CANADIAN COUNCIL FOR REFUGEES

REFUGEES AND SECURITY

Revised February 2003 (original paper dated March 2001)

1. INTRODUCTION

For a number of years the Canadian Council for Refugees has been concerned about the issue of inadmissibility under the immigration legislation on the basis of security. On the strength of member organizations' familiarity with a wide range of persons affected by the security provisions in the legislation, the CCR concludes that in many cases there is objectively little evidence that the person represents any kind of security threat to Canada.

The inadmissibility classes relating to security risks are extremely contentious, both in the definition and in the application, partly because they depend in the end on opinion, rather than on fact, and partly because they deal with matters of international politics and international security intelligence. The problems experienced by refugees precede the events of September 11, 2001, but the heightened security consciousness since the attacks of that day provide a new context in which the rights of individuals suspected of any kind of association with terrorism are given less weight than ever.

As victims of threats to their personal security, refugees have a direct interest in combatting security threats. The CCR supports the Canadian government goal of thwarting attacks on the security of Canadians and of other people around the world.

At the same time we are aware that refugees are often fleeing persecution aimed against political dissidents who have been characterized by repressive regimes as security threats. Refugees have also on many occasions been viewed more or less as a security threat by host states, influenced by xenophobic prejudices. In Canada our own history teaches us about the constant risk of treating legitimate political dissent as a security threat, and trampling on people's civil rights in the name of security. In the case of refugees, the risks are that much greater, because, on the one hand, of the complexities of international politics, and, on the other hand, because of the vulnerability of refugees, persecuted in their home country and without permanent status in Canada.

As part of its work in this area, the CCR has adopted a number of resolutions calling for changes to the law and procedures for security screening (see pages 24ff).

On 28 June 2002, the *Immigration and Refugee Protection Act* came into force, replacing the old *Immigration Act*. While under the old law, people suspected of representing a security risk had few protections, under the new legislation their rights are further eroded.[1]

2. CONSEQUENCES OF SECURITY ISSUES BEING RAISED

When security issues are raised in a refugee's case, there may be a number of serious consequences:

a) a refugee claim will be found ineligible (that is, will not be referred for a refugee hearing), if the claimant is found to be inadmissible on security grounds.[2]
b) a refugee claimant who is ineligible to make a refugee claim on security grounds may make an application for Pre-Removal Risk Assessment (PRRA) but cannot be considered against the Convention refugee definition and cannot receive refugee protection, only a stay of removal.[3]

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[1] The definition of categories of persons inadmissible for security reasons has remained substantially the same, despite rewording. The text of both the new *Immigration and Refugee Protection Act* and the old *Immigration Act* security inadmissibilities can be found in Appendix 2, page 27.

[2] *Immigration and Refugee Protection Act*, 101(1)(f).

[3] *Immigration and Refugee Protection Act*, 112(3)(a) and 114(1)(b).

c) a person determined to a refugee or a person in need of protection[4] by the Refugee Protection Division (RPD) of the Immigration and Refugee Board will be denied permanent residence if he or she is inadmissible on security grounds.[5]
d) a person determined to be a refugee or a person in need of protection loses protection against *non-refoulement* if they are inadmissible on security grounds and the Minister is of the opinion that they constitute a danger to the security of Canada.[6]
e) a refugee overseas seeking resettlement to Canada will be denied resettlement if found to be inadmissible on security grounds.[7]

A decision that a person is inadmissible on security grounds thus bars a person from having their claim heard by the Immigration and Refugee Board and from receiving refugee protection in the more limited risk review which is all they are granted. The most they can receive is a stay of removal, which leaves them in a kind of legal limbo. A person who has been found to be a refugee before being found inadmissible on security grounds is barred from permanent residence and all the rights and privileges that go along with this status. Such an inadmissibility decision may also, depending on the opinion of the Minister, lead to *refoulement* from Canada to a country where the person's life or freedom is threatened.[8] A refugee overseas who is inadmissible on security grounds cannot be resettled in Canada, with potentially very serious consequences, including *refoulement* if the current country of asylum does not offer protection.

It is important to note that even where there is no actual decision that the person meets the security inadmissibility classes, the mere raising of potential security issues in relation to a person frequently causes long delays, with serious consequences for the person. Delays at the eligibility stage of the refugee determination process leave claimants with extremely limited access to basic rights, including the right to work and in some cases access to schooling for children. The impacts of delays in obtaining permanent residence for refugees in Canada as well as in processing for resettlement overseas are examined below.

This report focuses on the situation of refugees (or "protected persons") in Canada applying for permanent residence, as well as, to a lesser extent, refugees applying from abroad for resettlement to Canada, since these are the

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[4] Under the *Immigration and Refugee Protection Act*, the Immigration and Refugee Board must consider whether refugee claimants are Convention refugees or "persons in need of protection", meaning a person facing a danger of torture or a risk to life or of cruel and unusual treatment or punishment. A person who is found to meet any of these categories becomes a "protected person." The term "refugee" in this paper is used to mean "protected person."

[5] *Immigration and Refugee Protection Act*, 21(2).

[6] *Immigration and Refugee Protection Act*, 115(1) A protected person or a person who is recognized as a Convention refugee by another country to which the person may be returned shall not be removed from Canada to a country where they would be at risk of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion or at risk or torture or cruel and unusual treatment or punishment.

115(2) Subsection (1) does not apply in the case of a person
… (b) who is inadmissible on grounds of security, violating human or international rights or organized criminality if, in the opinion of the Minister, the person should not be allowed to remain in Canada on the basis of the nature and severity of acts committed or of danger to the security of Canada.

[7] Immigration and Refugee Protection Regulations, 139(1)(i).

[8] The *Convention relating to the Status of Refugees* provides for this exception to the Article 33 right to *non-refoulement*. Article 33 (2) reads: "The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country." The *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, which provides for a right to not be returned to a danger of torture (Article 3), contains no such exception.

more common situations that have come to the attention of the Canadian Council for Refugees.[9] Nevertheless many of the same concerns (as well as additional ones) apply in the cases where refugee claimants are found ineligible on security grounds or where refugees are ordered removed from Canada on the basis of the security risk they are considered to represent. These latter types of cases will almost inevitably become more numerous because of the greater restrictions of the new law (notably that all security cases are ineligible for a refugee hearing before the IRB) and because of the introduction of front-end security screening (of which more below).

3. SECURITY INADMISSIBILITY CLASSES

Under the *Immigration and Refugee Protection Act*, a person is inadmissible on security grounds for:

> 34 (1) (*a*) engaging in an act of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada;
> (*b*) engaging in or instigating the subversion by force of any government;
> (*c*) engaging in terrorism;
> (*d*) being a danger to the security of Canada;
> (*e*) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or
> (*f*) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (*a*), (*b*) or (*c*).

The above criteria for inadmissibility can be given rise to by omission, and include facts "for which there are reasonable grounds to believe" that they have occurred, are occurring or may occur. (s. 33)

Ministerial relief
Section 34 includes a provision that exempts a person from inadmissibility if the Minister determines that the presence of the person in Canada would not be detrimental to the national interest (s. 34 (2)).

4. SECURITY REVIEW PROCESS

a) **Refugees applying for protection in Canada**
Security checks are performed by CIC gathering certain information from applicants (e.g. addresses for the past 10 years, places they have travelled to, employment history, organizations that they have been associated with) and transferring the information to Canadian Security Intelligence Service (CSIS) for a security check. Until October 2001, this security check was conducted at the time that refugees applied for permanent residence after having been accepted by the Immigration and Refugee Board. In October 2001, CIC instituted "front-end" security checks, meaning that the check is performed at the beginning of the claim process.

CSIS reviews the information provided to it and if they suspect that there might be any security issues, they will conduct one or more interviews with the person. Various aspects of these interviews are of concern. In the past, interviewees were not clearly informed of the purpose of the interview, meaning that they could not prepare appropriately. In addition, some cases refugees indicated that CSIS officials actively discouraged their bringing a lawyer or other person to support them. These issues appear to have been addressed more recently.[10]

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[9] It is quite difficult to gather information about the situation of people in Canada affected by security screening, because of people's reluctance to discuss these sensitive matters. It is even more difficult to get clear information about the situation of refugees overseas applying for resettlement precisely because they are overseas.

[10] According to the *SIRC Report 1999-2000*, the Security Intelligence Review Committee has been informed that a recommendation by the committee relating to notice of interview has been implemented and that CSIS and CIC "now provide two to eight weeks written notice, depending on the location, and the convocation letter specifies that the interview will be with a CSIS employee. It is Service policy not to raise objections to the presence of a third party observer." Endnote 33, page 82. A letter dated August 2002 to a refugee does indeed clarify that the interview "will be conducted by Canadian Security Intelligence Service (CSIS)."

Some refugees who have been interviewed report that the manner of questioning was very aggressive and some say that they were painfully reminded of the interrogation techniques used against them in the repressive state they fled. A number of refugees have also reported that they were asked to become informers, with many inferring, if not being told, that their permanent residence would be tied to their "cooperation" in this field.

Once CSIS has completed its review, it transmits its findings to Citizenship and Immigration Canada which is responsible for making a decision on whether the applicant meets any of the relevant inadmissibility classes in the *Immigration and Refugee Protection Act*. There is no obligation on CIC to reach a conclusion within any particular timeframe.

When an immigration officer is of the opinion that a person is inadmissible on security grounds, a report is prepared for the Minister (s. 44). The Minister can then refer the report to the Immigration Division of the Immigration and Refugee Board to determine whether the person is inadmissible and a removal order should be issued. In the case of refugees applying for permanent residence, the report is often not referred to the Immigration Division.

The process for applying for ministerial relief (ie. exemption from inadmissibility because the Minister is satisfied "that their admission would not be detrimental to the national interest") is obscure. CIC does not consider itself obliged to inform affected persons that they are entitled to apply for ministerial relief.[11] On the other hand, once a person has been found inadmissible, CIC will refuse to entertain an application for ministerial relief.[12]

As part of the process for considering ministerial relief, an immigration officer interviews the person and sends a report to Ottawa. Despite the fact that what is at issue are security concerns, officers take into consideration non-security matters such as whether the person is using social assistance.[13] To the knowledge of the CCR, ministerial relief is rarely granted to refugees in Canada (or at least not until they have been waiting many years).[14]

Family members

Under the *Immigration and Refugee Protection Act*, a refugee, unlike other applicants, is not inadmissible because family members are inadmissible.[15] This means that if several members of a family are recognized as refugees by the IRB, the fact that one member of the family is inadmissible does not prevent the others from becoming permanent residence.

