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Canada's Dysfunctional Refugee Policy: A Realist Case for Reform

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In the aftermath of the events of 11 September 2001, the cases of Ahmed Ressam and Nabil Al-Marabh have fuelled suspicion that Canada's lax refugee laws have compromised Canadian and American security. While there is mounting evidence to support this claim, the wider question receives much less attention. Is Canada's in-country or 'landed' refugee system in the national interest?' In my opinion, it is not. It is my contention that the existing in-country refugee system is not in the national interest because, first, it isn't a refugee system. It is, for the most part, a humanitarian immigration system. Second, it is racked by dysfunction, waste, and corruption. These are not aberrations but predictable outcomes of Canada's existing reception and recognition policies.

Although I argue that Canada's system should be reformed to bring it in line with systems elsewhere, I am not suggesting that most of the people Canada accepts as refugees and who eventually go on to become citizens are not in real need. They are for the most part people on a desperate quest for a better life. They come from economic and social situations that Canadians would find distressing in the extreme, if not objectively dangerous. The fact remains, however, that very few would gain 'convention refugee status' (about which more later) in any other developed country; from a realist standpoint, that is the most important criterion. According to David C. Hendrickson, realists 'find it morally acceptable that we should prefer the interests of our own collective to those of mankind in general: and they insist that the statesman, the trustee for the communi-

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ty, is under a peculiar obligation to serve the interests of the state he represents'2

Nor am I suggesting that Canada should reduce the total number of refugees and quasi-refugees that it accepts. I am arguing that, to serve the interests of Canadians, the government must directly control the inflow and naturalization of foreigners. The policy as it now stands surrenders control of in-country convention refugee determination to semi-accountable decision-makers and the court system. The decision-makers are provided with guidelines that promote the broadest possible interpretation of 'convention refugee,' one that goes far beyond that found elsewhere. At first glance this may appear admirable, but, ultimately, there is a price to be paid for maintaining an understanding of convention refugee that strays far from international norms. In addition, in many cases failed in-country refugee claimants are absorbed into various immigration categories and naturalized. By treating failed refugee claimants as perspective immigrants, Canada incurs further costs.

Therefore, the focus of reform must not only be on Canada's convention refugee determination process but also on its extended in-country (post-determination) process. Taken together, the process is slow, costly, inefficient, and a boon to those who smuggle people. This situation is unlikely to change with Canada's new Immigration and Protection Act, scheduled for implementation in 2002, because it leaves in place the two major obstacles to an efficient system. The first is the Immigration and Refugee Board (IRB), which is not directly accountable to the government for its decisions. The second is the many administrative and court appeal possibilities available to rejected claimants. When Britain and the United States, among others, overhauled their asylum systems in the 1990s, the result was a directly accountable and closely supervised corps of asylum officers and immigration judges whose decisions cannot be easily appealed through the court system. Thus, the governments directly control a refugee determination process that can potentially allow objectively large numbers of foreigners to obtain all the privileges of citizenship, if not citizenship itself. Canada needs similar policies if it is to address the many dysfunctions of its existing extended refugee review system.

CANADA: THE MOST GENEROUS REFUGEE COUNTRY

Put simply, Canada's in-country (landed') refugee programme is the most generous in the world on a per capita basis. In the 1990s, according to statistics from the United Nations High Commissioner for Refugees (UNHCR), Canada granted convention refugee status to

132,000 people. This is not only the highest rate of acceptance - over half of the applicants were accepted in most years - but also the second highest in absolute numbers. Germany was highest with 157,000. However, it examined 1.8 million cases compared to Canada's 277,000.3

A unique feature of Canada's convention refugee determination system is that any country can produce refugees. A recent UNHCR tabulation of refugee claims shows that in 2000 Canada was the only country to recognize convention refugees from Ecuador, Chile, Grenada, Hungary, Israel, Jamaica, Kuwait, Malaysia, Poland, St Vincent, Tanzania, and - you guessed it - the United States!4 When you add 322 Mexicans to the five American convention refugees Canada recognized in 2000, it doesn't say much for Canada's opinion of its free trade partners. Of course, there will always be anomalies; the US recognized ten refugees from the United Kingdom. (One can only wonder whether they spoke with Irish accents.) Sometimes Canada recognizes more convention refugees from a specific country than the rest of the world put together. For example, in 2000 it recognized approximately 1600 Pakistanis and 2000 Sri Lankans; the rest of the world together recognized 500 from each country.

