as each deems fit.

Toronto and Vancouver rely on information provided mainly by panel members and, to a lesser degree, by RHOs and case officers, to rate and even informally rank interpreters. This ranking can ultimately help determine whether and how much a given interpreter is going to be used.

Calgary and Winnipeg also get most of their feedback from these sources. They count on the information to determine the general competence of an interpreter, but prefer not to adhere to a ranking system.

Montreal is the only regional office with a genuine need for people capable of interpreting into both official languages, since French and English are substantially used there on a daily basis. This office relies on proven interpreters to observe the performance of new interpreters during the hearings. Once interpreters are considered reliable they are used as part of a pool. If there is a surplus of qualified interpreters in a given language, they are put on rotation in a manner which is clearly non-discriminatory.

The differences in evaluation pose some problems, particularly when the sources being tapped are not properly qualified to provide a full assessment. The proficiency of an interpreter can only be adequately rated if an evaluator has a total mastery of the language used by the claimant. This mastery alone places the evaluator in a position to judge how competent the overall performance of the interpreter really is. Input devoid of context and of sufficient points of reference can undermine the accuracy of an evaluation.

Some input received about the interpreters by the regional offices tends to be of an incidental rather than global nature. Comments emanating from lawyers acting as counsel provide a good example of this. Since their main concern is that the performance of the interpreters should not prove detrimental to their clients' claims, their comments respond mostly to policing needs and are usually limited to challenging rather than praising the competence or trustworthiness of interpreters.

Although most lawyers, if pressed, would acknowledge and even pay tribute to the fine skills of many interpreters hired by the IRB, in some cases they would still insist on bringing their own observers along to corroborate independently the accuracy of the interpretation.

Interpreters, for their part, can do little to contest the method in which they are being assessed. Still officially untested and unaccredited, they have been given little opportunity, particularly in a large regional office such as Toronto, to have much say in how they should contribute to the hearings. As a result of their present lack of empowerment, interpreters in general remain structurally alienated and tacitly constrained within the participatory dimension of the refugee determination process. In spite of the congenial atmosphere usually prevalent during the hearings, interpreters in most cases feel reduced to an essentially passive, isolated and slightly dehumanized technical function. Some minor aspects also make them feel relegated to the sidelines. For example, they are not provided with any prior information about the cases and have no automatic access to documentary evidence presented during the hearings, as panel members, counsel and RHOs or case officers do.

The IRB is already considering some steps to remedy this situation. In future, written and oral exams will be used as tools to screen, hire and grade the interpreters.

Other measures could also prove helpful.

Interpreters should be able to contribute to define the course and parameters of their position within the IRB. They should be consulted more often about their views and be encouraged to appraise their performances. A move in this direction can already be perceived in some regional offices. A constructive dialogue would only help improve and enhance the contribution of interpreters at the hearings, as would a systematic training on an ongoing basis.

As part of this dialogue interpreters should also be involved in the collective development of specialized glossaries. Their participation in task forces or working groups in charge of the preparation, updating and improvement of terminologies could prove invaluable.

Some specific concerns regarding access should also be resolved. Interpreters should be allowed prior access to non-confidential information about the cases such as the country of origin of the claimants. This would not only contribute to define in advance a context, but will also provide some guidance to interpreters who have to deal on a regular basis with claimants coming from more than one country.

They should also have at least temporary access to documents quoted during the actual hearings. This would ensure the completion of translations in a more expedient and less stressful manner.

When implemented, these improvements would certainly contribute to turn a potentially rewarding job into one which would also be more stimulating and meaningful.

Alex Zisman *is the Executive Editor of* Refuge. *He is also a vice-president of the Court Interpreters' Association of Ontario and has worked sporadically as an interpreter at the IRB since its inception. The views expressed in this article are his own and do not necessarily reflect the views or position of the IRB.*

A Task Force on Overseas Selection

by David Matas

At its November 1988 General Meeting in Montreal, the Canadian Council for Refugees decided to establish both a working group and a task force on the overseas protection of refugees. The creation and administration of the task force became the first and most important assignment of the working group.

Since its inception, the working group has met twice. Once in Toronto, in April, 1989 and a second time in Vancouver in June. At both meetings the task force monopolized the discussions of the working group.

