

THE REFUGEES WE DON'T WANT TO KEEP

Some Background to the Case of Victor Regalado

By Kristin Hanson

Being recognized as a refugee in Canada does not necessarily entail being granted asylum in Canada. A refugee will generally not be given permission to stay if he is already protected by or returnable to a country other than the one where he fears persecution, except out of special humanitarian considerations. He will also not be given permission to stay if he is found to fall within certain categories related, essentially, to security or criminal conduct. The required security clearance has recently been dramatized in a rather extreme form in the much publicized story - "Expel me and I die, Salvadoran tells immigration hearing" . . . "Une incarcération injustifiée" . . . "Une déportation honteuse" - of Victor Regalado.

Canada's *Immigration Act* designates certain classes of people as inadmissible to Canada. Although most of these exclusions make an exception for refugees, a few do not, including the one specified in section (19) (1) (f):

persons who there are reasonable grounds to believe will, while in Canada, engage in or instigate the subversion by force of any government.

This section has some notoriety in itself. At the time of the drafting of the current *Immigration Act* it was noted that, among other problems, this section technically left the door open, for example, for a refugee from a terrorist regime to be expelled for saying that in

the case of his country armed force was the only recourse possible against governmental terrorism.

Regardless of the merit of this argument, what has excited so much ire in Mr. Regalado's case is that he has been determined to fall within this class, and therefore has been detained and ordered deported, not in virtue of any factual evidence presented to an immigration officer, or adjudicator, or judge, or his lawyer, or himself, but on the basis of the following attestation:

We, the undersigned, hereby certify that it is our opinion based on security and criminal intelligence reports received and considered by us, which cannot be revealed in order to protect information sources, that Victor Manuel Regalado is a person described in paragraph (19)(1)(f) of the Immigration Act, 1976, his presence in Canada being detrimental to the national interest.

Signed: Lloyd Axworthy, Minister of Immigration, and Robert Kaplan, Solicitor General.

Under section (39) of the *Immigration Act*, such a certificate, when it deals with someone other than a Canadian citizen or a permanent resident, is in and of itself proof of the matter stated in the certificate. And under section (19) of the *Act*, the report on which such an attestation is based may not be required to be produced in a court or any other proceeding.

"That such a provision is contrary to the principles of justice normally respected in Canada was no doubt clear

to Parliament when it was enacted, because the following subsection provides for a special annual report to be made to Parliament of any such certificate issued," wrote Judge J.A. Montgomery. Only eleven such certificates have been issued since the *Immigration Act* took effect in 1978. Never before has it been used in the case of a refugee.

Victor Regalado is a 33-year-old journalist from El Salvador. According to his lawyer, he used to be an activist with the Democratic Nationalist Union which today forms part of the Democratic Revolutionary Front (FDR), the political arm of the Salvadoran opposition. He claims that he has never promoted the use of violence to overthrow the junta, nor been part of the guerilla movement.

He first came to Canada in February 1980 as a visitor, and visited Salvadoran groups in Canada and presented information and political analysis on behalf of the FDR. His visa lapsed, and although he applied for permanent residence in Canada, he left in August 1980 for Nicaragua, where he attended a conference of journalism students and Salvadoran journalists, and then went on to Mexico. At the end of December 1981, he left Mexico to come to Canada. After being refused a visa by the Canadian consulate in Mexico City, he crossed the Mexico-United States border on foot and, travelling without stopping, arrived on January 5, 1981, at the Canadian border at Blackpool, south of Montreal, where he requested Canadian protection as a refugee.

He was temporarily returned to the United States. If an immigration officer thinks that it will be contrary to the *Immigration Act* to let someone enter Canada, he reports that to a senior immigration officer, who in turn either lets the person in or holds an inquiry. If no adjudicator is available to preside at the inquiry, if the person concerned was residing or sojourning in the U.S., he may be returned to the U.S. until an adjudicator is available.

To digress for a moment, Mr. Regalado's lawyer, Noël St. Pierre, suggests that "this article [(23)(4)] should not be applied to persons demanding refugee status and who have no legal status in the U.S. Otherwise there is always the danger that the person sent back, even if he has a document telling him to present himself at the Canadian border at a certain time, may be treated as an illegal

A NOTE ON SECURITY CERTIFICATES

Translated and excerpted from a paper by Dominique Boisvert

Of what value are the "secret security or criminal intelligence reports" on which a security certificate is based?