In Canada those granted convention refugee status quickly gain permanent resident status (PRS), which in turn leads to Canadian citizenship. But Canada's generous convention refugee determination system is only half the story. To be refused convention refugee status does not mean removal. Failed claimants have other avenues to pursue. They can make the case to Citizenship and Immigration Canada (CIO that if they are returned home they will be in danger (`compelling personal risk'). If the CIC accepts the claim, 'protected' individuals can apply for PRS and later for citizenship. If the application fails, claimants can argue that they should be allowed to stay in Canada for 'humanitarian and compassionate reasons.' If this claim is successful, they have another opportunity to apply for PRS and later for citizenship. Failure at any step can be challenged in the courts, which lengthens Canada's already exceptionally slow extended process of refugee-risk-humanitarian determination. Years can pass before all avenues of appeal have been exhausted. (A recent `worst case scenario' published by CIC put the total at 5.4 years.5) Even the end of this lengthy process may not really be the end. For example, under the 'Deferred Removal Orders Class' (DRoc) programme, ended in 1997, any individual who had not been deported at the end of the entire process and whose right to apply for PRS had been rejected could still remain in Canada. The result was approximately 10,000 landings over the life of the programme.

Given the many avenues available to a failed convention refugee to remain in Canada, the question then becomes: were these avenues pursued? Statistical information on the whereabouts of the tens of thousands of refugee claimants who were not recognized as convention refugees is not readily available. There is no shortage of raw data, however. The problem is that many classes of immigration and humanitarian inflow are divided or lumped together for diverse statistical purposes. There have also been large numbers of 'abandoned claims,' often individuals who seek to use Canada as a transit point for illegal entry into the United States. Concern about these people in particular was part of the reason the United States ambassador to Canada, Paul Cellucci, recently proposed harmonizing visa and immigration controls.

A recent study of humanitarian 'flows,' which is to say the number of individuals who arrive in Canada and make a refugee claim, found that there were 195,095 arrivals in the 1980s and 291,435 in the 1990s. What became of these people is far from certain. Cic statistics tell us that 52,273 in the 1980s and 120,357 in the 1990s were granted convention refugee status.' But what happened to the other 300,000 or so? About 95,000, and possibly as many as 122,000, can be identified as part of a wave of in-country refugee claims made between May 1986 and December 1988.' These claims could not be accommodated by the newly created IRB system. Over the next several years the majority were whisked through a 'Backlog Clearance Program' that had a much lower threshold for obtaining PRS. Even so, it is not certain many of those rejected in the process were 'removed' because the total number of individuals removed for all reasons, including criminal ones, ranged between two and eight thousand annually through the 1990s.

It should be kept in mind that this twenty-year total of nearly 500,000 in-country refugee claimants, of which nearly 200,000 gained PRS as convention refugees, does not include those refugees and 'refugee-like' individuals who were 'resettled' in Canada. That category includes people given papers outside Canada to arrive legally as convention refugees or cases requiring humanitarian consideration. In the 1980s they numbered approximately 200,000 and in the 1990s close to 150,000. It should be noted that those accepted via the backlog and IRB system, along with those resettled, generally gain citizenship quite quickly and can sponsor family members through the regular immigration system. Taken together, the demographic impact of the extended refugee-humanitarian system is quite possibly over one million new Canadians over the past two decades. In

relative terms, no other developed country has a policy remotely as generous and, in absolute terms, only the United States has added more new citizens in this fashion."

CANADA'S HUMANITARIAN IMMIGRATION PROGRAMME

To understand Canada's system, we have to recognize that there are two basic processes at work. The first is the 'convention refugee' process, supported by all other developed countries, albeit much less generously. The second is the extended process, which is unlike that of any other country in its swift and effective means of turning failed `in-country' convention refugee claimants into citizens. Taken together, these processes mean that Canada's exceptionally generous extended system is best viewed as a humanitarian immigration system open to people willing to jump the moat of travel restrictions to arrive in Canada to submit a refugee claim. This takes some explaining.

A 'convention refugee' is someone outside of his or her own country who is unwilling to return home because of a 'well founded' fear of persecution. The formula is embodied in the 1951 United Nations Convention on the Status of Refugees (Geneva Convention), signed by Canada and 140 other countries. Another article in that convention refers to the responsibility of the host country not to return a refugee to an area of persecution (non-refoulement). The convention also has provisions for revoking refugee status (cessation), and article 24 implores signatories to advance 'as far as possible the assimilation and naturalization of refugees.'