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[11] See Immigration Manual, ENF 2, 13.6 (p. 54): "An officer is not required to advise or counsel applicants on the existence or application of these provisions."

[12] See Immigration Manual, ENF 2, 13.6 (p. 54): "Ministerial relief can only be considered while the application is in process, that is before the decision on admissibility is rendered." This sentence appears in a sub-section entitled *Role of an Officer outside Canada*. However, the manual does not provide different instructions for inside Canada and at least one refugee claimant was in 2002 told that he could not have his application for ministerial relief considered because the IRB had already found him inadmissible on security grounds.

[13] In Handout #2 of CIC's Security Clearance Training, Module 06, entitled *Preparing a Report for Ministerial Relief*, undated (but used in training in 1998), the following are among the elements that "should be included in a report recommending Ministerial relief": H&C [humanitarian and compassionate] considerations; Degree of settlement in Canada; Current activities in Canada (employment, education etc, family situation, involvement in the community, etc.). See also Immigration Manual, ENF 2, 13.7 (p. 55) which states that the submission to the Minister regarding national interest considerations should consist of three parts, of which the second part "must deal with the immigration application and humanitarian and compassionate (H&C) considerations."

[14] From correspondence from CIC received by some refugees, it seems that CIC, at least in some cases, imposes a waiting period of several years, during which they will not consider Ministerial relief.

[15] *Immigration and Refugee Protection Act*, s. 42.

The new law is clearer on this point than the old *Immigration Act*. Previously, while it was possible for refugees who had a family member with security problems to separate their applications and receive permanent residence themselves, in practice, the option was often not offered to affected people or only after a long waiting period.[16]

b) **Refugees applying for resettlement from abroad**
In the case of refugees overseas applying for resettlement to Canada, the immigration officer will only forward to CSIS information on applicants who meet certain criteria or profiles. CSIS may then arrange an interview with the applicant and will transmit its report to CIC for a decision by the visa officer. The fact that there are few CSIS Security Liaison Officers located outside Canada means that the CSIS review process is often very slow.

The problem mentioned above about the absence of information about the possibility of applying for ministerial relief applies equally to refugees overseas.

5. PRINCIPAL IMPACTS OF LACK OF PERMANENT RESIDENT STATUS

Without permanent residence, refugees cannot benefit from family reunification, they face discrimination in access to education and employment. In addition, most refugees in this situation report that the insecurity of their status and the uncertainty of the wait have grave psychological impacts.

5.1 No family reunification

Family reunification, including reunification with spouses and children, is tied to permanent residence. Refugees who have not been landed cannot bring their spouses and children who are outside Canada until they become permanent residents. It is also of course impossible for refugees to reunite with other family members through family class sponsorship.

Delays in family reunification have many serious consequences. Refugees who left spouses and dependent children behind, sometimes, in situations of great danger or in a refugee camp in the first country of asylum, often have difficulties communicating with them. When communication does occur, the family members left behind often do not understand why the reunification process is so lengthy (there are frequently reports of stress in the husband-wife relationship as some spouses cannot believe the process is so long and think that they have been abandoned). Moreover, in the long term, disruption of family unity can destroy the family connection and make family reunification impossible.

Refugees separated from their families often suffer from depression. Family separation increases post-traumatic stress disorders often experienced by refugees.

Worries about the family left behind make it even harder than it anyway is for refugees to find meaningful employment. Family separation also increases the financial problems faced by refugees as they frequently have to send money abroad to assist the family left behind.

The stress caused by family separation and the absence of family support make it very difficult for refugees to integrate into a society that is new to them.

5.2 Discrimination in access to work

Refugees without permanent residence require a work permit in order to be legally employed. Their social insurance number (beginning with a 9) marks them as persons without permanent status. This can cause difficulties for refugees since employers view them as temporary and undependable. Moreover, refugees are not eligible for many training programs. Non-residents may not be promoted because the employer recognizes the temporary nature of the work authorization. Non-residents cannot apply for citizenship and some professions and forms of employment are restricted to Canadian citizens.

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[16] For example, the CCR is aware of a case in which a woman and her two children were recognized as refugees and applied for permanent residence in 1993. They were landed after six years of waiting in 1999, at which point their applications were separated from their husband/father whose case was still being reviewed on security grounds. It is not clear that the woman was ever considered inadmissible on security grounds. The children were certainly too young to have been affected by security considerations.

5.3 Discrimination in access to education

Non-citizens other than permanent residents do not have equal access to higher education. Depending on the university or college, refugees awaiting permanent residence may be asked to pay foreign student fee rates. Refugees are not eligible for loans and bursaries, effectively preventing many people from pursuing their education. The Canada Student Financial Assistance Act restricts eligibility to "a person who is a Canadian citizen or a permanent resident."[17] Similarly, many fellowships are restricted to citizens and permanent residents.

5.4 Discrimination in access to financial services

Without permanent residence, refugees are generally refused bank loans, a serious obstacle to anyone hoping to start a business. Refugees have also sometimes been refused a credit card.

5.5 No access to citizenship

A refugee who is unable to get permanent residence has no prospect of acquiring Canadian citizenship, a necessary prerequisite to full participation in Canadian society, including participation in the political process. Because refugees have experienced the failure of protection of their state of origin, and may be legally or effectively stateless, the acquisition of citizenship is often crucial for their sense of security.

5.6 Discouragement from participation in political and community activities

Refugees in limbo because of security issues may feel that they must avoid certain people or activities, especially political or community activities, since they might be interpreted by the Canadian government as suspect. The fact that people are found inadmissible on the basis of their association with organizations deemed "terrorist" means that affected persons are under pressure to demonstrate that they have severed their links with the organization, which generally entails abstaining from political involvement in relation to their country of origin. Since "membership" is interpreted in a very broad way, refugees have reason to feel that even participation in local community activities (such as involvement in ethno-specific organizations offering services to arriving refugees, or participation in community events) may further delay their chance of obtaining permanent residence.

5.7 Psychological stress of living in limbo

All of the factors listed above as well as various others daily difficulties only increase the general sense of insecurity caused by the lack of permanent status. Refugees in this situation often report suffering intense psychological stress. This stress is frequently evident to those around them and may cause or contribute to such problems as depression and family breakdown. Because of the sensitivity of security issues, refugees in this situation are generally extremely reluctant to discuss their problems with others and may therefore be very isolated. They must also bear the frustration and stress of not being able to do anything positive to solve the problem.

5.8 Barriers to travel abroad

Before the implementation of the *Immigration and Refugee Protection Act* in June 2002, travel outside Canada was in most cases impossible. The Canadian government routinely turned down requests from refugees to travel abroad unless they were also permanent residents.[18] As a result refugees could not travel to visit their families (which given the prolonged family separation is particularly important). Even when a relative was sick or dying, travel documents were rarely supplied.

Under the *Immigration and Refugee Protection Act*, refugees are entitled to a "protected person" document, on the basis of which they can apply for a refugee travel document from the Passport Office. It remains to be seen how effective this change will prove to be in permitting refugees to travel abroad.

6. IMPACTS FOR REFUGEES ABROAD APPLYING FOR RESETTLEMENT

Delays in processing can have very serious security consequences for refugees applying for resettlement. In many refugee camps, personal security is frequently threatened. The incidence of physical attacks and rape is high. Other refugees living outside camps must also survive in situations of great insecurity, often including inability to work

[17] There are plans to change the legislation in order to extend eligibility to refugees.

[18] In order to have the right to leave and return to Canada, refugees required a Minister's Permit. Travel documents, issued by the Department of Foreign Affairs and International Trade, were only given to refugees who had a Minister's Permit.

legally, arrest and extortion from local police authorities and denial of education to children, and sometimes including living in hiding and potential *refoulement*.

Resettlement is offered to refugees as a durable solution to their problems. For some it is the only viable durable solution, because the other durable solutions (voluntary repatriation and local integration) are not available to them. What is at stake for refugees denied resettlement by Canada may therefore be the possibility of a permanent home where their basic human rights are respected.

7. SECURITY SCREENING: PRINCIPAL AREAS OF CONCERN

7.1 Delays

The long waiting periods involved in any case in which security issues are central to the concerns of the Canadian Council for Refugees.

Whether because of a lack of resources, or because the Department prefers to err on the side of caution, once a security issue has been raised refugees can wait indefinitely for a decision. It is not unusual for a person to wait five years before being found inadmissible on security grounds. Although CIC officially claims that there is no policy to delay making decisions on certain cases, senior department officials have indicated that the opposite is the case.[19]

7.2 Lack of information

A frequent complaint by people affected by security screening is the lack of information given to them. They are rarely given full information about what the suspicions about them are (or even that the delays are caused by security concerns). It is often years before the reasons for the delay are explicitly mentioned at all. Many report great frustration at letters and calls to which no satisfactory answers are received (or no answers at all). The more fortunate find a lawyer who assists them in gaining access to their file, but few lawyers have much experience in this area. Some refugees end up paying large sums of money to consultants who claim they can solve the problem. Refugees overseas and their sponsors in Canada find it particularly difficult to get any information at all about the delays.

7.3 Definition of "terrorism"

S. 34 of the *Immigration and Refugee Protection Act* refers to "terrorism," a term that is not defined in the legislation. Furthermore, terrorism was not a term used, let alone defined, elsewhere in Canadian legislation, until the adoption of C-36, the Anti-terrorism Act. Previously, the government had argued (a) that "terrorism" was too difficult to define and (b) that there was no need to define it. When the government came to table C-36, they found, however, that it was possible to come up with a definition (though certainly not one immune to criticism) and that it was necessary. Under immigration legislation, it continues to be considered acceptable to make decisions having grave consequences on non-citizens' lives, based on an undefined concept.[20]

One of the key reasons that there is no agreed upon definition of "terrorism" either within Canada or internationally is that it is a politically charged term. This makes it particularly inappropriate for legislation which, in the interests of justice, must be applied in a neutral and non-discriminatory manner.

There is no clear distinction drawn between armed struggles against repressive regimes and violent actions aimed against civilians.

