



The challenge of fair and effective refugee determination

Summary

The following points respond to recent proposals by Minister Kenney for reforming the refugee system and to comments on the new visa requirement for Mexico and Czech Republic.

1. Refugee protection is a matter of human rights

A refugee determination system must first and foremost ensure respect for the human rights of those who claim our protection. Canada has international human rights obligations, notably under the Convention relating to the Status of Refugees and the Convention against Torture: we must not send any refugees back to face persecution or anyone to a risk of torture.

2. Discussion of refugee issues needs to be respectful and well-informed

There have been numerous serious inaccuracies in recent public comment on the Canadian refugee system, often apparently motivated by hostility to refugee claimants. This does not support reasoned discussion about the important policy issues. Refugees are among the most vulnerable people in society and are easy targets for attack, as non-citizens in a foreign country.

3. Is a bogus crisis in the refugee system being generated as a political ploy?

In the current context of a minority government in Ottawa, controversial legislative change of the sort proposed by the Minister presumably has little chance of being passed, especially if an election is called. Then why is it being proposed? Is the goal to exploit a backlash against refugees for partisan political gain?

4. Refugee determination is an individual determination

Refugee determination involves applying a complex legal definition to the facts of an individual case. It is inappropriate and unhelpful for people to make generalizations about whether certain groups of people are or are not refugees, without all the facts of the case.

5. The UK refugee system should not be copied

The UK refugee system, which has been modified numerous times in recent years, is neither just nor efficient. The Minister's proposal to model reforms on the UK system is ill-advised.

6. A high quality first decision is the best way to achieve fair and efficient refugee determination

Many countries around the world have experimented with what Minister Kenney proposes: a quick first decision by an immigration officer, followed by an appeal to a tribunal. What that often means is poor first decisions, many of which have to be overturned at appeal.

7. Fast-tracking some claims: often unfair and ineffective

The idea of fast-tracking claims that seem unfounded is an attractive one. However, it is impossible to quickly and reliably identify which claims are unfounded, and fast-track processes end up being unfair to refugees who do need our protection.

Canada's refugee system is far from perfect, but in considering changes, we would do well to safeguard the core elements that contribute to its success, and that are envied in other parts of the world. Among those core elements is a commitment to treating claimants with dignity and to providing a fair process to determine whether they need protection.

July 2009

For more information, see the full document available at ccrweb.ca/fairdetermination.htm