



GOVERNMENT RESTRUCTURING: NEW BORDER AGENCY

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CONCERN: The new government is treating refugee claimants as potential threats, rather than as persons who may need Canada's protection.

WHAT HAS BEEN DONE: On 12 December 2003, the government created the Canada Border Services Agency and transferred to it all immigration enforcement activities from Citizenship and Immigration Canada (CIC). These enforcement activities include removals, detention and investigations. Also transferred were Pre-Removal Risk Assessments (PRRA), even though these are reviews intended to see whether individuals need Canada's protection, and are not enforcement functions. The Canada Border Services Agency reports to Anne McLellan, the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness (not to the Minister of Citizenship and Immigration).

The government announcement of 12 December declared that "Protecting the interests of immigrants and refugees remains the responsibility of Citizenship and Immigration."

WHAT MAY HAPPEN: Discussions are currently underway on whether to also transfer port of entry functions, which include the initial interview and eligibility decision for refugee claimants. Even eligibility decisions for refugee claims made inland (i.e. not at the border) may be transferred to the Border Agency. If this happens, refugee claimants will have virtually nothing to do with Citizenship and Immigration Canada, since almost all the old CIC functions dealing with refugee claimants will have been taken over by the new Border Agency.

WHY IT MATTERS:

- < The Canada Border Services Agency is an enforcement agency, reporting to a Minister whose mandate is to protect Canadians' security. Protecting refugees will not be a priority within such a structure. An agency whose main job is to detain and deport will treat refugee claimants as candidates for detention and deportation. Yet refugee claimants, many of whom have suffered torture or other traumatizing experiences, need to be treated with compassion and sensitivity.
- < Determining who needs protection is complex and requires particular expertise that is not available at the new Agency. Even Citizenship and Immigration Canada, which has a mandate to protect the interests of refugees, is arguably underqualified to perform Pre-Removal Risk Assessments. The new Agency, whose expertise is in enforcement, is completely unqualified to do Pre-Removal Risk Assessments. There is also a conflict in asking the Agency that is mandated to remove people to also decide whether they should not be removed because of protection needs.

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- < Canada is following the example of the US, which recently put immigration services within the Department of Homeland Security, thereby treating immigrants as potential security risks. While in Canada most immigration services are staying with Citizenship and Immigration Canada, the government seems ready to sacrifice the interests of refugee claimants to respond to US pressure to harmonize with policies south of the border.
- < By putting refugee claimants under the responsibility of the Minister of Public Safety, the government is sending the message that it considers refugee claimants a threat to public safety. Refugee claimants are seeking safety; they are not a threat to safety. They are also highly vulnerable to scapegoating, as we see from the emotional and irrational attacks on refugees both in Canada and elsewhere. The government should be combatting public misperceptions, not feeding into them.

WHAT WE SEEK:

- < Responsibility for refugee claimants, including front-end processing and eligibility determinations, should remain with Citizenship and Immigration Canada.
- < Responsibility for the Pre-Removal Risk Assessments (PRRA) should be removed from the Canada Border Services Agency. The appropriate place for the PRRA is the Immigration and Refugee Board.