The terms of reference are to focus on overseas selection of refugees only. The working group is excluding any consideration of the inland refugee determination process. As well, for overseas selection, the working group is asking the task force to look at refugee claimants only. It is excluding an examination of the overseas processing for immigrants who wish to come to Canada for economic or family reasons.

The only exception to the limitation is family abroad wishing to join refugees or refugee claimants in Canada. Though the family abroad may not, separate from their relatives in Canada, be part of the refugee stream, there is an obvious refugee dimension once there is an attempt to unify a refugee family.

It is the view of the working group that the task force should examine both government sponsorship and private sponsorship of refugees. The Canadian Council for Refugees is an organization that groups together those involved in private sponsorship. Yet the Council is, inevitably, interested in who the Government sponsors, or, more accurately, who the Government does not sponsor. Who the Government does not sponsor has a direct bearing on who the private sector will try to sponsor.

The refugee selection system overseas includes persons in a number of designated classes who are not technically refugees. People from the self-exiled class, from Eastern Europe, and the Indochinese designated class, are eligible for entry to Canada provided only they are outside their home country and can successfully establish themselves. People in these two classes do not have to meet the refugee definition. People in the political prisoners and oppressed persons class cannot, by the very way the class is defined, meet the refugee definition. The class covers political prisoners and oppressed persons in their home country. Refugees, by definition, are those who have fled the country of persecution.

The working group, nonetheless, decided that the task force should examine those designated classes, for several reasons. Designated class admissions are part of the overall government refugee statistics. Many within the class are, in fact, refugees. There are questions of consistency and equity that arise because of the existence of the classes — whether people from countries not part of the classes are being treated unfairly in comparison with those from countries within the classes.

Although the working group did not want the task force to examine inland processing, it did not want the task force to ignore it either. Inland processing serves as a useful point of comparison with overseas processing.

For all its faults, and we have to come to hear about these in great detail in the last little while, inland processing presents a number of features overseas processing lacks. There is an independent decision maker, independent from both the Department of Immigration and the Department of External Affairs. There is a right to make a claim. There is a right to an oral hearing. There is a right to counsel. At the credible basis stage one of the decision makers and at the full hearing stage both of the decision makers are expert in refugee law and country conditions. There is a right to an interpreter. There is a right to reasons for a refusal.

None of these features is present in the refugee selection system abroad. The issues of due process, fairness, natural justice, and fundamental justice for overseas selection are part and parcel of what needs to be examined.

The focus of the task force will be on the Canadian selection system overseas. It is not meant to examine selection abroad generally. Nonetheless, here too, we do not wish to be overly restrictive. What other resettlement countries are doing in selecting overseas is a matter the task force must examine.

Canada has a reputation of snatching the best from the refugee settlement pool abroad. It would be worth while to examine how other resettlement countries manage to approach refugee resettlement with a more humanitarian and less utilitarian attitude than Canada.

Other countries will not, I expect, show up uniformly better than Canada. Here, as elsewhere in refugee protection, there will be common problems, common trends. The task force can perform a useful role by highlighting those trends.

The North/North grouping, gathering refugee NGOs from North America and Western Europe, met in Washington in June. The CCR delegation to that meeting added refugee selection abroad to the agenda of that meeting. The North/North grouping can be a useful source of information for the task force on this aspect of its work.

The working group, after settling on terms of reference, moved on to sources of information. One source the group is relying on is questionnaires. Anne Paludan of Edmonton has designed a questionnaire addressed to members of the Canadian Council for Refugees which was in the kits given to delegates at the CCR spring meeting. The questionnaire asks sponsorship groups in Canada to relate their experiences in sponsoring refugees through Canadian immigration offices overseas. Questions are asked about variation in processing time, access to lawyers and interpreters, equality of treatment. It is proposed that those Canadian Council members with more detailed knowledge of the application

process abroad would be interviewed in a more detailed way. The questionnaire circulated in the kits is a preliminary questionnaire only.