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[19] In November 2002, the Director General of the recently-created Intelligence Branch, CIC, announced to the CCR that measures were in place to work through what she acknowledged as a backlog of cases being considered for security inadmissibility. Another measure that may affect the delays is the introduction of "front end security screening" for refugee claimants in October 2001.

[20] The Standing Senate Committee on Social Affairs, Science and Technology, in its report on C-11, *Immigration and Refugee Protection Act*, 9th Report, 23 October 2001, suggested that "terrorism" should be defined. "The Committee recognizes the importance of defining the term "terrorism," and supports the idea of including such a definition in legislation or in regulation." In its January 2002 *Suresh* decision, the Supreme Court of Canada found that the failure to define "terrorism" in the legislation did not make it so vague as to be unconstitutional, although the Court recognized the dangers of manipulation of the term (Suresh v. Minister of Citizenship and Immigration, parag. 94-98).

The concept of "terrorist organizations" is also highly problematic, because many organizations which undertake violent actions are multi-faceted, undertaking many non-violent activities. This is particularly true of organizations involved in liberation struggles. While one wing may be carrying out violent attacks, other wings of the organization are involved in such activities as running hospitals and schools and assisting refugees and other displaced persons, and may play a role as a quasi-state. The case of the ANC during the anti-apartheid struggle is instructive. While the ANC did choose the route of violent resistance to apartheid, most of its members and supporters did not participate in these actions.[21] Similarly, liberation movements of Palestinians, Kurds, Tamils and many other peoples involve their members in a wide range of activities, many of them non-violent. Many people in fact join these movements in a reaction against violence, since they seem to offer the best possibility for opposing state-sponsored violence affecting their community.

7.4 **Definition of membership**

Paragraph 34 (1)(f) also refers to the concept of membership, including past membership, in an organization, as a basis for finding a person inadmissible. The CCR holds that inadmissibility should penalize applicants only for activities for which they bear personal responsibility and not for association. The use of the concept of membership for finding applicants inadmissible runs counter to fundamental Canadian values, namely freedom of association and the requirement that people only be penalized for acts or omissions for which they themselves are responsible.

Furthermore, "membership" is not defined in the legislation, opening the door to broad interpretation of who can be classed as a member. In many cases it appears that CIC uses a broad interpretation. As a result, it is not only actual members of targetted organizations that are affected, but many other individuals whose links with the organization may be tenuous. Among the factors identified in CIC training materials as relevant to consider when deciding whether a person is a member are: "contributing money to the organization," "frequent association with other members," "participation in the organization's activities, even if lawful," "attendance at meetings" and "distribution of the organization's literature."[22]

People are caught up in the security net even if their association with the organization did not coincide with the period of violent action of the organization. Paragraph 34 (1)(f) excludes people who are or were members of an organization that is engaging or has engaged in terrorism, subversion or espionage. This means that the class covers people who left a previously peaceful organization as soon as it took up violent activities, as well as people who join a previously violent organization after it renounces violence.[23]

7.5 **Inconsistent application**

Given the essentially problematic nature of the concepts of "terrorism" and "membership," it is perhaps not surprising that the CCR has found that the application of the security inadmissibility classes is very inconsistent. In particular, the CCR is concerned that certain ethnic or national groups are particularly apt to be targeted for extra

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[21] In 1994 the Minister of Citizenship and Immigration decided to apply special procedures for applicants for visitor's visas who were members or former members of five groups: ANC, FMLN, Fatah faction of PLO, Sandinista National Liberation Front and SWAPO. These special procedures facilitated only visitor visa processing: immigrants and refugees continued to be affected by the security inadmissibility provisions of the Act.

[22] Security Review Training, Module 03, Analysis of A19, Handout #3, Facts Relevant to Determine Membership undated (but used in training in 1998).

[23] The Supreme Court of Canada considers that the apparent overly broad category of inadmissibility is saved by the possibility of ministerial relief: "We believe that it was not the intention of Parliament to include in the s. 19 class of suspect persons those who innocently contribute to or become members of terrorist organizations. This is supported by the provision found at the end of s. 19, which exempts from the s. 19 classes "persons who have satisfied the Minister that their admission would not be detrimental to the national interest". Section 19 must therefore be read as permitting a refugee to establish that his or her continued residence in Canada will not be detrimental to Canada, notwithstanding proof that the person is associated with or is a member of a terrorist organization. This permits a refugee to establish that the alleged association with the terrorist group was innocent. In such case, the Minister, exercising her discretion constitutionally, would find that the refugee does not fall within the targeted s. 19 class of persons eligible for deportation on national security grounds." Suresh v. Minister of Citizenship and Immigration, Supreme Court of Canada, January 2001, parag. 110.

security checks. Those who have been found inadmissible, or have been kept waiting without a decision being made, on a security-related provision include significant and disproportionate numbers of Iranians with some association with the Mujahedin-E-Khalq movement, Kurdish people, Sri Lankan Tamils, Sikhs, Algerians and Palestinians.[24]1 November 2000, page 10. Many refugees from these groups who are caught up in the security screening net are people who in no way could be described as playing a significant role in any organization or activities that might reasonably be viewed as constituting a security risk.

By contrast, certain other groups seem to be relatively untouched by the security net. Refugees from Kosovo present an example that deserves consideration. Many members of this community have been involved with the Kosovo Liberation Army. Although it appears that a small number of Kosovars have been found inadmissible because of their leading roles within the KLA, a more generous attitude seems to have prevailed with respect to ordinary members. Despite the fact that they might seem to meet the definition of membership in a terrorist organization, as elsewhere interpreted by CIC, they do not appear to have been found inadmissible.

7.6 **Lack of effective oversight or appeal mechanism**

Refugees caught in security limbo have no effective recourse outside of Citizenship and Immigration Canada. If they have concerns about how they have been treated by CSIS, they can make a complaint to the Security Intelligence Review Committee (SIRC). This recourse is of limited value since it can deal only with complaints against CSIS, and not complaints against CIC. Furthermore, three recent complainants who were vindicated by SIRC have yet to see any benefits from the SIRC conclusions, despite clear recommendations that they be landed.

There is no body equivalent to SIRC to investigate complaints against CIC. Decisions by CIC are of course subject to judicial review (for which leave must be first obtained), but many refugees wait for years without any decision (and sometimes seem not to be informed when a decision about inadmissibility is taken). In some cases a mandamus application may be effective, but often it appears that forcing the issue is a risky business, since it may lead to an inquiry before an adjudicator being called and the potential issuance of a removal order.

[24] See Canadian Council for Refugees, *Report on Systemic Racism and Discrimination in Canadian Refugee and Immigration Policies in preparation for the UN world conference against racism, racial discrimination, xenophobia and related intolerance*,

8. CASES

What follows are brief outlines of the situation of people who have come to the attention of members of the CCR and who have agreed to have their cases described in this report.[25] Given the sensitive nature of allegations of security inadmissibility, many people in this situation are understandably reluctant to have their case presented publicly. One person specifically declined to have his case included because of fears that publicity could put family members overseas at risk. Others whose cases are included have chosen not to use their full name solely out of concern for family in the country of origin.

The people whose cases we present do not seem to be people who threaten Canadian or international security. The CCR accepts that the Canadian government may have other information that leads them to conclude that any of the people described below represent a security threat. Our position is not that everyone should be granted permanent residence, but that everyone should be treated fairly, which includes knowing the case against them. We also point out that if people are in fact a security threat, it seems questionable whether the appropriate governmental response is simply to allow them to live a free, if constrained, life in Canada.

1. Massoud

Massoud was born in 1954 in Iran. As a student, he opposed the Shah's regime and was arrested and tortured. In the closing months of the regime, he participated in the Mujahedin's non-violent opposition activities. Under the Islamist regime, he continued to support the Mujahedin movement. As the Khomeini regime arrested, detained and killed opponents, including some of Massoud's family members, and he himself was targetted by the Revolutionary Guards, he went into hiding in Iran in June 1981.

In 1985, deciding that he could not live in hiding for ever, Massoud fled to Iraq where he stayed until 1994. He worked at the Mujahedin's central office in Baghdad, where he was employed in agricultural duties because he has a degree in agricultural engineering. In January 1994, he left Iraq for Turkey where he stayed until he came to Canada, arriving in Toronto on 10 June 1994. He claimed refugee status, his claim was heard on 3 February 1995 and he was granted refugee status on 13 February 1995. He then moved to Montréal.

Massoud applied for permanent residence and received a letter of approval in principle on 1 May 1995. He was called for an interview on 16th January 1996 and was interviewed by a woman who presented herself as a security officer. As Massoud remembers it, the interview lasted about three hours and he was asked questions regarding his motivation for coming to Canada, his activities with the Mujahedin in Iran and Iraq, whether he was a member or supporter, and whether his family in Canada (refugees who were subsequently granted Canadian citizenship) supported the Mujahedin financially. He was also asked if he knew members of the Mujahedin in Canada. He said that he was a sympathizer of the Mujahedin because they oppose the Iranian regime but that he was not a member of the organization nor was his family helping them financially. After the interview, he received a letter saying he needed to provide adequate proof of his identity. He sent an identity document and the original of his diploma. He also had to pay to have his file transferred from Toronto to Montreal. He received no word about the progress of his application or reasons for delay, despite numerous letters sent to CIC.

On 21 December 1998, in response to a query, the Canadian Council for Refugees was informed by Citizenship and Immigration Canada (Case Management Branch) that Massoud "will be eligible for Ministerial relief in January 1999. Once he has met all statutory requirements we will proceed with his application." A further communication from CIC, dated 15 February 1999, stated that Massoud's case "remains under assessment at CIC in view of potential concerns about his background activities. These concerns will necessitate preparing a memorandum to the Ontario region outlining the case and to review his background. We anticipate a timeframe of approximately 6-12 months to reach a decision in this case in view of our current backlog."

In April 2000 Massoud was interviewed by an immigration officer, who subsequently sent him a letter which states "[b]ecause you were member of the Mujahedin-E-Khalq (MEK) from 1977 to 1994, organization that there are reasonable grounds to believe was engaged in terrorism, you are inadmissible to Canada pursuant to paragraph 19(1)(f)(iii) of the Immigration Act [...] However, taking into account the particular circumstances of your case, it has been decided not to initiate inquiry proceedings. However, it has been decided that your case will be reviewed in one year." A copy of a Section 27 report is attached, alleging that Massoud "admits having been member of the

[25] The case studies were prepared for the initial March 2001 report and reflect the law and the state of the cases at that time.

