

CANADIAN COUNCIL FOR REFUGEES

Three key issues: October 2004

ISSUE: DELAYS UNDERMINE PRIVATE SPONSORSHIP OF REFUGEES PROGRAM

Refugees overseas and their Canadian sponsors are subject to extraordinarily long delays in processing at Canadian visa posts. These delays are threatening lives and the well-being of Canada's Private Sponsorship of Refugees Program.

ACTION REQUIRED: That the Parliamentary Standing Committee on Citizenship and Immigration initiate a study of the processing problems in the Private Sponsorship of Refugees Program.

ISSUE: REFUGEE FAMILIES WAIT YEARS TO BE REUNITED

Some refugees wait years to be reunited in Canada with their spouse and children. Family members waiting overseas are often in precarious situations, facing war and persecution. Delays of several years cause great hardship to families, and have led to family breakdown. The solution is straightforward and simple.

ACTION REQUIRED: That the spouses and children of people recognized as refugees in Canada be brought immediately to Canada, to be processed here.

ISSUE: REFUGEES NEED AN APPEAL

Flaws in the refugee determination system mean that some refugees are rejected in error and face deportation to persecution. The biggest flaw is the system's inability to correct errors. Once a bad decision is made, there is very little that can be done to remedy the situation because the government has not implemented the appeal for refugees, even though the law provides refugee claimants with a right to appeal.

ACTION REQUIRED: Implement the Refugee Appeal Division in the Immigration and Refugee Protection Act.

CANADIAN COUNCIL FOR REFUGEES

DELAYS UNDERMINE PRIVATE SPONSORSHIP OF REFUGEES PROGRAM

Background paper

ACTION REQUIRED: That the Parliamentary Standing Committee on Citizenship and Immigration initiate a study of the processing problems in the Private Sponsorship of Refugees Program.

CANADA'S PRIVATE SPONSORSHIP OF REFUGEES PROGRAM

Refugees overseas and their Canadian sponsors are being undermined due to the extraordinarily long delays in processing their applications for sponsorship. The delays are threatening lives and the well-being of Canada's Private Sponsorship of Refugees Program.

In 1979, Canadians responded with great compassion to the desperate struggles of the "boat people" in South East Asia. Through their faith communities, employee groups and community centres, Canadians came forward in great numbers to sponsor South East Asian refugees to this country. This evolved into the unique and internationally acclaimed Private Sponsorship of Refugees Program which continues today. In the 25 years since its inception, thousands of Canadian volunteer sponsors from across the country have devoted their time and money to welcome and support over 184,000 refugees.¹

Refugees resettled to Canada under the Program have had no permanent home and little hope of ever returning to their countries, due to war or persecution. In many cases they are the most vulnerable refugees – women, children, the elderly, the poor – people who have no other prospect of finding safety.

However, the Program is under threat due to long processing delays.

DELAYS IN PROCESSING

More than 12,000 refugees overseas are waiting for a decision on a sponsorship application. Current processing delays mean refugees sponsored in 2004 may not even be interviewed until 2006 or 2007.

Government targets call for only 3,400 to 4,000 privately sponsored refugees to settle in Canada this year, even though support is in place for many more.

The unacceptably long time that Canadian visa posts are currently taking to process refugee sponsorship applications causes great hardship and puts refugees at risk. It takes too long to assess whether the sponsored individual is a refugee in need of resettlement, with the corresponding health, security and criminality checks.

A refugee who is told to wait two to three years, with little opportunity to follow up with the visa post, finds the prospect of ever being allowed to come to Canada seem almost hopeless. Such long waiting times also make private sponsors in Canada feel their efforts are futile.

Such long delays are wasting precious resources – the lives and futures of refugees, and the time and energy of Canadian sponsors.

¹ Sponsors assume full financial and social responsibilities for a refugee for a minimum of one and up to three years.