Who furnishes the information? We can't know for sure since it's all state secrets, but we can be pretty certain that the secret reports are prepared by the security services of the RCMP, which are in turn fed, particularly in the case of Latin America, by the American intelligence services such as the CIA and FBI. On July 12, 1977, in front of the Parliamentary Committee of Manpower and Immigration, a former deputy minister of Immigration admitted that it was foreign intelligence services (read: American) that told the Canadian government how it should treat the information communicated to it if it didn't want to see its sources of information dry up.

What credibility do these information sources have? Unfortunately for our "security", the information of intelligence services is often unreliable. The recent examples multiply. It suffices to remember

the Libyan death squad that was supposedly in the United States to assassinate President Reagan. The FBI had to admit later that the death squad was undoubtedly a fabrication, and that they didn't have any proof and had perhaps been deceived by their source. In November a Quebecois leader of a Catholic activist movement was arrested by the American authorities at Dorval before a connecting flight to Miami en route to Latin America. According to the computers of American customs, he had been convicted of fraud here and did not have the right to leave Canadian soil, being under probation until June 1982. Now he had never had the slightest quarrel with the police or the judicial authorities, and the RCMP itself confirmed that they had nothing against him! Evidently it had been an unfortunate computer error.

With a security certificate against him instead of evidence, who can assure us that Victor Regalado is not also a victim of a computer error?

immigrant by the American authorities and eventually sent back to his country of origin."

In the case of Mr. Regalado this almost happened, according to Mr. St. Pierre. "The American immigration service had received the information that he was undesirable in Canada, and that he would be expelled from Canada and possibly returned to the U.S. The American authorities, wanting to finish with the case, transferred him to the prison in Plattsburg, N.Y., and gave him a document beginning the procedures for deportation from the U.S.

"It was only after a series of interventions by Montreal and Toronto lawyers, and with the assurance that he would not be immediately expelled from Canada, that American immigration returned him to Canadian immigration to sit the special inquiry where he officially requested refugee status, January 7, 1981."

At the inquiry Mr. Regalado was acquainted for the first time with the security certificate that Mr. Axworthy and Mr. Kaplan had signed about him in the fall of 1980, after he had first left Canada. Although the certificate entails expulsion, even in the case of a refugee, an expulsion order cannot be carried out while a decision on a refugee claim is pending. Meanwhile Mr. Regalado was detained in the Parthenais prison in Montreal.

Only an adjudicator has the authority to impose detention, if he feels the person in question would not appear for an inquiry or poses a threat to public safety. The grounds for any continued detention must be reviewed every seven days. In Mr. Regalado's case, adjudicator after adjudicator upheld the detention with only the certificate as grounds. After two months - two months of offerings from many people to answer for his conduct and of challenges that instigating the subversion by force of another government, even if true, does not entail being a threat to the public safety - he was released.

During this time he had been accorded refugee status without much ado, and had filed an appeal of the deportation order against him with the Immigration Appeal Board.

APPOINTMENT

Mr. Raymond Terrillon, Representative of the United Nations High Commissioner for Refugees in Canada, takes pleasure in announcing the appointment of Mr. Douglas MacDonald as the new Public Information Officer of the Branch Office in Ottawa as of March 1, 1982. Mr. MacDonald succeeds Mr. Guy Ouellet, now Assistant Representative of the UNHCR in its Branch Office in Hanoi, Vietnam.

What happens to a refugee who is expelled from a country where he has sought asylum, on the grounds that he poses a security threat? Under the *United Nations Convention Relating to the Status of Refugees* a state is to allow such a refugee time in which to seek legal admission into another country. This is possible because one country's security risk may be another country's good citizen. An example was presented at the recent National Symposium on Refugee Determination of a refugee in a Scandinavian country who was a dissident from an African liberation movement the country of asylum was supporting. For another country he posed no problem, and the two governments arranged for him to receive asylum in that country instead.

In Mr. Regalado's case, Mr. Axworthy has indicated that Canada would not send him "back to El Salvador, or even to the U.S., which has a policy of not accepting refugees from that country and of sending them back;" and would instead "give him some time to find an alternative refuge or haven in a third country." Will the third country have to judge whether he is a security threat to it from the attestation? Or, as Toronto lawyer Jeffery House asks, are we prepared to reveal to France or Mexico or wherever Mr. Regalado may seek to go, information that we are not prepared to have presented to our own tribunals and courts, even in closed hearings, or to the person whose life is concerned?