Mujahedin-E-Khalq (MEK) from 1977 to 1994." Massoud denies that he was a member, saying he was never more than a sympathizer.

Massoud's main concerns about his limbo status have to do with his inability to travel, to study and to conduct business.

He has family he has not seen in 15 years (including a brother who has a wife he has never met). He would like to go to Turkey where he could arrange to meet them, but he cannot travel since he has no travel documents. Nor is his brother able to get a visitor's visa to come to Canada.

He inquired about pursuing his studies in Canada, and applied to UQAM and McGill to do a Master's in Agriculture. However, his application was put on hold since he cannot get his equivalency (his original diploma is with Citizenship and Immigration Canada in Vegreville and he was told that he would get it back once landed). He was also told that he could not get loans or bursaries since he is not a permanent resident.

Massoud is a taxi-driver. Since he is not a permanent resident, he cannot buy a taxi licence and has to rent a monthly permit, at significant financial loss.

He is similarly prevented from getting involved in business ventures. For example, one of his friends opened a restaurant. He would have liked to take a share in the business but was enable to do so as he cannot get a bank loan.

He was refused a credit card by a bank because his social number starts with a 9 (indicating non-permanent status).
Massoud has in Canada his parents, three sisters and one brother, all Canadian citizens. He feels that this makes the situation of limbo more bearable for him than for others he knows, who he says are driven to depression and drugs. Nevertheless he says he feels like he is living in a big prison.

2. **Sina Alborz**

Mr. Alborz, who was born in Iran in 1966, arrived in Canada in July 1992 and was recognized as a refugee in January 1993, on the basis of his activities with the Mujahedin. He applied for permanent residence. After five or six months, he received a letter saying he needed to produce a birth certificate which eventually he was able to do. It was not until March 1997 that he was interviewed by CSIS, who asked about his association with the Mujahedin.

On 16 December 1998 he had an interview with an immigration officer. His impression from what the officer said was that the report being prepared was positive and that he had passed the security check. However, he subsequently received a letter from the immigration officer, dated 5 February 1999, which stated that the report had been sent to Ottawa and that NHQ's decision had now been received. This decision was "that they are not prepared, at this time, to present your case to the Minister of Citizenship and Immigration since you have not, till now, proven that you have successfully establisched [sic] yourself in Canada. We are asked to encourage you to find employment which would enable you and your family to leave the welfare system."

He was at that time married to a Canadian citizen, with whom he has a son, born in Canada and therefore a Canadian citizen. (He and his wife have since divorced.)

In March 1999, in response to a query, the Canadian Council for Refugees was informed that "Mr. Alborz is inadmissible under Section A19(1)(f)(iii)(B) of the Immigration Act for his past activities on behalf of the M.E.K. Although we do not believe that his situation warrants favourable recommendation for Ministerial relief at this time, it was suggested to Mr. Alborz that he obtains employment and stops receiving social assistance. This measure of successful integration would stand in his favour when relief is considered at some point in the future. On February 5, 1999, CIC Montreal sent a certified letter to Mr. Alborz, asking him to communicate with Immigration within one year and we would review his case at that time." [In fact, the letter sent Mr Alborz did not ask him to communicate with Immigration. Rather it said: "We will review your case in one year to see what you have done during this period."]

Mr. Alborz says that he himself has never received a letter informing him that he is inadmissible under Section A19(1)(f)(iii)(B).

Mr. Alborz subsequently opened a restaurant (which he succeeded in doing without bank loans) and took in to CIC the papers related to this (to no effect).

In July 2000, Mr. Alborz contacted CIC to find out about his case and asked to speak with the person in charge of his file in Ottawa. The local immigration officer wrote to him on 18 July to let him know the reply received from NHQ. "It indicates that it would serve no purpose for you to speak with the officer presently handling your file. I have also been informed that until the Minister of Citizenship and Immigration reviews all the circumstances of your case and grants her authorization to pursue the study of your application for permanent residence, no further action can be taken. They are unable also to determine how long it will take for a final decision to be rendered."

Mr. Alborz acknowledges that he was in the past active with the Mujahedin, but says that he has had no activities for the past 8 years. From the March 1999 letter sent to the CCR, it appears that CIC's concerns are limited to "past activities." Mr. Alborz also emphasizes that his activities with the Mujahedin never involved him in any military action.

The main impacts of his limbo status felt by Mr. Alborz are in the areas of travel, studies and work. He is anxious to travel to a country neighbouring Iran so that he could arrange to meet his mother there. His mother has been unwell for some time. He has attempted to study at university, but gave up after taking a course because he found he could not support himself. He has also had difficulties in finding work: he has found on various occasions when he applies for jobs that employers want to know why he is not landed.

3. **Rolando**

During the dictatorship in Chile, Rolando was a member of the Movimiento de Izquierda Revolutionara (MIR), a political party opposed to Pinochet. As a student, he engaged in MIR activities at the university, notably promoting the rights of students at the university and doing popular organizing in poor districts.

In 1995 he came to Canada and was accepted in 1997 as a Convention Refugee, on the basis of the persecution he feared as a member of MIR. His wife and two children were also accepted as refugees.

Following their acceptance as refugees in 1997, Rolando and his family applied for permanent residence. In 1998, he had an interview with CSIS about his participation in MIR. He reports that he received no follow up to this interview. He wrote letters to CSIS in Ottawa to ask what was happening and eventually received a letter telling him that CSIS had sent a report to CIC. He has never seen the report.

On 18 April 2000 Rolando had an interview with an immigration official, who said that a US government report stated that the MIR is a terrorist group. Rolando argued that this was not the right way to characterize the organization and emphasized that the US Government, given its significant implication in Chilean politics, notably in support of the Pinochet regime, was a biased and therefore inappropriate authority.

On the same day as the interview, the immigration officer completed a Section 27 report, concluding that Rolando is inadmissible under 19(1)(f)(iii)(b). The basis for this conclusion was that Rolando "admet avoir été membre du Movimiento de Izquierda Revolutionara (MIR) au Chili de 1980 à 1995, organisation dont il y a des motifs de croire qu'elle s'est livrée à des actes de terrorisme."

Rolando notes that members of the MIR held many different positions. There were some who advocated armed struggle and there were some armed actions. However, many other members, including representatives of churches, did not support violent action.

Although the Section 27 report was signed on 18 April 2000, it was not sent to Rolando until the end of September 2000, as an attachment to a letter dated 26 September. The letter states that, given the particular circumstances of the case, no further measure would be commenced against him, but that his file would be re-evaluated in six months. In the meantime, his application for permanent residence is suspended.

At the April 2000 meeting the immigration official proposed to the family that Rolando's wife and children could separate their cases and be landed. The family hesitated to do this, but decided finally to go ahead since they had no idea how long they might have to wait to be landed altogether. On 15 February 2001 Rolando's wife and children were granted permanent residence.

One of the concrete negative impacts of Rolando's limbo status is that it is difficult to find work with a social insurance number that begins with a 9. More generally Rolando reports that having suffered persecution for fifteen

years in Chile, he came to Canada in order to have a different kind of life. Instead he feels that he is a kind of prisoner or a second class citizen.

4. Leenco Lata Waqayyo

Leenco Lata Waqayyo was born in Ethiopia, a member of the Oromo nation, the largest of the over 80 nations and nationalities in Ethiopia. He was a leader in the Oromo Liberation Front (OLF), an organization which participated in the armed struggle against the Mengistu regime. After 1992 he was unable to live in Ethiopia because the OLF was – and is – in conflict with the Tigrean-dominated regime in Ethiopia. It also became impossible for him to live anywhere in the Horn of Africa because the Ethiopian regime worked to make the region off limits to all its real and potential political opponents. As an Oromo known to oppose the Ethiopian government, he would face detention on trumped up charges, disappearance, or death, if he returned to Ethiopia. In addition to threats from the current regime, Mr Waqayyo is also threatened by the remnants of the previous regime.

Mr. Waqayyo was motivated to come to Canada not only in order to find asylum, but also to reunite with his family: his wife and three children all live in Canada, having been resettled here as refugees. They are all now naturalized Canadian citizens.

In January 1995, his wife, Martha Kumsa, applied to sponsor Mr Waqayyo, who was then residing in Nairobi, Kenya. He was interviewed in August 1995 at the Canadian High Commission in Nairobi. In late 1995 he was interviewed in Nairobi by a Canadian official based in Harare, Zimbabwe (presumably a CSIS officer – Mr Waqayyo does not however remember having the officer's role clearly explained to him).

Before any final decision on his case was made, the Kenyan government moved to expel him from Kenya as a result of a bilateral agreement between the Ethiopian and Kenyan governments. He was allowed early admission into Canada on a Minister's Permit and arrived in Canada on 16 May 1996. The immigration file was transferred to Canada for completion of processing. In the meantime, the Minister's Permit is renewed every year. At first he had a single-entry Minister's Permit which prevented him from travelling outside Canada. After repeated requests and campaigns of letters, one formal refusal from CIC, Mr Waqayyo was issued a multiple-entry Minister's Permit in July 1997.

Over the years, as they waited for a resolution, both Ms Kumsa and Mr Waqayyo made numerous calls and wrote regular letters and faxes. Most of these went unanswered. When they did manage to speak to someone on the telephone, they were simply advised to wait.

Mr Waqayyo never had communicated to him the opinion made as a result of the CSIS interview nor any determination made by CIC with respect to his admissibility. It was only after a lawyer decoded something on his Minister's Permit that he began to suspect that the peculiar processing of his file was caused by the fact that he was a member of an organization suspected of terrorism.

Following complaints made to the Minister of Citizenship and Immigration and the family's local MP, Mr Waqayyo was granted an interview on 25 November 1999, which they hoped meant that their situation would be resolved. However, they instead received a letter dated 16 February 2000 stating that he was "not eligible for a Ministerial relief until 06 May 2001." This left them puzzled because no explanation was offered of "Ministerial relief." They were also of course very disappointed because they had expected a final decision after five years of waiting.

Mr Waqayyo also reports that throughout the years of his stay in Canada, almost all large envelopes or packets he receives in the mail have been opened and scrutinized before reaching him.