RECENT STATISTICS (July 2003 - June 2004)

Below is a table that shows the number of months it takes for Citizenship and Immigration Canada (CIC) to process 50% of its sponsorship applications in some of the busiest visa posts.² Half of all the applications take longer to be processed

<i>Canadian visa post</i>	<i>Months</i>
Nairobi, Kenya	27
Cairo, Egypt	24
Islamabad, Pakistan	18
Pretoria, South Africa	32

LIVES AT RISK

Refugees eligible for resettlement to Canada are individuals and families in unstable and sometimes very dangerous situations. They may risk arrest, imprisonment and forced return to persecution in their home country. They are likely unable to work and feed their families. Their children may not be able to go to school, and access to health care may be minimal or non-existent. Refugees often face extortion and abuse by local police. Refugees in camps may experience insecurity and food shortages. Refugee women and girls are especially vulnerable, asked to exchange sexual favours for food and shelter, or exposed to rape.

A refugee overseas with family in Canada often relies on that family to earn money to send to help them survive, preventing the family members from getting on with their lives in Canada. A refugee's sponsors in Canada anguish over the dangers facing the refugee, powerless to help. Some Canadian visa posts report that they are too busy to provide even the most basic information about the status of applications, contributing to the confusion and sense of powerlessness.

CASE EXAMPLES

A sponsorship group in Ontario has been waiting since January 2002 for processing of their application to sponsor a Sierra Leonean family that had fled to Liberia. The refugee family has yet to be given an interview date by the visa post. Since the application in 2002, the father of the family has been killed in violence in Liberia. The women then fled to Ivory Coast, and were raped when regional violence spread to that country. Despite requests by the sponsors in Canada to the visa post to expedite the application due to danger facing the family, no interview has been scheduled.

A Saskatoon sponsorship group has been trying since November 2000 to sponsor a Sudanese mother and her two children in Egypt. They have had little communication from the Canadian visa post in Cairo and so far there is no indication when the family will be given an interview. In January 2003 the Cairo police arrested the mother for lack of proper documentation. The Canadian Embassy intervened to assist in her release, but still did not schedule an interview.

Private sponsors have worked with CIC to do what they can to streamline processing and reduce the times. But it has become evident the problem cannot be solved by tinkering with procedures. We call on the Parliamentary Standing Committee on Citizenship and Immigration to initiate a study of the processing problems in the Private Sponsorship of Refugees Program.

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² The global total (i.e. for visa posts in all regions) is 18 months for 50% of cases to be finalized.

CANADIAN COUNCIL FOR REFUGEES

REFUGEE FAMILIES WAIT YEARS TO BE REUNITED

Background paper

ACTION REQUESTED

That the spouses and children of people recognized as refugees in Canada be brought immediately to Canada, to be processed here.

DELAYS IN FAMILY REUNIFICATION

Refugees who have fled to Canada to seek asylum from repressive conditions in their home country often arrive without their spouse or children. People recognized as refugees in Canada can apply to bring their spouses and children, but it often takes a very long time for their applications to be processed by Canadian visa posts. The Canadian government has stated on many occasions that reuniting families is a priority for them. Indeed, two of the stated objectives in the Immigration and Refugee Protection Act are “to see that families are reunited in Canada” and “to support the self-sufficiency and the social and economic well-being of refugees by facilitating reunification with their family members in Canada”.

However, the sad reality is that some refugee families wait years to be reunited in Canada.

A child in the Democratic Republic of Congo waiting to join his father: ‘You know, Papa left us with Mama. He won’t be coming back. I’ve prayed a lot for him to come, but he won’t. Now I have to look for another Papa.’

Refugees with family in the Democratic Republic of Congo have a 50% chance of having to wait more than 27 MONTHS for their family to arrive in Canada.

RECENT STATISTICS (July 2003-June 2004)

Below is a table that shows the number of months it takes for certain visa posts to process 50% of its applications for Permanent Residence of family of refugees. Half the applications take MORE than the time mentioned to be processed.

