

*Immigration Act, 1976*

at the U.S. border. The Government wants refugees to come to our embassies abroad where we can select them according to our own interests and according to our own immigration criteria.

Bill C-55 which we are debating today for the first time introduces the troubling concept of the safe third country. A claimant who comes to Canada from such a country will have no opportunity to be heard on the merits of his or her claim. As there are no refugee-producing states on our borders or in close proximity to Canada, it is not hard to figure out that as many as 80 per cent to 90 per cent of refugee claimants will be excluded as a result of this provision.

To understand the significance of the administrative changes of February 20 and of Bill C-55, I would like to say a few words about the UN Convention. That Convention was a milestone in the history of the treatment of refugees because it addressed the rights of individuals and the obligations of states. Given the overwhelming tragedy of World War II with hundreds of thousands of people becoming victims because they had nowhere to go, because no country would accept them, it was felt necessary to provide individuals with the capacity to effect some salvation on their own, to move spontaneously to a safe haven. The Convention was a significant deviation from the principle that a sovereign country had absolute control over who it permits to enter its borders. The Convention of 1951, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights are parts of what has been described as a revolution in international law. Traditionally international law recognized only states. Since the Convention and the Declaration, individuals are recognized under international law.

Prior to the Convention, the capacity to move to a safe haven did not exist. The victims of the Holocaust had no such capacity. Without the Convention, all a refugee has is what the Government wants him to have. The Government wants refugees to apply to immigrate to Canada or to another country from an embassy within the refugee's own country or perhaps a bordering country. If turned down, the refugee, of course, has the right to suffer.

Through the measures of February 20 and Bill C-55, the Government is saying: "It is our right to choose". This violates the UN Convention because the moment we talk about choice, we introduce elements which have nothing whatsoever to do with individual rights. When one chooses, one does not look at the needs of the person involved. It is domestic policies and politics which prevail.

Keeping Jews out of Canada in the 1930s and the 1940s was very popular domestically. Today, in his opening comments and practically in his very first sentence, the Minister referred to the fact that Bill C-55 is popular in Canada, and so it may be. However, the question I put to the Minister is does that make it right? Is legislation right just because it responds to what many Canadians see as being a problem?

Perhaps many Canadians are concerned that there have been too many refugee claimants coming to Canada in recent years. Perhaps they feel that our system is somehow being swamped. Whether they are right or wrong, does that make it right to introduce legislation which responds to public opinion but which may be morally unfounded?

What criteria will be used to choose refugees? Again, Canada chose not to take Jews in the 1940s. This clearly was not based on the needs of the victims. I suggest to the Minister that it is wrong to assume that when he or any Minister chooses, those who are most in need will be chosen or they will be chosen according to fair criteria. That is why it is so important and indeed essential that people have the capacity to present their claims. That is why the convention exists.

We do not need a Convention to tell people to line up abroad. It is essential that people have the capacity to have their cases presented and judged on the basis of Canada's international obligations under the Convention and developed through decisions rendered over the past 35 years. That is why the thrust of the recommendations made by Rabbi Plaut, non-governmental organizations, church groups, human rights organizations and the standing committee is that the claimant should be given the opportunity to be heard by an independent tribunal which would inquire into the substance or merits of the claim for protection. Bill C-55 violates that basic principle because it establishes procedures under which claimants have no opportunity to be heard if they come from a safe third country.

If a claimant comes from a country which is on a predetermined list, established by Cabinet, a list which may have nothing whatsoever to do with personal circumstances, he is out. He is sent back home. The Minister cannot say that no genuine refugee will be returned when he has not established a procedure that will inquire into whether a person is indeed a refugee or not.

In the procedure proposed by the Government, there will be no opportunity for a claimant to present a case if he comes from a country which is on the list of safe third countries. There will be no opportunity to refute the assumption that the country the Government proposes to return him to is indeed safe. The inquiry will be limited to determining from where the person had come. There will be no discretion on the part of the two people who will preside at the initial hearing. The undeniable effect is that we will return people who need protection. It is false for the Minister to say that no genuine refugee will be returned to a country where he or she may face persecution because the procedure he proposes provides no opportunity for the refugee to make his or her claim.

The Hon. Member for Calgary West (Mr. Hawkes) said that we should study this in committee and hear what the experts have to say about it. I would ask him if he has even read the legislation. I believe any first-year law student could tell him that no discretion is given to those who will preside at the initial hearing. Every lawyer to whom I have spoken who has read this Bill feels that there is no discretion in it. How can