The purpose of the security certificate is to protect information sources. The purpose of refugee status is to protect a refugee. This is the first time that the two have had to be weighed against one another. Even if we take the issue of national security very seriously; even if we take the protection of information sources very seriously; even if we have a tradition of using security certificates with the utmost care and discretion - none of which I intend to evaluate here - what is at stake in the concept of asylum would seem to tip the difficult balance enough that it is wrong to have a law that permits the fate of a refugee to be so arbitrarily decided as by Ministerial fiat.

If a security certificate is issued against a permanent resident it does not stand as irrefutable proof of itself. The *Immigration Act* provides for a Special Advisory Board which can request information from the Minister and the Solicitor General; can consult with government departments to independently assess the extent to which disclosure would be dangerous; must inform the person as fully as possible of the nature of the argument against him; and gives him an oral hearing. Even without addressing the adequacy of this measure, I would be interested to know why this avenue is not open to a refugee. □

Statement by the Honourable Lloyd Axworthy, Minister of Employment and Immigration concerning the case of Victor Manuel Regalado

I would like to clarify some of the issues arising from the case of Victor Manuel Regalado.

As you know, the Solicitor General and I have determined that it would be contrary to Canada's interests to permit Mr. Regalado to remain in Canada. Our decision was based not on what Mr. Regalado has said or written, but rather on the activities in which he was engaged.

Mr. Regalado, while in Canada, participated in activities which were contrary to the laws of Canada and which could result in danger to individual Canadians and to this country's national interest. The information compelling us to reach this conclusion cannot be revealed without damaging our national security. For this reason, the Solicitor General and I signed a Section 39 Certificate which has the effect of protecting the sources of our information.

The organization of public sentiment to pressure undemocratic governments to change their ways is not a prohibited activity in Canada. Mr. Regalado could not be deported for such activity.

Our decision in the Regalado case that this individual should not be allowed to remain in Canada does not diminish or detract from the government's commitment to respond sympathetically to the tragic situation in El Salvador . . .

As a matter of general policy, Canada has not deported Salvadorans to El Salvador since 1980. Mr. Regalado will not be forced to return to El Salvador. If he is ordered deported, I am prepared to allow him sufficient time to locate a third country which will accept him and to which he is prepared to depart on a voluntary basis.

United Nations Convention Relating to the Status of Refugees (1951)

Article 31 EXPULSION

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.
2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.
3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

THE EXPLOITATION OF POTENTIAL IMMIGRANTS BY UNSCRUPULOUS CONSULTANTS

A Task Force Report

By A. Duff Mitchell

In 1981, 1047 claims for refugee status were filed by Indian nationals. Of the 400 that have been considered none have been accepted. "Unscrupulous travel agents", it seems, swindled hundreds of would-be immigrants, sometimes out of everything they owned, for information on how to exploit Canada's refugee policy to move here.

A prayer that a plea for refuge would be heeded has been sold as counsel for a refugee claimant's interview with a senior immigration officer.

For such "services" immigrants and refugees have paid thousands of dollars. The problem of the exploitation of potential immigrants by unscrupulous consultants mostly involves immigrants, but refugees, because they may be in particularly desperate situations, are also very vulnerable. So is our refugee determination system. The findings of an April 1981 report on this problem by the prolific Task Force on Immigration Practices and Procedures are summarized below.

A recent report on the exploitation of potential immigrants by unscrupulous consultants addresses the problem of immigration consultants who sell incompetent, fraudulent or inappropriate advice and other services for unduly large sums of money to gullible immigrants. The report makes a number of observations and recommendations, but it can barely conceal the fact that although the problem is readily identifiable, government responses are greatly constrained.

In the report the term "immigration consultant" is used to describe individuals other than lawyers or immigration officials who "hold themselves out as having expertise in immigration matters which will assist potential immigrants in their applications." "Unscrupulous immigration consultants" are those who make a practice of charging fees for incompetent services or unduly high fees for simple services, or who express misrepresentation and fraud in the extraction of fees. They might offer to facilitate the immigration process, to represent an applicant for refugee status, to bribe Canadian government officials, etc. They are able to operate by manipulating the vulnerability of the immigrant - his ignorance of Canadian laws and customs, his fear of deportation, and sometimes his trust in someone of his own language and culture.

