

# **P**roviding Fair Sanctuary Canada's New Refugee Determination System

In recent years, Canada's refugee system has groaned under the weight of an ever-escalating number of refugee claims. It was estimated that by the beginning of 1989, more than 70 000 refugee claimants would be waiting for their claims to be heard — a process that could be appealed and dragged out for many years.

By the early 1980s, it was obvious that some people were using refugee claims to evade the immigration selection process and gain rapid entry into Canada. The Canadian government concluded that the only way to restore order to the system was to introduce improved refugee determination procedures — particularly since, upon investigation, the majority of refugee claims proved without merit.

Because of the difficulty in balancing the two objectives of the system — protecting refugees and deterring abuse — a painstaking redesign process was conducted involving extensive consultations in Canada and abroad.

The legislation establishing a new refugee determination system comes into effect in early 1989. It provides sanctuary for those in need of protection and includes numerous safeguards to ensure that no authentic refugees will be returned to a country where they might face persecution. The legislation also provides the means to quickly deal with those who abuse the system or who organize and profit from abusing it.

## Determining a Refugee Claim

People arriving at a Canadian border or facing removal from the country after their authorized stay have a right to claim protection under the 1951 Geneva Convention and its Protocol.



Eligibility for protection is assessed in an oral hearing before an independent adjudicator and a member of the Convention Refugee Determination Division (CRDD) of the new Immigration and Refugee Board. Refugee claimants have the right to legal counsel. Legal aid is provided where necessary.

The rejection of a claim requires a *unanimous* decision of the adjudicator and the CRDD representative. Claimants have a right to appeal their rejection to the Federal Court of Canada within 72 hours. Appellants will be removed from the country pending the results of the judicial review.

Should *either* the adjudicator or the CRDD representative

rule that the individual is eligible to be protected in Canada, the refugee claimant is referred to the CRDD for an oral hearing. People accepted at this hearing can then seek permanent residence in Canada. Those rejected at this stage can appeal to the Federal Court.

Canada's new refugee determination system: a painstaking redesign to help those most in need.

People who present a security risk are not eligible for protection in Canada under the provisions of the Geneva Convention and Protocol. Claims from war criminals are also rejected. This applies as well to claims from people convicted of serious crimes, those who already enjoy refugee status, or those who have a refugee claim pending in countries that are not threatening them with *refoulement* (removal to a country where the claimant fears persecution).

## Working Internationally for Refugee Protection

"Canada's record as a sanctuary for the oppressed and persecuted is second to none," says J.B. Bissett, executive director of Immigration. "Its international role is carried out, in part, through a significant resettlement program. Canada's service to refugees was formally recognized when in 1986 the United Nations' High Commissioner for Refugees awarded this country the Nansen medal."

In fact, since the Second World War, more than 500 000 refugees have come to Canada to rebuild their lives. Each year, the government and individual Canadians sponsor the entry of thousands of refugees from camps abroad. No other country with an equivalent number of refugee claimants has extended as many rights and guarantees as those granted to people seeking refugee status in Canada.

"While Canada's role as a resettlement country is widely recognized, its level of financial support to refugees in Third World countries is also significant," says Bissett. Canada is a leading contributor to international humanitarian bodies such as the Red Cross and the UN High Commission on Refugees. Resettlement assistance and food aid are also provided to refugees around the world.

In addition, Canada works actively on the diplomatic front to promote better standards of human rights observance and to support the search for durable solutions to international refugee problems.