There were a number of specific studies of the problem in particular areas of the globe and Canada on which the working group task force intends to draw. Noel Saint Pierre did a study of Chilean refugees applying from Argentina in 1987. Phil Ryan did a report for Dan Heap in July 1988 on the Canadian overseas selection of Central American refugees. Lisa Gilad, in a text she has written on the refugee experience in Newfoundland, dated November 1988, has a chapter with interviews of refugees in Newfoundland who record their experiences of Canadian processing abroad. The St. Barnabas Refugee Society in Edmonton is conducting a research project, scheduled for completion in December 1989, into refusal of Alberta applications for sponsorship of refugees from outside Canada.

The task force will draw on all sources of information that would usefully contribute to the study — the Government of Canada, the United Nations High Commission for Refugees, lawyers who work with refugee claimants and their families, and NGOs who assist refugee claimants abroad through the Canadian and other governmental refugee processing systems.

Regrettably, the Government of Canada is not interested in cooperating with this task force. I met with Gavin Stewart, the person in External Affairs responsible for visa offices abroad, and Joe Bissett, the Director of Immigration in Canada. In a letter to me dated April 5, 1989, Joe Bissett, on behalf of both departments, wrote, "I regret that I can agree with neither your estimate of the need for such a task force, nor with the fundamental premises of your recommendation."

When I met with Gavin Stewart and Joe Bissett, I pointed out that Bill C-55 provided for a safe third country system. The Government had coined and pushed the term "irregular movements", referring to spontaneous asylum seekers. The Government agenda was to have refugee claimants processed from above, rather than through the claims system in Canada, by denying access to the claims system in Canada of anyone who had passed through what the government says is a safe third country.

Barbara McDougall, the Minister of Immigration, has overruled this agenda of the bureaucracy, announcing that no countries would be put on the safe third country list. The bureaucracy, nonetheless, continue to lobby for a safe third country list. Even without it, the degradation of procedural protection in Canada under the new system makes the system of processing abroad all that much more important.

Despite the denial of the right to counsel of choice, the burden of proof in the refugee claimant, the absence of an appeal on the courts, the absence of an appeal as of right, the inability to stay in Canada even during limited technical applications for leave to appeal, the adversarial nature of the credible basis hearing, the lack of independence of the adjudicator, one of the refugee decision makers at the credible basis stage, from immigration considerations and other problems besides, Bissett refused to acknowledge any problem in the current inland processing system at all. Under the present system, as we are finding day after day, mistakes are easy to make, impossible to correct, and catastrophic once made. What Bissett said to me that was "I do not agree that Canada's new refugee determination system denies protection to genuine refugees."

Under the present system ... mistakes are easy to make, impossible to correct, and catastrophic once made.

Bissett stated that there is "no obligation in law, domestic or international, to accept refugees abroad as immigrants in Canada, or to facilitate their admission to claim or obtain protection here." One component of the task force work would be to examine the legal obligations involved in helping refugees abroad. I will anticipate that report, at least in brief, by pointing out that there is a legal obligation at international law to share the world's refugee burden. There is an obligation at Canadian law to treat each refugee claimant who applies to come to Canada fairly and equitably.

Bissett adds "I could go on to criticize other aspects of your proposal specifically the unfounded allegations regarding the independence in decision making and the level of training of our officers abroad, but I do not believe this is necessary". It is perplexing to read the Government assert that its own officials are acting independently from the Government. One of the concerns that has been expressed about the visa selection process abroad is that visa officers act like unguided missiles acting on whim and caprice, shooting off in every and any decision. Bissett fails to draw the obvious conclusions from his confirmation of this problem.

In terms of the level of training of officers, I can report that this spring, when some visa officers were being brought in to Canada for meetings and briefings, I asked if the Canadian Council for Refugees could meet with the officers to talk with them about the processing of refugee claimants abroad. The answer the Council got back was that the visa officers were too busy.

These refusals do not mean no government officials will talk to the task force at all. Past studies have shown individual officers have been willing to cooperate on the basis of confidentiality. What this stonewalling demonstrates is that the Government itself will not do the study the task force proposes to do.

What is the purpose of the task force? It is two-fold. One is consciousness raising. The refugee selection process abroad presents a whole host of nightmarish problems that make the claims system in Canada appear benign by comparison. Yet because the victims of the system are left abroad there is very little awareness in Canada of the horrors of the system. The victims, in a foreign country, speaking a foreign language, without access to Canadian media, or Canadian courts, cannot make their victimization known. There is little they can do to remedy their mistreatment. The task force would speak for these people who cannot speak, provide a platform in Canada so that Canadians can find out what its officials are doing abroad to

refugee claimants in Canada's name.

