

Immigration Act, 1976

(b) by adding immediately after line 16 at page 35 the following therefor:

"(12) If the Refugee Division determines that a claimant is not a Convention refugee and does not have a credible basis for the claim to be a Convention refugee, the Refugee Division shall so indicate in its decision on the claim."

(c) by striking out lines 36 to 39 at page 39 and substituting the following therefor:

"40(1) has been issued, or".

Motion No. 70

That Bill C-55, be amended in Clause 19 by adding immediately after line 38 at page 43 the following:

"(1.1) Notwithstanding subsection (1), no appeal lies to the Federal Court of Appeal from a decision of the Refugee Division under section 71.1 on a claim, if the Refugee Division, pursuant to subsection 71.1(12), has indicated in the decision that the claimant has no credible basis for the claim."

Mr. Heap: Mr. Speaker, I have proposed Motion No. 37 in order to take account of an aspect of the Bill which I believe does not fully meet the goals and standards of the United Nations High Commissioner for Refugees. The general situation is that in Canada, as in other countries, there can be a conflict between a duty to protect the country from the entry of a person who should not be admitted and the duty under the Convention which we have signed to recognize a refugee or, more particularly, give a refugee claimant a chance to state his claim.

It is possible that a person can be both inadmissible under the sections with which we are concerned here and also be a refugee.

Some may take the view that it does not make any difference and we should not bother finding out if the person is a refugee if we are not going to admit him. That is not the view of the United Nations High Commissioner for Refugees who believes that it is necessary, as a principle, that the matter be pursued and that a person who claims to be a refugee should be examined and a determination made whether he or she is a refugee.

However, it has been decided in Bill C-55, as in Bill C-84, that we will not do it this way. When a person is determined to fall into those inadmissible classes, that person is excluded from the refugee status process. Section 48.01(1) states that a person is not eligible to have the claim determined by the refugee division if he falls within the criteria under paragraphs 48.1(1)(a),(b),(c),(d),(e) and (f). Paragraph 48.01(1)(e) states:

the claimant is

(i) a person described in paragraph 19(1)(e),(f)(g) or (j),

Which are the criminal types, and:

27(1)(c) or (2)(c),—

Which is close enough for our purposes to be treated in exactly the same way.

I am asking that we add the simple rider that at least we will get in touch with the United Nations High Commissioner for Refugees with respect to a person who might be a refugee.

Therefore, I have suggested a Subsection (8) which states:

Where a person claims to be a Convention Refugee and is denied access to the procedures outlined in Sections 45 to 48 and Sections 70 and 71 pursuant to Section 48.1 the Minister shall notify the Office of the United Nations High Commissioner for Refugees of this fact:—

This could either involve a phone call to someone in Ottawa or a letter to someone in Geneva.

My motion No. 37 would also add:

(9) a person to whom subsection 48.01. (1) applies shall be provided a reasonable opportunity to contact the Office of the United Nations High Commissioner for Refugees.

There may be another country that does not view the situation the same way as Canada and by whose standards that person would not be inadmissible. The United Nations High Commissioner for Refugees is in the business of determining where such a person might be admissible. Therefore, part of the purpose of my motion is that we amend the clause simply by adding those two paragraphs in order to recognize that the United Nations might be willing and able to help this person find another country. Otherwise, he might be returned to the country from which he says he is fleeing on account of persecution.

If he is a security risk to us, that may not necessarily be sufficient reason to have him go to death or imprisonment on grounds that are not related to that security risk, which could be the case. That is a matter in which the United Nations High Commission specializes and that is the main point I wanted to make.

The Hon. Member for Calgary West (Mr. Hawkes) has referred to Motion No. 53. I believe it does go part way in the right direction, but not as far as some other amendments which have been defeated. It is good as far as it goes, so I hope it will have the support of the House.

Motion No. 57 would give the United Nations High Commissioner for Refugees the right not only to send a representative, which I take to be a full-time employee, but also an agent, which could be a part-time person on contract, which gives him more flexibility and an opportunity to be present at these refugee division hearings. I think that is clearly a useful motion.

• (1630)

I do not agree with paragraph (b). It authorizes the refugee division to classify a rejected claim as having no credible basis. If that were just a matter of words, I would not mind, even though I disagree with the phrase "credible basis"; I think it is too harsh and I would have preferred had they said "manifestly unfounded". I can see the difference between saying that this was a "maybe" case but we decided no, and saying that this case has no merit whatever. Where the hurt comes in is as a basis for Motion No. 70, which I consider quite harmful