As understood internationally, these are very specific obligations that demand serious attention and that could potentially damage national interests. After all, signatories agree to open their borders to foreigners. At the same time, this privilege is available only to 'well founded' cases of persecution, which is understood narrowly as more than a flight from the suffering and danger that results from, for example, a civil war.' In numerous areas Canada's understanding of what constitutes a convention refugee goes further. For example, guidelines released by the chair of the IRB in 1996 instruct board members to consider the case of 'civilian non-combatants fearing persecution in civil war situations."10 This may be commendable and generous, but it is far from the norm. Other countries will give 'temporary protection' to such individuals, who are expected to return home when the civil disturbance that caused flight ends." Of course, some conflicts drag on, and, in time, protected individuals become assimilated, but there is a consensus that naturalizing a convention refugee, although desirable, is not a Geneva Convention obligation.12

Other aspects of Canada's refugee policy that set it apart include the treatment of asylum seekers who have crossed safe third countries, have come from countries that are generally viewed as safe, or have arrived without documentation. Unlike other countries, Canada does not return asylum seekers to the safe countries they crossed to get here. Under the 1990 Dublin Convention, European countries routinely return refugee claimants to safe transit countries. The logic is that a Somali is not fleeing persecution if he slips across the Polish boarder into Germany, and an Iraqi is not fleeing persecution when he hides in a truck to reach Britain from France. Although many, if not most, asylum seekers enter Canada from the United States, few are turned back at the border.

Canada is also unusual in its treatment of asylum seekers from countries that are generally viewed as safe (such as, for example, Argentina, Hungary, South Korea). Other countries (Britain for one) have an expedited procedure to deal with such cases. In Canada, the cases are screened, but the vast majority are fully reviewed and often result in recognition. Small wonder then that UNHCR statistics show that in the first nine months of 2001 Canada ranked number one among refugee claims (10,146) from countries that are not among the top 40 refugee producers." Here branches of Canada's government work at cross-purposes. In an attempt to block such migrations the Department of Foreign Affairs and International Trade requires visas from certain countries, which are, in turn, deeply offended by the requirement. Chilean and Czech Republic visa restrictions, which were earlier dropped, had to be re-imposed when unfettered access to Canada led to a surge of refugee claims.

Canada is uniquely generous to undocumented refugee claimants. Large numbers of asylum seekers arrive at Canadian borders without documentation and few are held until their identity can be firmly established. The lack of documentation can be a result of smuggling, but sometimes documents are destroyed so that the asylum seeker can benefit from Canada's slow and non-adversarial refugee determination system. In the United States, by contrast, an undocumented asylum request at an entry point leads to detention

EUROPE REFUGEES DON'T OFTEN BECOME CITIZENS

European countries simply do not want immigrants (even though they may need them). Regardless of aging, employee shortages, and real population declines, European governments risk

if they propose large-scale immigration programmes. Because recognition as a convention refugee can lead to naturalization, European governments have developed systems of temporary protection. They believe, as does the UNHCR, that the eventual repatriation of refugees is the best solution to refugee flows. They also believe that granting refuge in the region of the country of persecution is the best option on the assumption that 'legitimate' refugees are primarily interested in returning home. This explains why many in Europe are suspicious of those who pay smugglers and travel thousands of miles across all manner of geographical and political obstacles to arrive in completely foreign - albeit wealthy - developed countries. Therefore, most countries of the developed world emphasize the 'temporary' nature of asylum protection and grant full convention refugee status sparingly.

The European Union (EU) recognized approximately 400,000 convention refugees out of 3.74 million claims during the 1990s. But this was not the same as granting citizenship. In EU countries, citizenship for convention refugees comes only at the end of a lengthy process, if at all. Germany, for example, recognized nearly 160,000 convention refugees during the 1990s, but, until the law was changed in 1999, it took 15 years of legal residence for a foreigner to be naturalized. Furthermore, EU countries are willing to invoke the Geneva Convention's cessation clauses. That is to say that, if the country of persecution has sufficiently reformed, convention status can be revoked and individuals can be returned. In comparison, Canada naturalizes refugees quickly and has a large resettlement programme. In the 1990s, it granted full citizenship to more refugee claimants than did the entire EU.