A second objective is reform. The faults in the system cry out for reform. Many of them, once set out, suggest their own reform. Reform, when it occurs, will have to occur through Parliament. Before reform can occur, there has to be a general public awareness of the problem and the need to act.

A Parliamentary committee in June was holding hearings about people in danger in Lebanon applying for protection from Canada through the visa office in Nicosia, Cyprus. This focus of the Parliamentary Committee, right now, is typical. The focus is on the particular, rather than on the general.

In a particular area, the failings of the system become manifest, and political concern is generated. There is not yet a widely shared perception that the particular problems are generated by general failings. The purpose of the task force would be to draw attention to the underlying structural flaws in the whole system.

Since the purpose of the task force is advocacy and reform, the proposal is to have the task force operate in as public a way as possible. The plan is to have a series of public hearings across Canada where sponsorship groups and refugees in Canada can tell their stories about the system abroad.

The task force itself will consist of a small number of people appointed nationally, three or four. In addition, there will be regional components to the task force, to preside over these public hearings in each of the regions of Canada. We are asking the regionally based components of the Canadian Council for Refugees to assist the working group in approaching people to form the regional components of this task force.

The plan is to have the first national public hearings of the task force at the next meeting of the Canadian Council for Refugees in late November in Montreal. The Working Group intends to invite the representatives of the various ethnocultural communities in Canada which have been actively involved in sponsorship abroad, to come to that meeting and report on their experiences.

David Matas *is Chairman of the Working Group on Overseas Protection of the Canadian Council for Refugees.*

Film Review

Who Gets In?
Barry Greenwald
(Canada 1989, colour, 52 minutes)

Reviewed by Howard Adelman

At the second screening of *Who Gets In?* at the Royal Ontario Museum during the Festival of Festivals in Toronto, the audience applauded at the end, just after Ann Medina, the narrator of the film, answers the question asked by the title of the film. They were not applauding the policy, but the clear condemnation of that policy intended by the filmmakers. Perhaps they were also applauding the skill with which that policy was condemned while arousing the audience's sympathy for those who were not allowed to get in.

However, the answer given jars. First, the film is most powerful and effective by letting the Immigration Department reveal to the audience the criteria set without any evident intruding castigations or judgments, but then ends up castigating the Department. Secondly, the answer Ann Medina gives, suggests class and money decide whether you can get into Canada, but we see a Filipino nanny in Hong Kong admitted and are told at the beginning of the film that most admittees are sponsored by family members, suggesting the castigation is unwarranted by the verbal evidence presented. But films speak through images, more than words. And the selection of what is recorded provides one message only — of rejection for those in need.

The film is a documentary in the advocacy journalism tradition. The filmmakers are clearly critical of Canadian immigration policy. Yet the point of view of the film is told from the perspective of the Immigration Department. The immigration policy is condemned by their own spokesmen — not that they intended to be critical. The juxtaposition of what we see and most of what we hear condemns that policy in the minds of the audience watching the film as the spokesmen present an articulate and strong defence of that policy.

Mike Malloy is the "star" of the film. Previously stationed in such hot spots as Damascus, Beirut and Bangkok, he was the chief Immigration Officer in Nairobi when the film was made. (He has since returned to Ottawa to become Director of Refugee Policy and Planning.) It is Mike who utters the quintessential line in the film: "It is our job to keep the rascals out; we have enough rascals of our own."

But it isn't rascals who we watch Mike reject. We observe Mike interview an ex-career soldier from Zaire and we hear Mike conclude that the ex-soldier is both credible and very bright. (He learned English sufficiently to become fairly fluent in the six months he was in the camp.) The soldier determined his own fate when he assisted in the escape of 15 political prisoners arrested for trying to organize a democratic opposition just before they were to be executed. Yet we learn from the narrator that Mike rejected the refugee claimant on the grounds that he was personally unsuitable.