Ironically, Mr Waqayyo seems to be well-regarded by some Canadian officials. He has been consulted on a number of times by the Africa desk at the Department of Foreign Affairs and International Trade. He also meets regularly with the Canadian ambassador to Ethiopia.

Mr Waqayyo is unapologetic about his participation in the armed struggle against the Mengistu regime that ruled Ethiopia from 1974 to 1991. Armed struggle was in his view the only means available to remove Mengistu from power and steer Ethiopia towards democracy and he is proud to have contributed to this effort. After the change in regime in May 1991 he worked to promote the democratization process, a process that was derailed, in no small degree because of a lack of firm commitment to it on the part of the Western governments.

His limbo status has had a number of serious impacts on Mr Waqayyo and his family. Applying for a job in Canada without a permanent immigration status poses problems. His ability to earn some income by writing and speaking at conferences on the affairs of the Horn of Africa is constrained by barriers to travel. Unlike most Convention Refugees awaiting status, since 1997 when he was issued the multiple-entry Minister's Permit he has been able to travel. However, he was on several occasions denied US visas. Only after interventions by persons in the US Department of State who know him was he issued a US visa.
In addition to the barriers to the labour market, Mr Waqayyo also suffers from denial of access to healthcare. In June 1999 when he went to renew his health card, he had it taken away from him, on the grounds that his type of Minister's permit did not entitle him to health care coverage. Although he has been healthy since he came to Canada, the knowledge that he has no coverage adds to the family's anxiety.

Mr Waqayyo reports that these constraints have put a serious stress on his family, both emotionally and materially.

The aspect that the family finds most difficult is the knowledge that they are the subject of some form of sentence without knowing the exact terms of the sentence. Mr Waqayyo also finds very troubling the fact that he is believed guilty of some wrongdoing without knowing the exact details of the charge.

5. **Sami Durgun**

Sami Durgun, a member of the Kurdish people, was born in 1962 in Turkey. In September 1988 he arrived in Canada, having fled the situation of oppression faced by Kurds in Turkey. Kurds and Turks were at war and Kurds were persecuted in many ways, including for example through laws prohibiting the use of the Kurdish language. As a young man, Mr Durgun had done his military service, but in 1988 he received another call-up notice from the military. He feared that he would be forced to participate in the war against his people, and so he fled.

Nearly thirteen years later, Mr Durgun still considers himself at risk of persecution if forced to return to Turkey. While the war is over or at least suspended, the situation for Kurds is still precarious. Recently some Kurds forcibly returned from Germany to Turkey have reportedly been tortured and killed. Mr Durgun might be particularly vulnerable if returned because he has been very public in his support for Kurdish rights in Canada, including participating in public demonstrations, and his case for landing has been extremely visible, with national media coverage.

After numerous delays and two actual hearings, Mr Durgun received a negative decision on his refugee claim in May 1991, based on the alleged availability of an internal flight option.

In September 1991, Mr Durgun applied for landing on humanitarian and compassionate (H&C) grounds. This application was refused and he received a deportation notice. He then sought help from Romero House and the Southern Ontario Sanctuary Coalition, two refugee assistance organizations. Extensive lobbying on his case and the cases of twenty-two other rejected refugees facing danger if returned led in 1993 to the issuing of Minister's Permits for Mr. Durgun and 13 others. They were promised by the Minister that they would be granted landing on H&C grounds upon compliance with statutory requirements.

Mr Durgun was called to two interviews with CSIS. At one, the officer indirectly suggested that Mr. Durgun inform on members of his community in order to facilitate his landing.

On 9 March 1998 Mr. Durgun launched a 40-day-and-night vigil to demand resolution of his case. As a result of the publicity and political pressure resulting from the vigil, he was called into CIC for another interview. However, nothing more happened in consequence.

CSIS alleges that Mr. Durgun is a co-founder of the Toronto Kurdish Community Information Centre, the only association of Kurds in Toronto, and that this Centre is connected with the PKK. CSIS also alleges that Mr. Durgun subscribed to a Europe-based Kurdish newspaper, and says that this supports their allegation that Mr. Durgun is a member of the PKK. CSIS does not accuse Mr. Durgun of PKK involvement prior to entering Canada.

Mr. Durgun's response to CSIS allegations is that he did not co-found the Centre (he provided evidence to that effect at the SIRC hearings). Mr. Durgun denies ever having had a leadership position in the Centre. As well, he says the allegation that he subscribed to the Kurdish newspaper is false. He denies being or ever having been a member of the PKK.

Mr. Durgun made a complaint to the Security Intelligence Review Committee jointly with Suleyman Goven. After 5 months of detailed hearings before SIRC, SIRC completely exonerated Mr. Durgun and called on CSIS to recommend him for landing immediately. However, instead of recommending such, CSIS issued a lengthy rebuttal to SIRC's findings defending their findings. This negative rebuttal was forwarded to CIC, rather than the positive SIRC report.

Almost 11 months after the SIRC report was released to Mr. Durgun, he was called in for another interview by CIC (7 March 2001). In addition he has been informed that the Department is willing to entertain a submission for Ministerial relief in his case.

Mr. Durgun's situation of limbo is worse than most in that he does not even have refugee status. The main disadvantages for him have been with respect to travel, family reunification, work and study. He has been unable to travel to visit family at home or elsewhere. He cannot sponsor family to come to Canada. To work he needs to apply for work permits. He has experienced great difficulty in finding work given his temporary status in Canada. From 1994 to 1996 he completed a business logistics diploma program at George Brown College. He was allowed to pay domestic fees on the understanding that he was about to be landed, and if he were not landed he would have to pay international fees instead. Since landing did not happen, his diploma has been withheld, because he is considered to be in arrears. This has destroyed his credit rating. It has also barred him from benefitting from his education or taking any further courses at the college.

6. **Suleyman Goven**

Suleyman Goven is a Kurd from Turkey, who was forced to flee his country of origin in order to escape persecution. He was targetted in Turkey because of his ethnicity, religion (Mr. Goven is Alevi) and political views. Mr. Goven was a local union leader in both the Confederation of Revolutionary Workers Union (DISK) and his trade union (DEV-MADEM SEN). In 1990 he was detained by police and tortured. Nine years earlier, in February 1981 he had also been arrested and imprisoned for 5 or 6 months, during which time he was severely tortured.

Mr Goven arrived in Canada in April 1991 and was recognized as a Convention Refugee in March 1993. He continues to be at risk of persecution if returned to Turkey. Mr. Goven has been a leader in the Kurdish community in Toronto, and co-founded the Toronto Kurdish Community Information Centre (TKCIC). His active support for Kurdish autonomy and human rights and his opposition of the Turkish government has been very public, including coverage in national media. He has also organized public demonstrations against the Turkish government. Because of these activities in Canada as well as his previous imprisonment and torture by the Turkish authorities, he fears severe reprisals if he were to return. Though the relations between the Kurds and the Turkish government are better than in the past, it has been reported that Kurds returned to Turkey by the German government in recent months have been subjected to torture and execution.

In April 1993 Mr Goven applied for permanent residence. He went for an interview with CSIS in October 1994. Mr. Goven was asked to inform on members of his community, which he refused to do.

After this interview, Mr Goven reports that CSIS began what he describes as a program of intimidation against him. He says that he was followed, that his home was broken into by CSIS, and that his friends were interrogated. This program continued right through until at least early 2000, when a Kurd arriving at Pearson airport was detained at the airport for 45 minutes and was questioned extensively about Mr. Goven and his alleged connections to the PKK.

CSIS views Mr. Goven's connection to the TKCIC, which they allege engages in fundraising for the PKK, as evidence of his membership in a terrorist organization.

Mr Goven denies ever having been a PKK member, though he affirms his sympathy for the Kurdish liberation movement.

Mr Goven made a complaint to the Security Intelligence Review Committee jointly with Mr. Durgun. After 5 months of detailed hearings, SIRC completely exonerated Mr Goven and called on CSIS to recommend him for landing immediately. However, CSIS instead issued a lengthy rebuttal to SIRC's findings, defending their conclusions. This negative rebuttal was forwarded to CIC, rather than the positive SIRC report.

CSIS' concern appears to be related entirely to Mr Goven's leadership in the TKCIC. Mr. Goven was a co-founder of the Centre and at various times served as its President and as member of the executive committee. However, he has severed ties with the Centre as of May 1997.

Mr Goven is an outspoken public critic of Turkey's abuses of the Kurds' human rights, and has organized and/or participated in numerous demonstrations outside of the Turkish Embassy in Canada.

SIRC, however, has found that Mr Goven is a law-abiding activist mistakenly labeled by CSIS as a member of a terrorist organization. He has never supported violent action, nor was the Centre ever involved in such when he was part of its leadership.

In October 2000 Mr Goven had another interview with his immigration officer. She had not read the SIRC report. Nothing has happened on his case since that interview.

Mr Goven suffers from depression as a result of the insecurity of his status in Canada and his inability to move forward in his life. He feels that he is a second class citizen. Life in limbo has meant that he cannot sponsor family members nor can he travel to see family overseas. He has as a result missed the funerals of several loved ones.

An engineer, he is unable to practice his profession in Canada because to join the professional association one must be a Canadian citizen. He has been unable to pursue further education because without permanent resident status or citizenship he is ineligible for student loans. He cannot get a bank loan or credit card, and his employment opportunities are reduced because his social insurance number begins with the number 9.

7. **N.K.**

N.K. is a Palestinian, born in Syria in 1955. She has always been stateless. In 1978 she married in Lebanon a Palestinian man, also born in Syria, and they have a daughter and a son, both born in Tunisia.

Both N.K. and her husband worked as journalists for Falestin Al Thaoura (Palestine, the Revolution), a Palestinian magazine owned by the Palestinian Liberation Organization (PLO) and essentially controlled by the Fatah, the leading faction within the PLO. She was an employee of the magazine from 1979 to 1993 at which point she left, because personnel was shifted to different locations. She was offered a position with the publication in Syria but refused it because she had previously been detained and tortured in Syria and a family member was in detention in that country. She also turned down the alternative posting to Baghdad because of concerns for her safety in Iraq, particularly since she had written articles critical of Saddam Hussein.

After leaving her job, she travelled with her children to the United States and thence to Canada, arriving April 1994.