A. Duff Mitchell is engaged in research on public management and policy analysis for completion of an M.P.A. at Carleton University in Ottawa.

The Problem of Control

But the control of unscrupulous immigration consultants may be largely outside the scope of the *Criminal Code* and the *Immigration Act*. Very little, if anything, can be done by the Canadian government about unscrupulous consultants operating abroad, where most abuses occur. Their operations are beyond the surveillance of Canadian government personnel and their victims are largely unknown. They are subject only to the local laws and authorities.

Within Canada, consultants who express misrepresentation and fraud in the extraction of fees, or who provide incompetent services and/or charge unduly high fees for simple services, can in theory be prosecuted under the *Criminal Code*. The fact that sentences can be as severe as ten years' imprisonment can act as a general deterrent. But successful prosecutions are only likely in blatant cases of fraud. It is very hard to prove "incompetent services" and that fees are "unduly high". Moreover, unscrupulous consultants operate largely orally and in private. Their victims are often reluctant to bring charges for fear of deportation. The areas where the consultant's service is visible, such as representation before an adjudicator at an inquiry, are not usually where fraudulent conduct occurs. Thus criminal prosecutions are highly unlikely.

Short-term Efforts

In a discussion paper on the report, Employment and Immigration Minister Lloyd Axworthy identifies some current government efforts to control the activity of unscrupulous consultants.

Immigration officials are distributing a flyer abroad, warning prospective immigrants of the problem. They are examining with the RCMP, local police forces and provincial law and consumer protection societies, what steps might be taken to encourage successful prosecutions in Canada. They are exploring the possibility of developing community resources as alternative sources of advisory services, for example, through providing instruction to local ethnic agencies in immigration law, procedures and practices. And they are trying to collect information about the whole field of immigration consultants, unscrupulous or otherwise.

But these initiatives are not put forward as means by which the problem is going to be significantly reduced, because in the areas where exploitation is most extensive, i.e., abroad and in private, the instruments of government control continue to be weakest.

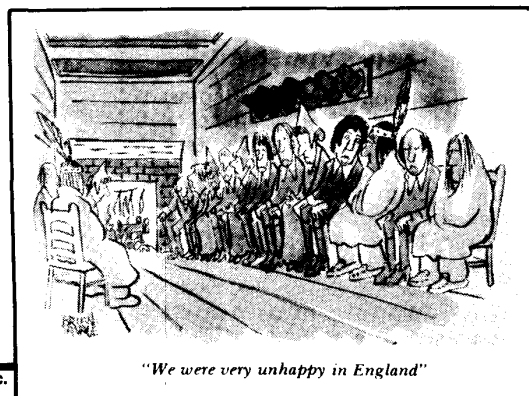
Long-term Possibilities

The report also examines several possible courses of long-term action. However, it becomes apparent that the more the government tries to control activities of unscrupulous immigration consultants, the more other problems arise. It would appear from a thorough reading of the report that the government recognizes that the cost of government action far outweighs any benefits that would be achieved.

For example, of the possible long-term solutions discussed, the one with the greatest potential for effectiveness would be setting up comprehensive licensing of immigration consultants. But to require all immigration consultants to meet standards of proficiency in order to obtain a license or else be subject to the *Immigration Act*. This would raise difficulties with respect to the constitutional power of the federal government, federal-provincial relations and obtaining House of Commons priority for such legislation. It would present the thorny problem of devising standards, especially since there is some question as to the appropriateness of the Canada Employment and Immigration Commission certifying the competence of individuals who could be acting as opponents of the Commission in adversary proceedings of a judicial nature. In addition, licensing would involve substantial cost. Even if these problems could be solved licensing would not address the problem of unduly high fees.

The report invites suggestions for other approaches. Copies of the full report are available from:

Distribution Unit
Public Affairs Division
Employment and Immigration Canada
12th Floor, Phase IV
Place du Portage
Hull, Quebec K1A 0J9



Drawing by Brian Savage; © 1981 The New Yorker Magazine, Inc.