Another refugee claimant that he interviews in Dar es Salaam is rejected for being "politically unsuitable". He was a student activist protesting the repressive policies of the Kenyan government. But we hear Mike say he was asking for trouble given the Kenyan government of the day. And, after Mike Malloy explains to a UNHCR officer who prescreens refugee applicants that a lenient policy will develop into a "pull" factor encouraging a larger refugee flow, the officer is heard to agree to make the mesh on the screen finer. And when Mike does admit a refugee couple who have university degrees and are former but disillusioned activists with SWAPO in fear of their lives from their former comrades, the narrator informs us that the husband was rejected by CSIS (Canada's Security and Intelligence Service). And Mike moves onto the next case; he can't afford to become emotionally involved.

We are not told how many refugee hearings were filmed. But it does seem odd that none of the refugee claimants on film were successful. Did the successful claims end up on the cutting room floor?

It is Mike who explains the basis of Canadian immigration policy. It is Canadians who determine who shall be allowed to become Canadians — no one else. (This is somewhat contradicted, of course, by the fact that we have an inland refugee determination system that allows refugee claimants who arrive in Canada to go before a quasi-judicial tribunal to assess the refugee claim on the basis of establishing whether the claimants are

valid refugees without any consideration of whether they will be useful to Canada; one of the refugees Mike is presumably about to reject avoids that fate by getting on a flight direct to Canada.) Further, the principle of such determination is the metaphor of the neighbourhood. An ethnic Asian in Uganda is given a visa to immigrate after she demonstrates not only that she has a needed skill, but has pluck, determination and the ambition to get ahead. Canadians want other Canadians who will be good neighbours. And Ann Medina notes that in a continent with 5 million refugees, there are only three immigration officers to serve the whole continent. And she further notes in passing that only three hundred applicants were accepted from Africa in one year, though she does not cite the year to which she was referring.

The contrast with Nairobi and Dar es Salaam is Hong Kong, with its large contingent of immigration officers and education, rich and skilled throngs applying to get in. Hong Kong also has appalling refugee camps holding the Vietnamese. The officer is shown rejecting one of the applicants who has been in a camp since 1985 and who has a great deal of difficulty being articulate and comprehending what he is being told. Who Gets In? Rich entrepreneurs — a long haired advertising executive who handled the Coca Cola account and has the equivalent of $400,000 Canadian in the bank — gets in, though one of Mendel Green's 68 clients, presumably well off since they pay fees of $8,000 according to the narrator, is referred back with the suggestion that he be advised to convert some of his real estate assets to liquid cash since he only has $30,000 in the bank.

Mike Molloy

But contrary to Ann Medina's conclusion that it is class and money that determines entry, a Filipino nanny in Hong Kong, who speaks excellent English but has not been able to advance her skills because she works 12 hours a day six days a week, gets in. But then, according to the narrator, she will end up working a 60 hour week in Canada and then will be on probation and have to apply to Immigration two years later.

The assertion of the 60 hour work week may fit in with the knowledge that many domestics are exploited and many others work illegally on weekends to send extra money back home and/or save up more money to show how well they have done when they come up for their review by the Immigration Department, but the fact that employers are required to sign a 44 hour week contract is omitted. The implication of the film is that exploitation is officially sanctioned.

Further, the conclusion that class and wealth are the basis for entry jars with the scene of admission of the Filipino domestic. It also jars with the opening statement of the film that most newcomers come under the family sponsorship category. It is these inconsistencies and factual errors or omissions which mar and perhaps enable the film to be used as a powerful indictment of the inequities inherent in the immigration policies and practices of the Canadian government.

The commentator who characterized the film for *Now* magazine stated that, "Greenwald's point is simple, but potent". The problem is that it is potent because it is simple, too simple to sort out the inconsistencies lest the more variegated truth detract from the film's power.

Howard Adelman *is the Editor of* Refuge.