Her husband also left the magazine a few months after she did. He attempted to join the family in Canada, but was stopped in Paris. In 1995 he travelled to Gaza where he remains to the present. He got a job working with the Palestinian National Authority in the Ministry of Information Service.

N.K. and her children were recognized as Convention Refugees in December 1994 and applied for permanent residence in January 1995. In May 1996 N.K.had an interview with CSIS. The CSIS report on N.K. was dated July 1997, as she found out when she subsequently accessed her file under the *Privacy Act*. At the time, however, N.K. was anxiously worrying about the delays in the family's permanent residence application and made various attempts to find out what was happening. Through the intervention of her M.P. she was informed by immigration officials in December 1997 that the background check was still outstanding and that they did not know when it would be completed.

In 1998 N.K. was asked to come for an interview at the local immigration office. She was not initially told the purpose of the interview, but following an inquiry by her counsel, she was informed that the interview was to determine if she was described in section 19(1)(f)(iii)(b) of the *Immigration Act*. The interview took place in November 1998 and the immigration official prepared a report, dated February 1999, finding N.K. inadmissible. However, this finding was only formally communicated to N.K. in a letter dated 25 February 2000. This stated that she was inadmissible under section 19(1)(f)(iii)(b) on the basis of her admitted status as former member of the PLO, specifically Yasser Arafat's Al-Fatah faction from September 1978 to December 1993. The letter also explained that she was not being directed to an inquiry, but that this decision might be revisited if new information regarding

her involvement with the PLO or any other similar organization cames to light in the future. The letter contains no reference to the possibility of Ministerial relief.

N.K. was associated with the PLO as an journalist and was never in any way involved in any form of military activity. She was a member of the General Union of Palestinian Writers, which is a journalists' union. The union leadership was controlled by the Fatah.

In her permanent residence application, N.K. listed herself as a member of the PLO, characterizing it as a political organization and her position in it as journalist. She described herself in this way because she worked for a PLO magazine and her salary was paid by the PLO, but in fact individuals are not members of the PLO, only organizations are. The PLO is a national liberation organization and is recognized internationally as such, including by Canada. The Fatah is now the principal organization in the Palestinian National Authority.

As a result of the denial of permanent residence, N.K. has been unable to reunite with her husband and her children have been separated from their father. N.K.'s husband could apply for them to join him in Gaza, but there is no guarantee that they would be permitted to enter. In any case, N.K. is reluctant to have her children grow up there in the current conditions and her children do not speak Arabic well and neither can write Arabic.

N.K. has also had difficulty working and studying because of her limbo status. For example, she participated in a placement program at a bank and was then invited to submit an application for employment. When she did so, she had to give her social insurance number which begins with a 9. She was never called in and believes that this was because of the SIN, since the bank had been pleased with her performance during her placement and shown interest in having her work there. She has been unable to get a student loan to continue her studies.

Because of their limbo status, N.K. and her children must keep renewing their health cards and each time they must wait at least six weeks for the renewal. During this time, they have only a temporary paper which doctors do not always accept as proof of coverage.

N.K.'s children need to have their student authorizations regularly renewed. On one occasion the renewal did not come in time and the school sent N.K.'s daugher home. N.K. had to get immigration officials to intervene so that her daughter would be reinstated. Because the family live close to the US border, there are frequent class trips across the border, which N.K.'s children cannot participate in. N.K.'s older child, who is doing well in high school, will soon be getting to university level, but he will not be able to get loans and bursaries and N.K. and her husband know that they will not be able to afford to pay his costs going through university.

8. **Saed**

Saed was born in Iran in 1965. From his school days he was active in opposition to the regime that took over after the 1979 revolution. His dissent led to a period of detention and torture while he was performing his military service. In 1989 he and a friend rented an electronic and video store. Through the friend, Saed became interested in the Mujahedin and started to use the store to circulate their publicity materials. In 1996 the friend was arrested and Saed had to flee because the Pasdarans came looking for him also.

He arrived in Canada in January 1997, was recognized as a Convention Refugee on 30 March 1998 and then applied for permanent residence.

In March 1999 he had an interview with CSIS which he believes lasted four hours. Questions focused on the Mujahedin. He understood from the CSIS officer that he could expect to get his permanent residence in six months.

Since then he has heard nothing. In December 2000 he called CIC to inquire about the status of his case. He was merely told that an officer was working on his case.

Saed's key frustration is that no one will answer his questions. He has been left to guess the cause of the delay in his file. In practical terms, he has not been able to get a credit card because of his limbo status. His main concern, however, is that he wants to be at peace.

Saed notes that he has never been a member of the Mujahedin. He has had no contact with the organization since coming to Canada.

9. **K.**[26]

K. is an Algerian who was a supporter of the political party FIS (Front islamique du salut). He campaigned for and was active in this party. He was recognized by the Immigration and Refugee Board as a Convention refugee. Five years later he has still not been landed. K. was not told why his landing was delayed. A request for information from his file was made and when CIC failed to reply, a complaint was made to the Information Commissioner. After about six months, K. was sent his file and it became clear that his limbo is caused by the alleged links of FIS to the GIA (Groupe islamique armée). There was no information other than that disclosed at the IRB hearing and nothing to link K. specifically with the GIA.

10. **Farkhondeh**

Farkhondeh was born in 1954 in Iran. Her husband, who was very active in the Mujahedin, was arrested in 1988, imprisoned in Evin prison and executed. She herself was somewhat active in the movement, as a sympathizer. In Iran her activities involved such things as distributing leaflets and listening to radio broadcasts in order to pass on the information. After her husband was executed, the Mujahedin helped her to escape Iran. From 1988 to 1994 she was in Iraq where she did administrative and clerical work for the Mujahedin. In 1994 the Mujahedin wanted her to do military training: she refused and decided to stop working for them.

In 1995 she came to Canada and was recognized as a Convention Refugee in January 1996. She applied for permanent residence in February 1996. In September 1997 she had an interview with what she believes was CSIS, at which she was asked about the Mujahedin and at which she says she was told she would get her permanent residence if she cooperated (which she understood to mean spying).

In March 1999, in response to a request, the CCR was informed that Farkhondeh's case "remains under assessment at CIC in view of potential concerns about her background activities. We anticipate a timeframe of approximately 12-24 months to reach a decision in this case in view of our current inventory."

Farkhondeh later heard that the CSIS report was received by CIC Ottawa in December 1998.

In April 2000 Farkhondeh had an interview with an immigration officer lasting three hours, in the presence of a lawyer. The immigration official stated that in her opinion Farkhondeh is a person described in 19(1)(f) on the basis that she was a member of the Mujahedin. Neither before nor since has Farkhondeh received written confirmation of this conclusion of inadmissibility, nor a Section 27 report. The immigration officer said she would make a Section 27 report if the lawyer insisted. She also said that she would not make a positive recommendation to Ottawa because Farkhondeh had not worked since she came to Canada.

The delays have affected not just Farkhondeh, but also her three children, who came to Canada before her. Attempts to separate the applications of the children were begun in February 2000, by which time the eldest was over 18 years and therefore had to undergo a security check. One of the younger children was landed, but further complications have delayed the other's application.

Limbo status has had an impact on the family's ability to study. Non-permanent residents must pay foreign student fees at CEGEP. Farkhondeh has also been thwarted in her attempts to study because of costs of courses for non-permanent residents. The children have also been affected by their inability to travel abroad, for example, when their sports team has activities outside Canada.

11. **F.C.**

F.C., a stateless Palestinian, was born in 1953 in Syria but her family moved to Kuwait when she was one month old. She lived in Kuwait until 1971 when she married and moved to Abu Dhabi, where she ran a business. She was forced to leave Abu Dhabi in 1986 when there was a crackdown on Palestinians. She moved to Tunisia with the help of the PLO.

F.C. remained in Tunisia until June 1993, living under the auspices of the PLO. She worked as a translator for the PLO in the Foreign Relations Committee. Apart from her paid activities as a translator, F.C. was also active in a

[26] Details of this case have not been included in order that the person should not be identified, even indirectly.

volunteer capacity with the PLO in humanitarian efforts, both in Tunisia and in Abu Dhabi. She belonged to the Palestinian Women's Group in Abu Dhabi. Although she was never a formal member of the Fatah, she was supported by the Fatah in her election to the executive of this group because she was one of the few Palestinian businesswomen. She was never engaged in any violent activities.

By 1993 two of her children were studying in the United States. She applied for a return visa in order to visit them, but was instead given a visa to leave within one day and no permission to return to Tunisia.

In September 1993 F.C. arrived in Canada with her older two children. They were recognized as Convention refugees in 1994. Her third child was allowed to join them in Canada on a Minister's permit in August 1994.

F.C.'s two older children obtained permanent residence and are now both Canadian citizens. F.C. and her younger child have however been kept in limbo. F.C. was interviewed by CSIS and immigration officials about her association with the PLO. In April 2000 she received a letter from CIC stating that she was inadmissible under 19(1)(f)(iii)(B), on the basis of her membership in the PLO. The evidence for her membership is the information that F.C. herself provided about her association with the PLO and the Palestinian Women's Group. The letter makes no reference to the possibility of Ministerial relief, but says that CIC intends to proceed with landing F.C.'s younger son.

F.C. does not understand why she has been refused landing in Canada. She has never concealed her association with the PLO. She presents no threat to Canada. She believes that the refusal to land her stems from a complete misunderstanding of the PLO, its structure and the role it plays in the Palestinian community.

12. **Mehsati Ganjavi** [27]

Ms Ganjavi was born in 1966 in Iran. She was arrested and spent thirteen months in jail in Iran. During her imprisonment she tortured. She was often interrogated and beaten with sticks and hand-made whips. She was made to lie on a table while the soles of her feet were lashed. She was sometimes hit with heavy boots. One of the forms of torture used was to attach a wire to her nipples and to deliver electric shocks at different levels of intensity. She lost consciousness several times when the current was applied. On one occasion a male guard assaulted her sexually.

Since coming to Canada in 1996 she has been a long-term client of the Canadian Centre for Victims of Torture. Dr. Baruch, M.D., F.R.C.P., who examined her, reported that she "suffers from chronic Post Traumatic Stress Disorder related to the experiences described above. She presents with a mixed picture of depression and anxiety. She often feels hopeless and I am very concerned that unless her depression is treated, she may become more severely depressed and withdrawn."