At the same time, Europe willingly hosts large numbers of people with various types of 'protected' status. UNHCR statistics show that nearly 350,000 were granted such status during the 1990s. (Many more rejected claimants stay on illegally.) Because the emphasis is on segregating the asylum seeker from the general activities of society, such status does not usually allow employment, and refugees are fed and housed in numerous 'reception centres.' Although this policy can be criticized, it must be kept in mind that European nations do not wish to assimilate refugees, that is, they do not wish to treat them like immigrants. The expectation is that once 'relative stability' is re-established in the refugees' homelands, protected or convention refugee status will be revoked and refugees will be returned. Since 2000, European countries have been repatriating large numbers of asylum seekers to the former Yugoslavia. On the other hand, since 1996 Canada has recognized close to 15,000 con-

vention refugees from Bosnia-Herzegovina; it is highly unlikely that Canada would consider invoking Geneva Convention cessation provisions against those who were in-country claimants. Since most quickly gained citizenship, the possibility of forcible return is moot.

Finally, provisions in Europe for failed refugee claimants are much less generous, and removal is an immediate possibility. For example, in the 2001-2 policy year, the Immigration Service in Britain is committed to removing 30,000 failed refugee claimants.

The point missed by many commentators in Canada is that for most other countries refuge is a sacrifice made in the interest of advancing human rights. Those countries are generally unwilling to act as countries of resettlement, which is to say, they do not wish to operate a humanitarian immigration policy. In Canada the distinction between granting refuge and welcoming immigrants is not so clear. Elinor Caplan, then minister of citizenship and immigration, provided a good example of this ambivalence when she stated recently that 'many' European nations are examining Canada's immigration and refugee policies as 'an example of how to address widespread public concern about irregular immigration and back door problems, without closing off regular channels for welcoming new arrivals, whether they be genuine refugees in need of protection, or skilled immigrants ready to fill labour shortages.'" Although European nations may be examining Canada's system, it is fair to say that they are unlikely to emulate Canada's extended refugee system primarily because of its quick mechanisms of naturalization."

THE US SYSTEM AS A MODEL FOR CANADIAN REFORM

The contrast between the Canadian system and that of the United States is striking. Since 1997, any person caught entering the US illegally, that is without a proper visa or with forged or no documents, is deported. If asylum is requested, an expedited review process begins with an interview by an asylum officer. The officer must be convinced that the petitioner has a 'credible fear' of persecution or immediate deportation is ordered. When a review of the decision is requested, an adversarial hearing will take place in front of an immigration judge within a week. Deportation is ordered if the judge determines that there are no grounds for credible fear. There is no appeal. If, on the other hand, the asylum officer or the immigration judge concludes that there is credible fear, the individual is detained until the regular process is completed.

The regular convention refugee determination process, termed an 'asylum' application, involves a review by an asylum officer. A

rejection can be appealed to an immigration judge. The whole process must be completed within six months. The system is premised on the logic that the criteria for in-country refugee determination should be as rigorous as the criteria for applications for refugee resettlement made from outside the us. The Federation for American Immigration Reform (FAIR) has criticized the us for not meeting this goal. In testimony before the Senate Judiciary Committee, Dan Stein, the executive director of FAIR, suggested that `if the [in-country] standard produces refugee eligibility for tens or hundreds of millions of people, then the standard is probably not tenable.'16 Using this criterion, the standard Canada applies in its in-country extended refugee system is unquestionably untenable.

A further aspect of American asylum policy is that a refugee claimant must wait 180 days before applying for the right to work. Since this is basically the time it takes to complete the refugee determination process, usually only recognized convention refugees obtain work authorization. In Canada work authorization is gained shortly after a refugee claim is made even though the claim may not be finalized for several years.