NEWS IN BRIEF

CIDA GRANTS FOR REFUGEES IN PAKISTAN, SUDAN, CHAD

In recent months the Canadian International Development Agency (CIDA) has made the following allocations to assist refugees:

- \$3,000,000 to the United Nations High Commissioner for Refugees (UNHCR) for assistance to the more than 2,000,000 Afghan refugees in Pakistan, and \$5,000,000 worth of wheat to Pakistan to help feed the refugees;
- \$1,600,000 to the UNHCR to provide food, shelter, clothing and support for resettlement activities for refugees from Ethiopia, Uganda, Chad and Zaire in Sudan, and \$3,000,000 to Sudan for the purchase and transportation of Canadian wheat flour to aid refugees in Sudan; and
- \$80,000 to the Canadian Red Cross Society to support a Canadian medical team as part of a Red Cross relief program which is, among other things, providing shelter and water to returning Chadian refugees suffering from leprosy. Many of the hundreds of thousands of Chadians who had fled the recent civil war and the devastation it caused are currently being repatriated under a UNHCR program.

CANADIAN FOUNDATION FOR REFUGEES

At their annual meeting held December 7, 1981, the members of the Canadian Foundation for Refugees resolved that the Foundation would stop operations as of December 31, 1981, and created an ad hoc Trust Committee to study the future of the Foundation and to recommend, if possible, an operational plan for the future. The committee consists of Dr. Joseph Kage, Chairman, Dr. Joseph Du, and Father Mario Paquette. If a solution acceptable to the Board of Directors is not developed by May 1, 1982, the Foundation's funds on hand will be distributed to other refugee-supporting charities and the charter will be surrendered.

The resolution followed the refusal of Employment and Immigration Canada to provide the Foundation with the resources it felt were required to meet its objectives.

ANTI-PIRACY TASK FORCE

The government of Canada has contributed \$150,000 to the United Nations High Commissioner for Refugees (UNHCR)'s efforts to raise U.S.\$3.6 million to fund a Thai government program to combat piracy in the Gulf of Thailand.

In February of 1981 the United States had contributed a coast guard cutter,

two aircraft, a Q-boat to serve as a decoy refugee boat and \$2 million for six months' operating costs to the Thai government for the establishment of a Thai navy task force to suppress pirates preying on refugees and on local fishermen. Several pirates were apprehended and convicted.

But the program was terminated in September, 1982, when the Thai government requested U.S.\$1.4 million to continue the program but the U.S. offered only \$600,000. Following negotiations among international aid agencies in Geneva in October, 1981, the UNHCR agreed to fund a new \$3.6 million program.

Piracy statistics for one refugee camp alone, the one at Songkhla where the task force is based, are shown below:

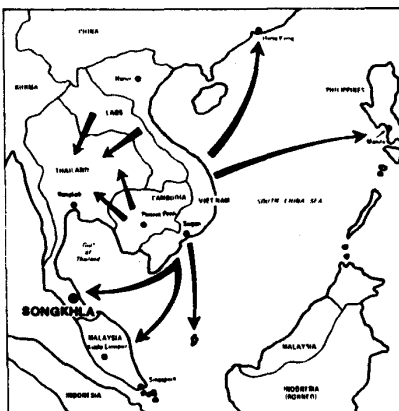
THAILAND PIRACY STATISTICS: SONGKHLA

January - December, 1981

(Based on Reports by Refugees only)

Persons Known to Depart Vietnam	14684
Deaths	568
Abductions	211
Missing	716
Arrivals	13191
Abductees Found	78
Missing Found	436
Total Arrivals	13705
No. of Boats	389
No. of Boats Attacked	310 (78%)
No. of Attacks	1087
Average No. of Attacks per Attacked Boat	3.5
No. of Boats Encountering:	
Murder	29 (7%)
Abduction	72 (19%)
Rape	139 (36%)
Assault	18 (5%)
Robbery	298 (77%)
Percent of Attacked Boats:	
Robbed	96%
With Females Raped	45%
With Persons Assaulted	6%
With Persons Abducted	23%
With Persons Killed	9%
No. of Rape Victims	560
No. of Assault Victims	26
Cause of Death:	
Shot, Knifed	11
Drowned (Thrown)	25
Drowned (Rammed)	317
Suicide	11
Sickness, Starvation	49
Other	155
Total Deaths	588

Source: UNHCR



Refugee routes, by land and sea.

Source: United States Committee for Refugees, 1981 World Refugee Survey.