Ms Ganjavi was denied Convention Refugee status in May 1997 on the grounds that she was found to lack credibility. The hearing lasted only thirty minutes. Judicial review and an application to the Post-Determination Refugee Claimant in Canada Class were also unsuccessful.

After Ms Ganjavi received a removal order in December 1997, various community workers, human rights agencies and journalists, who believed her account of persecution, appealed to the government to stay her deportation order.

In May 1998 Ms Ganjavi was accepted under humanitarian and compassionate considerations.

She subsequently received a letter from CIC informing her that "this office holds information, which suggests that you cannot meet the statutory requirements, as required by subsection 5(2) of the Act. In particular, there is reason to believe that you are a member of the inadmissible class of persons described in paragraph 19(1)(e) (iv) (C) and/or 19(1)(f)(iii) (B) of the Immigration Act." The letter also stated that CIC had reason to believe that, between twenty and ten years previously "you were an active member of" an organization "believed to deal in terrorist activity." The letter concluded: "This preliminary conclusion is based entirely upon information, which you have provided in statements and affidavits while pursuing your refugee claim and Humanitarian and Compassionate considerations."

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[27] Not her real name.

Ironically, Ms Ganjavi was originally rejected by the IRB because they disbelieved her testimony and did not accept that she was persecuted as someone associated with the Mujahedin.

Ms Ganjavi was interviewed by CSIS in March 1999. She was asked about her previous affiliation with the Mujahedin as well as her present communication with them. While denying her membership in the organization, she acknowledged that she had been a simple supporter of the group and that she had been involved in cultural activities against the tyrannical regime of Iran.

Ms Ganjavi was interviewed again in August 2000 by a CIC officer who told her that she had received the CSIS report.

The second interview made Ms Ganjavi highly stressful. It drove her to the point of retraumatization as a victim of torture. Journalists and human rights workers combined their forces again in her support.

In November 2000 Ms Ganjavi received her permanent residence.

13. **G.**

Mr G. was born in Ethiopia in 1955. From 1980 to 1992 he was an active member of the Ethiopian People's Revolutionary Party (EPRP), where he served, on a volunteer basis, as a cashier. In April 1992 he was arrested and detained for ten months as a result of his EPRP involvement. He did not continue his association with the organization after his release from prison.

In 1993 he came to Canada and made a refugee claim, based on his association with the EPRP. He was found to be a Convention Refugee in April 1994 and applied for permanent residence the next month.

In April 1995 Mr G. had an interview with CSIS. He was given no advance warning of the nature of the interview and in fact thought that he was being called in to receive his permanent resident papers. There was no interpreter at the interview and when Mr G. asked for one, he was told that his English was good enough to continue. He was asked about his involvement with the EPRP.

After this interview, Mr G. was repeatedly told by the local CIC office, in response to his queries, that his application was delayed because of background checks being conducted by CSIS. Mr. G. contacted CSIS to follow up on this and was informed by CSIS in 1999 that CSIS had completed their work on the case and forwarded their report to CIC on 9 May 1996. When this information was presented to CIC, Mr G. was advised by the local CIC in a letter dated 9 August 1999 that the background (CSIS) results had not been provided to their office.

In April 2000 Mr G. had a two-hour interview with an immigration officer. She told him that, as a result of the April 1994 interview with CSIS, his admissibility was in question under 19(1)(f)(iii)(b).

In 1997 Mr G. had decided to remove from his application his three children who are outside Canada, in the hopes that this would expedite processing of his application. These children are all now over 19 years of age, and therefore no longer eligible to be sponsored, even if Mr G. were to be landed tomorrow.

For several years, Mr G. was seriously ill. The stress of living in limbo increased the stress involved in his illness. In addition, as for others in limbo, Mr G. has been unable to feel like an integrated participant in Canadian society.

14. **Cosmo Tulbert William**

Mr William was born in Liberia in 1967. In 1991, he was forcibly recruited into the NPLF. Military men in uniform rounded up Mr William and about 10 other young men, holding guns to their heads. Shortly after he was kidnapped in this way, Mr William tried on two occasions to run away, but was both times recaptured. After the first attempted flight, he was flogged naked; after the second, he was tied up and beaten on the legs so badly that he was unable to stand up and was sick for several days. He was subsequently told to choose what part of the military he wanted to join, and chose the military police as the lesser evil, notably because the job did not necessitate carrying a gun. About three months later he was wounded while trying to separate people fighting in the camp and managed to escape from the medical tent and shortly thereafter from Liberia.

In February 1999 Mr William arrived in Canada, with his wife and infant son, and made a refugee claim. Instead of having his claim referred to the Immigration and Refugee Board for a refugee hearing, CIC called him for interviews in April 1999, June 1999 and September 1999. His lawyer enquired what the interviews were about, but received no response until November 1999, when the letter simply said that Mr William was referred for inquiry because he was described in s. 27(2). No further details were given at this stage of the alleged ground of inadmissibility (s. 27(2) covers a broad range of reports on visitors and others). It was subsequently learnt that Mr William was referred to an adjudicator to determine whether he is inadmissible pursuant to s. 19(1)(f)(iii)(b), that is, a member of a terrorist organization.

Disclosure of the notes of the CIC interviews with Mr William was slow. The inquiry finally began on 27 June 2000. Some of the notes were disclosed on 15 June and the rest just the day before the inquiry. The inquiry continued on 4 October 2000, 8 December 2000 and 8 January 2001. The next date is upcoming and it is unlikely to be concluded then.

Mr. William has produced, as evidence, a doctor's report that corroborates (for example, through scars) his claims of physical beatings.

The immediate effect of the delays in referring the case is that Mr. William cannot qualify for a work permit. While he has been able to access social assistance, his inability to work has posed a great challenge for him and his family. At the end of one hearing, Mr. William's wife expressed her deep concern to the adjudicator about the length of the adjudication process and the difficulties for her family as a result of their not qualifying for a work permit.

15. **Sadi Shirazi**[28]

Mr Shirazi was born in 1951 in Iran and arrived in Canada in 1992. Shortly after his arrival he became a client of the Canadian Centre for Victims of Torture (CCVT). In March 1993 he was determined to be a Convention Refugee.

He applied for landing for himself, for his wife and stepchild in Canada, and for his three children in Iran. In January 1994 he was asked by CIC to provide separate information about his children, which he did. He was interviewed by CSIS in 1994, although he did not himself understand the nature of the interview. In February 1996 he received a letter from CIC saying that all requirements had not been met. He was given no further information.

In July 1998 CCVT pursued the matter on his behalf, emphasizing his vulnerability to retraumatization. In December 1998 Mr Shirazi was interviewed by a CIC official. He was asked whether he knew anything about the Fedayeen (FEK). He explained that he was suffering from memory loss due to an accident when he was hit by a car in 1996 and was asked to provide a letter from his physician confirming his mental health condition and memory loss.

Mr Shirazi has never received any written clarification of CIC's position on his case. However, when his file was accessed it became known that he had in fact been found inadmissible under 19(1)(f)(iii)(b) and a Section 27 report sent.

Mr Shirazi's position with respect to the allegation that he is a member of a terrorist organization is that he was a supporter, not a member of the FEK, and that the FEK should not be characterized as terrorist since it changed its strategy away from violent action many years ago, has gone through various splits and is almost non-existent today. Mr Shirazi was not involved in the organization when it was in a violent phase.

In March 1999 CCVT appealed to the Minister of Citizenship and Immigration for action on Mr Shirazi's file and for Minister's Permits for his three children in Iran.

Efforts to achieve Mr Shirazi's landing and family reunification have so far been in vain.

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[28] Not his real name.

16. **A.B.**

A.B. is a Kurd who was born in 1969 in Turkey. He fled Turkey and arrived in Canada in May 1995, leaving behind his wife and infant son. A.B. was determined to be a Convention Refugee in October 1995. He applied for permanent residence the following month. He subsequently learned that his file was lost so he had to submit a new application in January 1997. In August 1997 A.B. was called in for a security interview. During the interview he was asked by the officer to provide information on other Kurds, a request which he refused on principle.

As the years passed since A.B.'s arrival in Canada, his wife became increasingly disappointed in him, blaming him for the separation. His wife threatened to divorce him if he didn't get landed or return to Turkey. His fear of returning to Turkey prevented him from that course of action. He decided to wait for landed status in Canada, hoping that as soon as he had permanent residence, his wife and son would be able to join him. In the meantime, A.B.'s wife divorced him. He is devastated and is still not landed.

17. **P.**

In August 1998 a private sponsorship group based in Edmonton submitted a sponsorship for P., an Algerian refugee currently in Malta. In November 1999 the group received an update from CIC saying that P. had been accepted at interview and that the medicals were mailed in October 1999.

One year later, nothing further had been heard. In November 2000 a representative of the sponsorship group was contacted by a friend of P., also Algerian, who had been in the same camp with him in Malta. This friend had recently arrived in Canada as a government-assisted refugee along with others from Malta. He said that P. was desperate because he had been left behind and did not know why (he had actually been the first of the group to be sponsored). The friend did not know of any involvements of P. that might cause security concerns.

The sponsorship group made an inquiry about the status of the application. The reply from CIC was that it was at the stage of background checks and that there was no projected date for completion. Since the medicals were expiring, CIC said they would issue new medicals when they received the results of the background checks. Both sponsors and presumably P. are deeply frustrated at the inability to get any more specific information about the delay in processing.

18. **T.**

In 1993 a sponsorship group in Thunder Bay submitted a sponsorship for T., a Ugandan refugee who was living in hiding in a church in Sweden, having been refused refugee status. T. was interviewed by a Canadian immigration officer and refused. The sponsorship group sought judicial review. Sweden then moved to deport T., but was persuaded on the basis of the Canadian sponsorship to deport him to Kenya rather than Uganda. The Federal Court then overturned the immigration officer's decision and ordered that T. be re-interviewed. Over the next three years, T. was interviewed by at least three different officials. None would give a decision. The sponsorship group made many representations but could never get an answer. They got the impression that when they pressed enough, T. got another interview, but nothing else resulted. Finally they heard that the file was in Harare and so they concluded that there were security issues. In 2000 they suggested to T. that he would quite likely never be accepted for resettlement to Canada. T. decided to try returning to Uganda, which because of the years that had passed since his flight, he was apparently able to do in relative safety.