<i>Canadian visa post</i>	<i>Months</i>
Abidjan, Ivory Coast	27
Accra, Ghana	24
Cairo, Egypt	13
Islamabad, Pakistan	20

CONVENTION ON THE RIGHTS OF THE CHILD

According to the UN Convention on the Rights of the Child, States must deal with applications for family reunification by children or their parents “in a positive, humane and expeditious manner.” (Article 10). On the last two occasions that the UN Committee on the Rights of the Child examined Canada on its compliance with this Convention, the Committee expressed its concerns about the slowness of refugee family reunification. In 1995, the Committee recommended that “every feasible measure be taken to facilitate and speed up the reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada.” In October 2003, the Committee noted that this concern had been “insufficiently addressed”. Little has changed since then.

CASE EXAMPLES

Mahmoud and his wife, Samira, (fictitious names) have waited more than four years to be allowed to bring their two daughters to Canada.

In July 2000 Samira, her husband, Mahmoud, and two children fled persecution in Algeria. They had to leave behind two daughters, aged 13 and 16. In June 2001 the family were recognized as refugees in Montreal and applied to bring the girls to Canada by including them on the application for Permanent Residence. Their application has yet to be approved. If not so tragic, the way this case has been handled would be farcical. In January 2002, the family members in Canada were ready to receive their permanent residence, but were delayed because processing of the girls' application overseas was not completed. The girls' files were eventually ready, but by then Mahmoud and his wife had to do new medicals. The transmission of the medical results were delayed and by then their security screening was out of date. In September 2003, they began a new security screening. Again the results seem to have got stuck in the system: the latest news suggests that Samira at least has received her security clearance. However, by now the medicals have expired again and will need to be re-done.

Aloys (fictitious name) had to wait nearly two years for his family to join him.

Aloys is a young man from Burundi who was recognized as a refugee in Canada in December 2002. His wife and children, still in Burundi, suffered persecution by individuals seeking to harm the father, and had to flee from place to place. Aloys anguished over his family, developing high blood pressure and symptoms of depression. He worked many nights to obtain money demanded by the local militia in Burundi to "guard" his family. Aloys' MP, recognizing the danger, helped expedite his application for Permanent Residence in August 2003. Despite this intervention, it was not until almost a full year later, in July 2004, that the Canadian visa office in Nairobi issued visas for his wife and children to come to Canada.

Even when the process works well, refugees face a long separation from their families:

- From flight to arrival in Canada: days, weeks, months or years depending on obstacles faced.
- From arrival in Canada to recognition as a refugee: 3 months is fast, about a year is average.
- From recognition to application for permanent residence: a month or more (depending on how long it takes to get the money for the fees).
- From application to family reunification: the mean is 13 months (i.e. 50% of cases take longer).

Among the reasons for delays in family reunification:

- Delays in the processing of the refugee in Canada (the family members overseas cannot come to Canada until the refugee in Canada has received permanent residence).
- Overburdened visa offices are extremely slow to process the applications.
- Some families are asked for additional documentation to establish family ties.
- Sometimes families are told they must undergo DNA testing (which are expensive and time-consuming, as well as intrusive).
- Results of medical exams have to be communicated and sometimes get delayed. Medicals are only valid for a year and sometimes have to be re-done because of other delays in processing.

CANADIAN COUNCIL FOR REFUGEES

REFUGEES NEED AN APPEAL

Parliament passed it; the Minister promised it; refugees need it
Background paper

ACTION REQUIRED: Implement the Refugee Appeal Division in the Immigration and Refugee Protection Act.

The Canadian refugee system has many positive features, including an independent tribunal (the Immigration and Refugee Board (IRB)), high quality research and documentation services, and an acknowledgement that women need protection from gender-based persecution. But the system is far from perfect, and like any system, it makes errors.

FLAWS IN THE SYSTEM

Flaws in the system mean some refugees are rejected in error. The biggest flaw is the system's inability to correct errors¹. Once a bad decision is made, there is little that can be done to remedy the situation because the government has not implemented the appeal for refugees, even though the Immigration and Refugee Protection Act provides refugee claimants with a right to appeal.

Single decision-maker

The reduction in the Immigration and Refugee Protection Act from two to one IRB Members hearing a refugee claim was to be counterbalanced with the appeal.

