

country of his nationality and is unable or, by reason of such fear, is unwilling to avail himself of the protection of that country, or, (b) not having a country of nationality, is outside the country of his former habitual residence and is unable or, by reason of fear, is unwilling to return to that country.

Because Canada is not located next to a country from which it was anticipated large numbers of refugees would arrive, decision makers, including Members of the joint parliamentary committee and the Cabinet, decided that this country's principal role in refugee programs would be the resettling of refugees already in countries of first asylum. In this way, Canada plays an essential role in helping countries of first refuge to be more generous in their attitude toward people fleeing their homelands for legitimate reasons. Bearing this in mind, the refugee determination process established in Canada was expected to deal only with small numbers of people. This initial assumption has proven to be somewhat ill-founded.

The determination system written into the Immigration Act of 1976 gave the right to anyone facing removal from Canada to make a claim for refugee status. That applies not only to persons trying to enter the country but also to those who have been in Canada for any period of time as a visitor or immigrant. The 1976 amendments also provided for establishment of the Refugee Status Advisory Committee, which has the authority to examine refugee claims and recommend to the Minister whether they are legitimate or unfounded. The Minister was given decision-making powers over the validity of claims and there could be a second evaluation of rejected claims by the Immigration Appeal Board.

The process does not stop there. Refugee claimants have the right to appeal to the courts to contest the legality of the review process by which their claims were heard. They have appeal rights under Section 28 of the Federal Court Act, and decisions by the Federal Court can be taken to the Supreme Court of Canada.

In the meantime, until their status is finally determined, claimants are able to stay in Canada. Canada does not remove or deport individuals awaiting determination of a refugee claim.

What has happened, in fact, is that most claims for refugee status have not been accepted by the Minister as valid, but few have departed from the country within reasonable time limits. And it has proved impossible administratively to move even obviously unfounded cases through the system very quickly. Advocacy groups which have argued that the review process is not sufficiently fair, have encouraged claimants to exhaust all the permissible legal avenues. This has exacerbated the already lengthy refugee determination backlogs.

As delays in the process lengthened, there were systematic attempts at abuse of the refugee determination system. People who were temporarily residing in Canada soon noticed that a way of remaining here and working was to claim refugee status. It was apparent that even the weakest claims took almost as much time to settle as the most complex. Toward the end of 1980, there was an influx of about 2,000 claimants from India whose primary purpose for coming to Canada was

economic; to find a job in Canada with the hope of remaining. Nearly all the claims were unfounded, but they clogged the review system. This made the delays even more protracted as it showed others how to manipulate the system by claiming refugee status and thereby avoiding early removal from Canada.

Other countries have faced this dilemma, with increasing numbers of people claiming refugee status at a time of economic distress in their countries of origin. In fact, these individuals were attempting to change their country of residence for purely economic reasons. Recipient countries, like Germany, Sweden and Switzerland, reacted by tightening their refugee restrictions at a time when Canada was liberalizing hers.

The dramatic rise in the number of people coming to Canada in the last 18 months and claiming refugee status has placed a heavy burden on resources of those who must determine whether that claim is legitimate. Worse, it torments those whom the system is designed to help. It exposes genuine refugees to hardship because of the delay in reaching a decision on their claim and impairs immigration controls because of the inability to remove the unsuccessful claimants from Canada. Bona fide refugees can no longer be identified quickly and effectively.

The refugee determination committee can no longer keep pace with the volume of claims being received. For example, in the 30-month period between April, 1981 and October, 1983, the number of cases in the claims-appeals system increased to 9,100 from 2,500, not including another 1,500 cases awaiting entry into the system because of inadequate staff resources to do the initial documentation. While the acceptance rate of claims has risen to 38 per cent from 20 per cent since 1981, fewer than 3,000 rejected claims have been brought to conclusion. At the same time, organized attempts to enter the system have proliferated.

At the Refugee Status Advisory Committee level, efforts have been made to make the system as fair and open as possible. The capacity of the committee was increased through appointment of new Private Members and greater administrative back-up. An oral interview project was begun in June, 1983 to help identify bona fide refugees more quickly. Yet, despite the changes, the committee's backlog had increased to 2,400 cases from 1,600 cases by the end of last year. Some cases have been expedited, but the backlog continues to mount.

Similar problems have been encountered by the Immigration Appeal Board. Only cases of evident merit go before the board for a full hearing. An average period of one year elapses before a full hearing occurs. At the Federal Court, the average delay is now six months for a hearing. Between last August, 15 and September, 26 at the Federal Court of Appeal of Toronto, 94 per cent of the cases heard were immigration cases.

The result is that with three and four years' delays in processing being now routine, we have what amounts to an immigration movement of substantial proportions that has not been managed or regulated by the Government.