New Publications

- *Current Sociology*, the official journal of the International Sociological Association, has published a Trend Report on "The Sociology of Involuntary Migration". Contributions include: Barbara E. Harrell-Bond, "The Sociology of Involuntary Migration: An Introduction"; Anthony H. Richmond, "Sociological Theories of International Migration: The Case of Refugees"; Gertrud Neuwirth, "Refugee Resettlement"; Robert E. Mazur, "Refugees in Africa: The Role of Sociological Analysis and Praxis"; Pierre Centlivres and Micheline Centlivres-Demont, "The Afghan Refugees in Pakistan: A Nation in Exile"; Laura O'Doherty Madrazo, "The Hidden Face of the War in Central America"; and Janet L. Abu-Lughod, "Palestinians: Exiles at Home and Abroad". The issue can be ordered from Sage Publications Ltd., 28 Banner Street, London EC1Y 8QE, England.
- Josephine Reynell, *Political Pawns: Refugees on the Thai-Kampuchean Border* (Oxford: Refugee Studies Programme, 1989). Looks at the makeshift camps on the Thai/Kampuchea border from the point of view of the quarter of a million people living within them, and speculates about their future prospects.
- *The West Bank and Gaza Strip, Journal of Refugee Studies: Special Issue*, Vol.2, No. 1 (1989). This special edition is specifically addressed to research and analysis of the conditions of Palestinian refugees since the inception of the intifada and the profound changes which this has brought to the Palestinian issue. Available from the Refugee Studies Programme, Queen Elizabeth House, 21 St. Giles, Oxford, OX1 3LA, England.

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The Kelly Award to be Presented at the CRS Annual Dinner

The 1990 annual dinner of the Centre for Refugee Studies (CRS) at York University will honour the first recipient of the Kelly Award, named after the late Vince Kelly, a lawyer active in refugee issues. The Kelly will be awarded annually to an individual who has made an outstanding contribution to refugee studies.

Friends and Patrons of the Centre are invited to share in this occasion. Together with other readers of *Refuge* they are also asked to participate in the selection of the first recipient of this award by submitting names in writing to the Director of the CRS before December 30th. Nominations should include a brief description of the individual's work, and his or her current address and telephone number

This year's dinner will be held on Thursday, February 8th 1990, at 7:00 pm, at the China Town International Restaurant, 421-429 Dundas St. West, 3rd floor, Toronto, and will feature a ten-course Chinese banquet. A vegetarian meal will also be available. Both will be MGS-free and the latter will also be egg-free.

The regular menu includes: Spring Roll, Roasted Duck and Pork Combination; Spicy Shrimp and Cashew; Beef Tenderloin Chinese Style; Hot and Sour Soup; Roasted Crispy Chicken; Pan-fried Mixed Vegetables; Baked Lobster in Ginger and Onion; Steamed Fish in Soya Sauce; Fried Rice with Shrimps and Pork, and Stewed E-Fu Noodles; Almond Jelly and Chinese Cookies. The vegetarian menu will be: Vegetable Spring Roll; Sweet Corn Soup; Braised Bean Curd; Sauteed Black Mushroom and Broccoli; Spicy Eggplant; Pan-fried Mixed Vegetables; Deep-fried Yam Cake; Mushroom Mixed Rice; Almond Jelly and Chinese Cookies.

The dinner will be an opportunity to join with the members of CRS to celebrate the success of the Centre's work in the past year and to be updated on the plans for the future.

Further information about this event will be mailed out to all past Friends and Patrons. Anyone who is interested in becoming a Friend or Patron of the CRS and would like more information, please contact the Centre for Refugee Studies, Suite 234, Administrative Studies Building, York University, 4700 Keele Street, North York, Ontario M3J 1P3, Tel.: (416) 736-5663.

Jazz and Classics Benefit Concert

A special benefit concert featuring some of Canada's best known jazz and classical artists will take place on Thursday evening, May 10, 1990. The evening will feature Phil Nimmons, the "Dean of Canadian Jazz", with Gary Williamson, Barry Elmes, Steve Wallace and special soloists Moe Koffman, Guido Basso, Ed Bickert and Don Thompson. Classical musicians include Patricia Parr, James Campbell and Nexus, and the Ortford Quartet. The musicians are contributing their talents in support of the Centre for Refugee Studies' research program concerning the protection and rights of refugee. Watch for the next issue of *Refuge* for further information.

Hocke Forced to Quit UNHCR Post

The United Nations High Commissioner for Refugees, Jean-Pierre Hocke, was forced to resign on October 26 under a cloud of controversy following persistent complaints by his staff and donor countries about his regal behaviour and mismanagement of funds at a time when the UNHCR was hard pressed to fulfill its commitments to the world's close to 15 million refugees. The Swiss official, appointed in 1986, will be replaced by an Austrian, Gerald Hinteresser.