In-country refugee determination in the us has clearly been successful in its aim of deliberately discouraging weak or frivolous claims. Reviews of the American system have been mixed, however. Many view it as too harsh. But at a conference in Vancouver in 2000, Elinor Caplan praised Doris Meissner, at that time the commissioner of the United States Immigration and Naturalization Service, for her work in implementing the system. According to Caplan, Meissner's `many accomplishments in client service, law enforcement, border management and reform of the United States asylum and naturalization systems amount to a truly impressive record of achievement.'17

Instead of discouraging weak in-country refugee claims, Canadian policy would appear to encourage them, as can be seen from the large number of refugee claimants that enter Canada from the United States." Furthermore, more than half of all claimants arrive without a valid passport or a proper visa, and many have no identification at all. In many cases, Canadian refugee claimants arrive in the us with false documents, which are returned to the smuggler or destroyed before the claimants make their way to the Canadian border. When these people are caught entering the us or when they are turned away at the Canadian border, they face the expedited American process. This presents the us authorities with a predicament as illustrated by the case of a Zambian man caught making his way to the Canadian border where he intended to make

a refugee claim and reunite with his legally resident wife and children.'[9] To avoid deportation in the expedited process, the man has to show 'credible fear' of persecution. If he passes that test under us law he must be detained until the full process is completed within six months. He would then either be a convention refugee, which would make him ineligible to make a claim in Canada, or he would be deported. If he had reached Canada, he would not likely have been detained and could apply for work immediately. If he was found ineligible for landing at the end of the process of convention refugee determination and risk assessment, which could take years, he could still make one last plea to remain in Canada on humanitarian and compassionate grounds because of his legally resident family.

CANADA'S DYSFUNCTIONAL EXTENDED SYSTEM

This brings us to the dysfunction in Canada current in-country (landed) refugee determination system and its post-determination humanitarian components. First, the in-country and resettlement programmes, taken together, undoubtedly exacerbate a negative feature of any immigration programme, namely that it potentially imports the concerns of the country of emigration. From the realist perspective, Canada loses the capacity to distance itself from international conflict. At this time it is fair to say that Canada is personally touched by upheaval anywhere in the world. At worst, Canada has become a secure base from which old scores can be settled; at the very least it has inherited a real stake in the outcome of humanitarian distress. Past humanitarian relief has contributed to a narrowing of the government's foreign policy options. Gone are the days when the prime minister and the secretary of state for external affairs could chart a foreign policy course independent of social and electoral pressure.

Second, all manner of corruption will result from Canada's generous extended in-country refugee regime, the smuggling of people being merely the most obvious. It isn't easy to get to Canada from refugee producing areas. Although the official line is that visa controls, carrier sanctions, and close surveillance of disembarkation points protect against economic migration, the fact is that Canada's in-country refugee determination system is generous enough to recognize a good percentage as convention refugees. At the very least an extended stay in Canada can be expected. Although it is difficult to secure evidence, it is likely that the majority of refugee claimants use professional people smugglers to surmount the obstacles placed in their way. As a result, smuggling people into Canada has become a big business. If we assume that half of those who made refugee

claims in 2000 used the services of smugglers at, say, $10,000 per person, the industry has to be worth more than $150 million. In `plying their trade,' smugglers must secure or forge documents. In the past several years there have been numerous cases of fraud and corruption uncovered in the agencies that act as gatekeepers to Canada. One study of the Department of Immigration discovered 85 cases of 'malfeasance' in a single one-year period in the late 1990s.[20] One could hardly expect anything else, given Canada's uniquely generous landed refugee policy.

A further dysfunction is the inefficiency and expense of the current determination system. Among the advanced industrial nations it provides a model of administration no other country would emulate. The first stage at entry involves a review of eligibility by an immigration officer. Claimants can be expedited at this point for quick acceptance as convention refugees. In the case of criminal or national security issues, refugee claimants face expedited removal. Although technically available to the Canadian refugee system, practices such as safe third countries, safe country of origin, or internal fight option, routinely applied by other industrialized nations to allow for expedited removal, are rarely applied in Canada. The result is that approximately 95 per cent of all claims are forwarded to the Immigration and Refugee Board (IRB) for a full hearing. Two members of the IRB hear the claim; if either finds the individual meets the criteria of a convention refugee, he or she is recognized as such.

The system has two obvious administrative shortcomings. Because the IRB hearing process is non-adversarial and because there is a clear incentive to arrive in Canada without documentation, the testimony of the claimant is crucial, and the process can easily produce false positives. And because IRB members are relatively independent and are subjected to only a limited review, consistency of decision-making is problematical. Claimants from the same country with similar stories can receive differing determinations depending on the board member and the region of claim submission. What other country would trust such important decisions to officials who have not had rigorous training, are not closely monitored, and have no direct accountability?