Bad representation

Refugee claimants are vulnerable to exploitation by incompetent and unscrupulous lawyers and consultants and are sometimes poorly represented, or even undermined in their claim.

Political appointments of IRB Members

The IRB decision-makers have historically been appointed in part on the basis of their political connections, so levels of competence vary widely.

GOVERNMENT DID NOT IMPLEMENT THE APPEAL

In 2001 Parliament approved a new Immigration and Refugee Protection Act after extensive consultation with Canadian stakeholders. The Act included a Refugee Appeal Division, a review mechanism to identify and correct wrong decisions by the IRB in refugee cases. This appeal of a refugee claim was long overdue. Canada had been criticized by both the Inter-American Commission on Human Rights and the UN High Commissioner for Refugees for lacking an appeal on the merits.

“Where the facts of an individual’s situation are in dispute, the effective procedural framework should provide for their review. **Given that even the best decision-makers may err in passing judgment, and given the potential risk to life which may result from such an error**, an appeal on the merits of a negative determination constitutes a necessary element of international protection.”
(Inter-American Commission on Human Rights, Report on the Situation of Human Rights of Asylum Seekers Within the Canadian Refugee Determination System, February 2000, para. 109).

¹ Canada has no mechanism for appealing refugee decisions, if we mean a mechanism by which a decision is reviewed and overturned if it is found to be the wrong decision. It is possible for claimants to ask for a judicial review at the Federal Court, but they must first get permission from the Court, and a judge can only intervene if there were procedural or legal errors. The other recourses available to claimants do not review the refugee decision.

Just months before the Act was due to be implemented in 2002, the Liberal government said they would not implement the sections giving refused claimants the right to an appeal (although they would go ahead with the sections reducing the number of decision-makers in each claim from two to one). The reason given was that there were too many outstanding claims in the system. This is not an acceptable argument: one may not deny justice because too many people are asking for it.²

In May 2002, the Minister of Citizenship and Immigration promised that the appeal would be implemented within a year.

"I have already made a commitment to the Canadian Council for Refugees that we will have an appeal system in place in one year's time." Denis Coderre, Minister of Citizenship and Immigration, House of Commons, June 6, 2002. **However, over two years later, no appeal is in place.**

REFUGEE REFORM

The government has committed itself to a reform of the refugee determination system. Before launching yet another reform, the government needs to implement the appeal that was approved by Parliament as part of the last reform. There are refugees right now who need a solution because they have been rejected in error. They need and deserve an appeal. Once the appeal has been implemented, there will be time to consider other improvements to the system.

CASE EXAMPLES

Sudabeh from Iran

Sudabeh (*fictitious name*) made a refugee claim in Canada based on domestic violence and her conversion to Christianity. Her claim was refused and in July 2003 she was deported to Iran with disastrous consequences. She was taken from Tehran airport to Evin Prison, and her family was unable to obtain any information regarding her whereabouts for 8 days. Zahra Kazemi, a Canadian citizen, was being tortured in Evin prison during this same period of time (her injuries led to her death). Sudabeh has been unwilling to say all that happened to her while she was detained but we know she was beaten and denied medication and telephone access.

Sudabeh was released on bond, but the charge remained of changing her religion. In December 2003, she received a summons telling her to report to Evin Prison within 48 hours. Sudabeh fled the country upon the advice of her lawyer and family.

Vega family from Colombia

The Vega family has been in sanctuary in a church in Montreal for more than a year. In 2001 the father was kidnapped and tortured in Colombia after speaking publicly on human rights. He still bears the highly visible marks of the torture on his body. The family claimed refuge in Canada, and sought help from an immigration consultant. Unfortunately, the consultant erred in the written information about the claim submitted to the IRB, leading to apparent contradictions in the family's testimony at their oral hearing. The IRB Member refused their claim. Had the Vega family had access to an appeal, they could have explained the consultant's mistake and the negative decision possibly could have been corrected.

"We are trying to save our lives," said Marcela Vega, 21.

"It's the only thing we are trying to do."

5 October 2004

² In any case, both the backlog and the number of people making claims have since gone down dramatically, so this argument has lost whatever force it ever had.