19. **Issam Al Yamani**

Mr Yamani's problems over security issues are in various ways unlike other cases reviewed here. It is interesting to note that his case went twice to Federal Court, which both times overturned the finding of inadmissibility against him. Most refugees caught up in the security net wait years without ever appearing before an adjudicator, let alone a judge. The allegations against them are therefore never tested in a court.

Mr Yamani's problems began after he was already a permanent resident. A Palestinian refugee born in Lebanon, Mr Yamani arrived as a permanent resident in 1985, sponsored with his wife under the family class by his wife's father.

In May 1988, Mr Yamani applied for Canadian citizenship. After waiting a year, he called Citizenship to inquire on the status of his application and was told that the RCMP clearance had been received, but not the security clearance. After another six months, he wrote to CSIS asking for an explanation and was told to wait.

Mr Yamani then made a complaint to the Security Intelligence Review Committee (SIRC). In 1991 he met with CSIS for a five-hour interview, in the presence of his lawyer. Six months later he learned that the Minister of Citizenship and Immigration and the Solicitor General were signing a security certificate and recommending his deportation as a threat to Canadian security. Mr Yamani was targetted because of his involvement with the Popular Front for the Liberation of Palestine (PFLP).

In 1993 a SIRC hearing was held and SIRC agreed with the Ministers' decisions. SIRC's conclusions were however overturned in the Federal Court, which sent the matter back to SIRC for reconsideration.

A further hearing was held before SIRC. In April 1998, SIRC issued a report confirming Mr Yamani's inadmissibility under 19(1)(e) and (g) and 27(1)(c), including a finding that he "will engage in acts of subversion against democratic government, institutions or processes, as they are understood in Canada."

Again the SIRC report was challenged in the Federal Court, which in March 2000 again struck down SIRC's conclusions. As part of its decision, the Federal Court said that the SIRC analysis "cited no evidence that would make its conclusion that there was still a possibility that the PFLP may commit acts of violence in Canada anything more than sheer speculation."

In October 2000 the Solicitor General and the Minister of Citizenship and Immigration decided not to pursue their case against Mr Yamani any further. He returned to his original project of obtaining Canadian citizenship. In February 2001 he called for an update on the status of his application and was told that they were waiting for the CSIS clearance.

The troubles in Mr Yamani's case have affected not only himself, but also his second wife, whom he sponsored to Canada. Her application was approved in principle in 1989, but she remains to this day without permanent residence. She must constantly renew and pay for her work permit (which may be valid for three months, six months or sometimes a year, for reasons that are unknown). Sometimes there are delays in the renewal process, leaving her for periods without a work permit. She has been unable to travel outside Canada, even when her parents died in Lebanon or to attend her brother's wedding. The fact that his case has created this situation for her sometimes puts stress on the relationship between them.

Mr Yamani notes that he does not like to meet with new immigrants to Canada before they have acquired their citizenship, since association with him might put their own security clearance at risk. Many people he knows have been interviewed by CSIS because of their friendship with him.

APPENDIX 1

CCR RESOLUTIONS ON SECURITY ISSUES

The following resolutions were adopted by the membership of the Canadian Council for Refugees at General Meetings in recent years.

RESOLUTION 8. **INADMISSIBILITY AND NATIONAL SECURITY**
MAY 1995

WHEREAS:

1. There have been many refugees found ineligible for government or private sponsorship because of unreasonable decisions by visa officers concerning issues pursuant to S. 19 (1)(e) and S. 19 (1)(f),(k) and (l) of the Immigration Act;

2. The exception set out in 19(1)(f) establishes no procedure to determine whether a refugee is "detrimental to the national interest";

3. The phrase "detrimental to the national interest" is too vague and uncertain and needs to be defined;

THEREFORE BE IT RESOLVED THAT the CCR call on the Minister to:

1. Establish a fair procedure to determine if the applicant has met the exceptions set out in 19(f) and (l) and create similar exceptions for subsections (e) and (k);

2. Define what is meant by the phrase "detrimental to the national interest" in order to avoid vagueness and uncertainty;

3. Allow a review of these decisions by an independent and impartial tribunal such as the IRB.

RESOLUTION 22 **SECURITY CERTIFICATE PROCESS**
NOVEMBER 1996

WHEREAS:

1. The process under article 40.1 of the Immigration Act provides for mandatory detention when the Minister of Citizenship and Immigration and the Solicitor-General have signed a security certificate for people who may be refugees or refugee claimants;

2. The person cited in these security certificates does not have the right to know the evidence against them;

THEREFORE BE IT RESOLVED that the CCR:

1. Condemn the security certificate process and particularly the provisions for mandatory detention without review and asks for the immediate repeal of this section of the Act.

2. Urge the Government of Canada to suspend immediately the use of these provisions which clearly violate the Canadian Charter of Rights and Freedoms and Canada's international human rights obligations;

3. Call upon the Canadian Bar Association and human rights NGOs to condemn these procedures which violate fundamental human rights.

RESOLUTION 13. **LANDING DELAYS FOR SECURITY REASONS**
MAY 1998

WHEREAS:

1. There are Convention Refugees, particularly Iranians, who have applied for landing and had CSIS interviews but have had their landing held up for years in the Security Reviews in case management;

2. They are unable to travel outside Canada, sponsor family or pursue post-secondary education;

THEREFORE BE IT RESOLVED that CCR request a meeting between CIC and the CCR and affected communities to discuss landing delays for security reasons.

RESOLUTION 13.
NOVEMBER 1998

NATIONAL SECURITY ASSESSMENTS

WHEREAS:

1. The CCR supports the right of the Canadian government to deny refuge to people who have committed crimes against humanity and to others who pose serious national security threats, except where refoulement is in contravention of the Convention Against Torture or where there will be a risk of capital punishment;

2. It is the right and duty of the state to ensure that a just system for identifying such persons is in place;

3. The definitions in the Immigration Act relating to inadmissibility on the basis of security are over-broad;

4. Decisions regarding security inadmissibility are made without respecting the due process rights of those affected;

5. There is no time limit within which a decision may be made, leading to indefinite delays for some of those affected;

THEREFORE BE IT RESOLVED that the CCR call on the Canadian Government to:

1. Introduce a system for identifying potential security risks with:

   a) a right to a hearing before an independent decision-maker for those alleged to be inadmissible on security grounds;

   b) protection of due process rights;

   c) an obligation to render a decision within a fixed time frame;

2. Amend the Immigration Act to give a more precise definition of security risk.

RESOLUTION 8 **SECURITY ISSUES**
JUNE 2000

WHEREAS:

1. Refugees and immigrants who apply for permanent residence are required to undergo security screening by the Canadian Security Intelligence Service (CSIS) and the security review unit of the Department of Citizenship & Immigration (SRU);

2. Refugees and immigrants often face undue delays in acquiring permanent residence status as a result of prolonged security screenings by CSIS and SRU;

3. The security screening process remains unfair and intimidating to many refugees and immigrants, particularly since many cannot obtain information about the status of their applications or reasons for long delays;

4. The CCR adopted Resolution 13 of May 1998 and Resolution 13 of November 1998 on landing delays for security reasons and assessments;

5. Refugees and immigrants who question the integrity, fairness, duration, and impact of the security screening process can file a complaint with the Security Intelligence Review Committee (SIRC);

6. SIRC is mandated to investigate such complaints and make recommendations thereon;

7. Such complaints have been filed with SIRC and in April 2000, SIRC issued reports on its findings with recommendations;

8. The SIRC reports unequivocally exonerated the complainants and made a number of recommendations;

9. These recommendations included a recommendation that complainants' applications for permanent residence be processed for landing;

THEREFORE BE IT RESOLVED that the CCR call on:

1. The Minister of Citizenship and Immigration and CIC to immediately implement the recommendations in these SIRC reports, including landing for the complainants;

2. The Solicitor General and Director of CSIS to immediately implement the recommendations in the reports;

3. CIC to promptly land individuals whom CSIS or SIRC has recommended for landing;

4. CIC to refer an applicant for permanent residence whose application has been delayed for more than two years for security reasons to SIRC for review and recommendations with respect to landing.

APPENDIX 2

Security inadmissibility, Immigration and Refugee Protection Act

The relevant section of the *Immigration and Refugee Protection Act* reads:

> Security
> 34. (1) A permanent resident or a foreign national is inadmissible on security grounds for
>
> (a) engaging in an act of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada;
> (b) engaging in or instigating the subversion by force of any government;
> (c) engaging in terrorism;
> (d) being a danger to the security of Canada;
> (e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or
> (f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b) or (c).
>
> Exception
>
> (2) The matters referred to in subsection (1) do not constitute inadmissibility in respect of a permanent resident or a foreign national who satisfies the Minister that their presence in Canada would not be detrimental to the national interest.

S.C. 2001, c. 27, s. 34, in force June 28, 2002 (SI/2002-97).

Security inadmissibility, Immigration Act
The equivalent inadmissibility class in the old *Immigration Act* was defined as follows:

> 19 (1)
> (e) persons who there are reasonable grounds to believe
>
> (i) will engage in acts of espionage or subversion against democratic government, institutions or processes, as they are understood in Canada,
>
> (ii) will, while in Canada, engage in or instigate the subversion by force of any government,
>
> (iii) will engage in terrorism, or
>
> (iv) are members of an organization that there are reasonable grounds to believe will
>
> (A) engage in acts of espionage or subversion against democratic government, institutions or processes, as they are understood in Canada,
>
> (B) engage in or instigate the subversion by force of any government, or
>
> (C) engage in terrorism;
>
> (f) persons who there are reasonable grounds to believe
>
> (i) have engaged in acts of espionage or subversion against democratic government, institutions or processes, as they are understood in Canada,
>
> (ii) have engaged in terrorism, or

(iii) are or were members of an organization that there are reasonable grounds to believe is or was engaged in

(A) acts of espionage or subversion against democratic government, institutions or processes, as they are understood in Canada, or

(B) terrorism,

except persons who have satisfied the Minister that their admission would not be detrimental to the national interest;

(g) persons who there are reasonable grounds to believe will engage in acts of violence that would or might endanger the lives or safety of persons in Canada or are members of or are likely to participate in the unlawful activities of an organization that is likely to engage in such acts of violence;
...
(k) persons who constitute a danger to the security of Canada and are not members of a class described in paragraph (e), (f) or (g).