A further dysfunction is the system's susceptibility to hijacking by in-country refugee claimants. In the early 1980s, before the onslaught of self-selected in-country refugee claimants, Canada welcomed large numbers of legally 'sponsored' refugees and people in ` refugee-like' (designated classes) situations. In the 1980s, approximately 200,000 people arrived in this fashion. By the early 1990s the

numbers declined substantially as `landed' convention refugees, dependents of landed refugees, failed claimants who gained PRS in ` other' immigration categories, and large numbers of expedited ` backlog' refugee claimants were cleared through the system. This is the very definition of queue jumping and is a pattern of displacement that can be identified elsewhere. Australia sets a limit on the total number of refugees it accepts and, according to the minister for immigration and multicultural affairs, Philip Ruddock, the recent arrival of numerous in-country claimants means that there is less room for overseas resettlement. `For every person brought to Australia by people smugglers, and who is granted protection, there is one less place available to resettle someone in arguably greater need.'[21] On the other hand, the us appears to have maintained the integrity of its resettlement programme. In 1998 it recognized 12,951 landed refugees but also resettled 76,000.[22] UNHCR figures show the corresponding numbers for Canada in 1998 were 12,880 landed and 9,650 resettled.

Yet another dysfunction of the current system is that little attention appears to be given to the economic cost of assimilating refugees. The economic cost of Canada's generous in-country extended refugee system is difficult to quantify but clear as to its nature. First, Canada spends a tremendous amount of money on the programme. The IRB, CIC, and various other federal departments collectively spend at least $100 million on refugee determination and integration programmes. The cost at the provincial level for various health and support programmes (at times reimbursed by the federal government) has been reported to be approximately one billion dollars annually. Of course, it would not be ethically acceptable to consider the aggregate impact of refugees on the economy if these individuals met the same convention refugee standards applied elsewhere in the world, but they do not. The decision-making process that accepts them and converts them to Canadians is understood by others, if not by Canadians, as a discretionary act of government. In a paper on the 'problem' with the Geneva Convention, prepared for the Australian parliament, Adrianne Millbank argues that convention refugee acceptance rates 'are more revealing of a country's political priorities, or its attitude to migration, or the weight of numbers it has had to deal with, or its diplomatic relations with "sending" countries, than the "genuineness" of refugee claims. In the mid-1990s Canada accepted 70 per cent of on-shore asylum claims, compared with Finland's 0.2 per cent. In 1996 Canada accepted 81 per cent of Somalis and 82 per cent of Sri Lankans as refugees; the UK

accepted 0.4 per cent of Somalis and 0.2 per cent of claims from Sri Lankans.'23

If we accept that some proportion of Canada's extended 'landed' refugee programmes goes well beyond accepted international norms, then an examination of the economic impact of the policies becomes defensible from a realist perspective. A substantial and growing body of evidence shows that refugees in general and 'landed' Canadian refugees in particular don't fair well.24 Refugees who entered Canada in the early 1980s, who where for the most part sponsored, have faired much better than arrivals in the 1990s, who were for the most part 'landed.' Although the authors of one study note the changed `class' of refugees from government and privately sponsored to 'in-country,' they do not support a connection to weakened performance." Nonetheless, refugees arriving in the 1990s are having grave difficulty entering the work force and are more likely to be dependent on various forms of income support than any other class of immigrant. In the case of social assistance usage, one study suggests a refugee has to be in Canada for 12 years before his or her usage of social assistance drops to the national average.' The weight of evidence appears to be that transforming in-country refugee claimants into Canadian citizens entails costs, both objective and relative, that do not appear to be taken into account in the nationalization decision.

To this must be added the dysfunction of massive spending on self-selected in-country refugee claimants when the UNHCR, which counts 21.8 million people 'of concern,' had an annual budget of us$800 million in 2000. The argument has been made many times but bears repeating. Aiding a large number of refugee claimants to become Canadian accomplishes little, if anything, for the masses left behind. As for Canada's response to global refugee problems, its per capita contribution of us$1.10 to the UNHCR in 1996 is ranked an unimpressive thirteenth after the Scandinavian countries, the Netherlands, the United States, and Japan.' In addition, Canada's contribution fell from $22 million in 1990 to $17 million in 2000.