RESOURCE EXCHANGE

TAX FORM IN VIETNAMESE

A Vietnamese translation of Revenue Canada's T1 short form (1981 General Income Tax Return) has been prepared by the Immigrant Services program of the Inter-Cultural Association of Greater Victoria. If your local Vietnamese or immigrant aid association has not received a copy and would find one helpful you might request one from:

Refugee Aid Centre
Inter-Cultural Association of
Greater Victoria
#417 - 620 View St.
Victoria, B.C. V8W 1J6
(604) 388-5580

INDOCHINESE REFUGEES:

The Canadian Response, 1979 & 1980

Employment and Immigration Canada has published a summary of the Indochinese refugee resettlement movement in Canada, focussing on the federal government's involvement. The report is most valuable for its statistical summary of the movement from January 1, 1979 to December 31, 1980, with breakdowns by age, sex, area of settlement, educational level, occupation, government expenditures, etc. Available from:

Distribution Unit
Public Affairs Division
Employment & Immigration
Canada
12th Floor, Phase IV
Place du Portage
Hull, Quebec L1A 0J9

AFGHANISTAN: A PORTRAIT

A Guide for Resettling Afghan Refugees

Of the 2,387,000 Afghan refugees in Pakistan alone, a few educated, urban or politically high-profile refugees with ties to the West have settled in the United States. A few have come to Canada as well: six have settled in British Columbia, five in Alberta, five in Saskatchewan, and nine in Ontario. For a guide to the history and culture of Afghanistan, designed to assist sponsors or other individuals involved with the resettlement of Afghan refugees, contact:

Refugee Information Office
Church World Service
Room 5281, 475 Riverside Drive
New York, N.Y. 10115
U.S.A.

A donation of \$2.50 is requested.

STATISTICAL SURVEY

APPLICATIONS FOR REFUGEE STATUS IN CANADA

Refugee Status Advisory Committee: Refugee Determinations

	Claims Received	Claims Completed	Claimants Determined to be Refugees	Backlog
1978*	685	639	235	79
1979	1165	1082	362	213
1980	1505	1003	263	619
1981	2592	2080	407	1434

Immigration Appeal Board: Refugee Redeterminations

Applications for Redetermination				Redeterminations		
Applications Received	Applications Considered	Applications Allowed to Proceed to Hearing	Backlog	Applications Heard	Applicants Determined to be Refugees	Backlog
99	94	37	5	37	20**	0
458	423	157	40	36	18	81
383	379	114	44	96	38	96

Refugee Status Advisory Committee:

Refugee Determinations, Breakdown by Country

	1980 Claims Completed	1980 Claimants Determined to be Refugees		1981 Claims Received	1981 Claimants Determined to be Refugees
Chile	357	143	India	1047	409
Poland	72	7	Poland	172	274
Czechoslovakia	41	7	El Salvador	129	174
Iran	41	8	Guyana	98	141
Cuba	35	15	Chile	95	126
Haiti	32	5	Iran	95	71
Guyana	31	0	Turkey	69	71
Argentina	28	17	Peru	66	60
India	25	0	Ethiopia	57	58
Yugoslavia	25	0	Lebanon	56	55
Iraq	20	2	Guatemala	56	54
Turkey	19	0	Czechoslovakia	56	51
El Salvador	19	4	Jamaica	55	49
					46

* Statistics for 1978 include April - December only; i.e., the period following the proclamation of the *Immigration Act, 1976*.
 ** Five cases heard in 1978 had not been decided at the time of the compilation of the report on that year, so if they were positive they are not included in this statistic.

Source: Refugee Status Advisory Committee and Immigration Appeal Board.

CONFERENCE

NATIONAL CONFERENCE ON THE RESETTLEMENT AND ADAPTATION OF VIETNAMESE REFUGEES IN CANADA

The Canadian Federation of
Vietnamese Associations

April 9 - 11, 1982

Y.M.C.A.