Overall, Canada's current 'landed' refugee acceptance system is dysfunctional. The major problem is in mixing internationally understood norms of convention refugee status determination with numerous humanitarian considerations. Those who flee persecution and meet international standards for refugee determination have a claim on Canada's protection. But Canada must rethink extending generous assistance to all in-country refugee claimants because the practice breeds dysfunction and corruption. Canada's humanitarian contribution should be put in the broader perspective of global

efforts to address refugee problems, along with an abiding interest in controlling access to Canadian citizenship.

These arguments are made from the realist perspective that the government's first task is to advance the interests of its own citizens. The government must balance the costs and benefits of any programme, even those with such apparent humanitarian intent as Canada's refugee policy. This is, of course, controversial and will attract criticism. Nonetheless, the fact is that Canada's current policy provides a reasonably effective means for self-selected 'in-country' refugee claimants to immigrate to Canada. Even a failed claimant grains an extended stay with generous employment and social support benefits. No other developed country operates in this fashion. Needless to say, even though Canada is one of the hardest, if not *the* hardest, country in the world to get to, the numbers of refugee claimants is rising. In 1999 some 29,000 people made in-country refugee claims; in 2000 the number came close to 35,000; in 2001 the number is on track to reach 42,000.

In conclusion, Canada should accept as convention refugees those who meet internationally accepted norms. It might well extend temporary protection to others in need, as is the practice in Europe and elsewhere. Such protection should not include grants of PRS or work authorizations. The government should deport failed claimants, as is the norm elsewhere. No claimant should be granted work authorization during the first six months after arrival and no effort should be made to assist their integration into society prior to a determination of their claim.

To accomplish these goals, the IRB should be scrapped and replaced by an agency that is staffed by highly trained and directly accountable asylum officers. Their determination should have one appeal to a board of specially trained and selected adjudicators. An appeal to the judiciary from this organization should be strictly limited. Only in this way can we put an end to the existing incentive for people-smuggling and queue-jumping. Finally, if Canada were to decide that it was willing to resettle more refugees than are recognized by an 'in-country' determination system governed by international norms, then existing programmes of sponsorship and resettlement should be expanded.

NOTES

1 The reference here is to the review mechanisms faced by 'spontaneous arrivals' at Canada's borders. Unlike overseas refugee applicants, the Immigration and Refugee Board hears the self-selected

refugee claimants, who have numerous appeal possibilities open to them if they are rejected. Once in Canada, they are eligible for a full range of social and employment benefits.

2 David C. Hendrickson, 'Migration in law and ethics: A realist perspective,' in Brian M. Barry and Robert E. Goodin, eds, *Free Movement: Ethical Issues in the Transnational Migration of People and Of Money* (University Park: Pennsylvania State University Press 1992) 214-5.

3 UNHCR, *Refugees and Others of Concern to UNHCR:* 1999 *Statistical Overview* (July 2000) Table v 7-8.

4 'Countries of origin' were listed only if at least 50 decisions were made. UNHCR, *Provisional Statistics for 2000* (May 2001).

5 Citizenship and Immigration Canada, `Backgrounder #5 - Timelines: Worst Case Scenario' (March 2001).

6 CIC and UNHCR annual figures on Canadian refugee flows show little consistency. Over a twenty-year period, however, the totals of the two sets of figures come out roughly equal; both sets show approximately 545,000 refugees (and refugee-like individuals) were landed between 1980 and 1999.

7 This is the number Charles Campbell identifies in his controversial recent book, *Betrayal and Deceit: The Politics of Canadian Immigration* (West Vancouver: Jasmine Books 2000), 100.

8 UNHCR statistics show that the us officially accepted close to 2,162,000 refugees (asylum seekers and resettled combined) compared to 544,090 for Canada. UNHCR, *Refugees and Others of Concern to UNHCR: 1999 Statistical Overview* (July 2000), Tables v3, v4, v19, and v20.

9 See, for example, Jean-Yves Carlier, D. Vanheule, K. Hullmann, eds, *Who is a Refugee? A Comparative Case Law Study* (Den Haag: Kluwer International Law 1997). For a comparison of Canadian and European practices, see ECRE, 'ELENA Research Paper on the Application of the Internal Protection Alternative' (autumn 2000); and ECRE, `Non-State Agents of Persecution and the Inability of the State to Protect - The German Interpretation' (September 2000).

10 Immigration and Refugee Board, 'Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act, Civilian Non-Combatants Fearing Persecution in Civil War Situations,' *7* March 1996.

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