180 Argyle Street, Ottawa

(613) 232-9644

Editor:
Kristin Hanson

Editorial Board:
Stuart Beaveridge, Victoria
Douglas Cohen, Montreal
Claudio Duran, Toronto
Arie van Esik, Burlington
Donald Ferguson, Toronto
James Hathaway, Moncton
Michael Pittman, Toronto
Linda Weigl, Regina

Typesetting and Layout:
Five Seven Nine Design

Refuge is dedicated to encouraging assistance to refugees, by providing a forum for sharing information and opinion on Canadian and international issues pertaining to refugees. It is published five times a year, in September, November, January, March and May. It is a non-profit, independent newsletter supported by grants from the Canadian Foundation for Refugees, Wintario, Operation Lifeline, and the Canada Employment and Immigration Commission; by private donations; and by voluntary subscription payments of \$10 a year. It is a forum for discussion and the views expressed in it do not necessarily reflect those of its funders, staff or Editorial Board.

Submissions of articles under 2,000 words, letters, news items, facts, quotes, suggestions, announcements, drawings, photographs, documents and summaries of documents are invited. All material in *Refuge* may be reproduced without permission unless copyrighted or otherwise indicated. Credit should be given to the author or source if named.

Special thanks to Howard Adelman for his assistance in the preparation of this issue.

Thanks also to the artists of Dreadnaught Cooperative Inc., Toronto, for their donation of our logo design.

ISSN0229-5113

CANADA'S NATIONAL NEWSLETTER ON REFUGEES

REFUGE

8 York St., 2/F., Toronto, Ontario M5J 1R2.

Postage paid at Scarborough, Ontario
under Second Class Mail Registration No. 5512



CANADA'S NATIONAL NEWSLETTER ON REFUGEES

REFUGEE

In November of 1981 Employment and Immigration Minister Lloyd Axworthy released a report by the Task Force on Immigration Practices and Procedures dealing with Canada's refugee status determination process. A summary of the report appeared in the last issue of *Refuge*. In February of 1982 the Minister convened a National Symposium on Refugee Determination in Toronto, to discuss some of the recommendations in the report.

The report and the Symposium drew together a great deal of critical thinking about our legal and humanitarian obligations to persons in Canada requesting protection as refugees. Many countries - in Central America, Southeast Asia, southern Africa - have recently proved unable or unwilling to adequately protect refugees from physical danger. As close to home as in the United States - a country traditionally hospitable to refugees - many Latin American refugees are in danger of being sent back to the countries from which they fled. The Task Force and the Symposium themselves have their origin in shortcomings, or at least perceived shortcomings, in our own fulfillment of our obligations. Yet at the same time, the principle of the responsibility of the international community to protect refugees is being taken more and more seriously. This issue of *Refuge* is devoted to the subject of refugee protection in Canada, and attempts to share some ideas on the subjects discussed at the Symposium.

Franz Krenz of the Office of the United Nations High Commissioner for Refugees noted in his address to the Symposium that the definition of a refugee requires a great deal of interpretation, since it contains such subjective elements as "persecution", "fear", and "well-founded". At the Symposium the Minister issued guidelines for its interpretation. These are printed in this issue for easy reference, together with a commentary by Howard Adelman.

Fulfilling our obligations to refugees in Canada also requires that we have procedures to determine whether a person falls within the definition. Much of the report and the Symposium dealt with these procedures, and especially with the question of whether a refugee claimant

FEATURED IN THIS ISSUE . . .

IMRE ROSENBERG	3
An interview with a man who has moved refugees, been a refugee and now advises the Minister on who is a refugee <i>By Robert Marshall</i>	
SOMETHING SHORT OF JUSTICE	2
A comment on the refugee determination process <i>By James Hathaway</i>	
FROM FAIRNESS IN SPIRIT TO FAIRNESS IN LETTER	5
A comment on the new guidelines for the Refugee Status Advisory Committee <i>By Howard Adelman</i>	
THE REFUGEES WE DON'T WANT TO KEEP ...	8
Some background to the case of Victor Regalado <i>By Kristin Hanson</i>	

has a right to an oral hearing to defend his claim, and if so, at which stage in the process. James Hathaway provides one perspective on this question. Other insights are provided by one of the members of the Refugee Status Advisory Committee, Imre Rosenberg, who was once a refugee himself.

Normally a person in Canada who is determined to be a refugee is then admitted to Canada as a landed immigrant. But there are exceptions. The most controversial relate to national security. These are discussed in light of a recent cause-célèbre, the deportation order against Victor Regalado.

This issue also inaugurates a change in *Refuge* to make it possible to discuss refugee policy issues in greater depth. *Refuge* will be published in a longer format but less frequently - in September, November, January, March and May. We look forward to your comments and contributions.

Kristin Hanson