A BRIEF HISTORY OF THE SANCTUARY COALITION 1993-2019

HISTORICAL BACKGROUND

Prior to World War II, Canada's immigration policies were very selective. Most immigrants came from the UK or northern and eastern Europe. A notorious example of this policy occurred in 1939, when a boatload of desperate Jewish refugees arrived in Canada. They were immediately rejected and returned to Germany with tragic results. Later, when a senior Immigration official was asked how many Jewish immigrants Canada should take after the war. He famously replied "None is too many."

But things did change after WWII. Thousands of persons from Europe, displaced after the war, came to Canada. In 1956, some 60,000 Hungarian refugees were welcomed following the Hungarian uprising. Czech refugees arrived after Russian tanks rolled into Prague in 1968. Refugees from Uganda arrived soon after, fleeing the Idi Amin regime. And close to 70,000 South Asian "boat people" were welcomed in the 1970's. Canada was opening its doors to refugees in an impressive fashion, respecting the Geneva Convention's requirement to protect persons "with a well founded fear of persecution for reasons of race, religion, nationality or membership in a particular social group or of a particular political opinion." By the 1980's refugees were coming to Canada from all parts of the world and in 1985 a landmark Supreme Court decision, the Singh decision said, in effect, that anyone on Canadian soil (a refugee as well as a Canadian citizen) was entitled to protection under the Charter of Rights and Freedoms. What this meant was that refugee determination, which up to this point was in the hands of Immigration officials, now required "due process" and a right to an oral hearing before the decision maker rather a paper review of a transcript. Response to refugees in Canada was by no means universally positive but the prevailing public mood and policy was one of welcoming.

BEGINNINGS OF THE SANCTUARY COALITION

The Singh decision led to the establishment, in 1989, of the Immigration and Refugee Board, a quasi judicial body separate from the Immigration Department, with Gordon Fairweather as its first Chair. At an IRB hearing, a two member panel would hear the claim of the refugee(s) (who would be accompanied by counsel) and if one member of the panel made an affirmative judgment, refugee status would be granted and the refugee could eventually become a Canadian citizen.

Overall, the newly established Board functioned well. If there were problems, the Minister, Barbara McDougal, was prepared to listen to front line workers like Nancy Pocock from the Society of Friends, representatives of a refugee support group called Vigil, workers at Amnesty International etc, and take appropriate action. But her successor, Bernard Valcourt, refused to intervene and indicated that he would rely on the decisions of the established authorities like the IRB.

But what happened when IRB tribunals made mistakes – because of poor translation, inadequate legal representation, misreading of country conditions, or faulty judgment on the part of the panel? There

were refugee claimants facing deportation to dangerous situations when they fell through these "cracks" in the system. So early in the 1990's, Nancy Pocock (of the Society of Friends) and others convened a meeting of concerned persons: refugee lawyers, representatives of Amnesty, Vigil, Mary Jo Leddy and others. This was the beginning of what became known as the Sanctuary Coalition.

Through 1991 and into 1992, the numbers of refugees who were mistakenly rejected gradually increased. On June 3, 1992, Gordon Fairweather, Chair of the IRB, wrote Michael Creal and offered to convene a working lunch to review the concerns of the emerging sanctuary group. That meeting occurred on June 16, attended by Fairweather, Nancy Pocock, Mary Lo Leddy and Michael Creal. The latter three pointed out the need for an appeal process to deal with cases where mistakes appeared to have been made. Fairweather listened sympathetically but argued that everyone would appeal and whole process would become very costly. It was a cordial meeting but no resolution of the problem emerged.

Around the same time, and in response to a request from Michael Creal on behalf of the Coalition, Howard Adelman, head of York University's Centre for Refugee Studies, arranged a meeting between NGO's and Peter Harder, Deputy Minister of Employment and Immigration. At the meeting, Harder and others from the Department outlined provisions of a new Bill that dealt with the selection of refugees abroad, and speeding up the process of refugee determination in Canada. There was no provision for an appeal system, however, except through the Federal Court on matters of law but not on matters of merit. And this Appeal was not automatic, only after "leave to appeal" was granted.

But the numbers of refugees slipping through the system was growing. There were a significant number of Eritrean cases that Mary Jo Leddy sought to bring to the attention of Pauline Browse, the Minister of State for Immigration. While Canada recognized Eritrea as an independent state in April of 1993, led by the Eritrean Peoples' Liberation Front (EPLF), those who belonged to an opposition group, the Eritrean Liberation Front (the ELF), mostly Moslem, face persecution and real danger. It was refugees who had been associated with the ELF that Mary Jo and Romero House had been dealing with and attempting to support. This was a matter of misreading country conditions on the part of Canadian authorities, including the IRB. Both Amnesty International and the world wide Jesuit Refugee Service had solid evidence about problems facing ELF supporters in Eritrea. The question of interpreting country conditions would be a continuing issue, because documentation was generally six months or more behind the reality on the ground.

Immigration authorities were adamant in their unwillingness to accept the refugees that Mary Jo Leddy was supporting. The Coalition, which by now had gathered considerable support, held a press conference at the Church of the Holy Trinity in downtown Toronto in June of 1993. They undertook a "Civil Initiative to Protect Refugees" making it clear that they would not abandon the twenty three cases they had identified as deserving refugee status even though those cases had been rejected by the IRB. (See Appendix 1)

THE TWENTY THREE CASES

Early in 1993, June Callwood wrote the Prime Minister indicating that there had been no movement on the cases supported by highly respected refugee advocates and that it would reflect badly on his commitment to human rights if no action were taken. Prime Minister Mulroney ordered a review but the review only yielded a positive response on one case (a gender case). On July 24, Michael Peers, Primate of the Anglican Church, was quoted in the Toronto *Star* as saying that perhaps now was the time to invoke the ancient tradition of Sanctuary. Doug Lewis, Minister of Public Security (in charge of immigration), was disturbed by this report and said he would meet with representatives of the Coalition and discuss the cases. This meeting was held at Anglican Church House in the summer of 1993. From the Coalition, Mary Jo Leddy, Tom Kelsey (Romero House lawyer), June Callwood, Dan Heap, Alex Neve and Michael Creal participated. The Minister arrived with members of his staff.

In the course of the meeting, when Minister Lewis realized that the Coalition only supported refugees whose cases were well documented and apparently valid, he adjourned to caucus with his staff. When he returned, he said he would arrange for the Director of Case Management to review each of the twenty three cases with representatives of the Coalition. This meeting occurred at the Anglican Diocesan Office in Toronto early in September of 1993. Brian Davis, Director of Case Management and members of his staff met with members of the Coalition, including Mary Jo Leddy, Alex Neve and Faye Sims from Amnesty International, Gwen Smith (from Vigil), Don Heap and Michael Creal. The Minister's Assistant, Blair Dickerson was also present.

THE TWENTY THREE CASES AND OTHER SUBMISSIONS

At the September meetings it soon became clear that much of the documentation that had been sent to the Department by members of the Coalition was missing in the Government files. Blair Dickerson noted this and was surprised. But Davis promised to go over all the material and get back quickly with his response.

The response? Davis reported that after review, all cases were still rejected. Dickerson (and all members of the Coalition) were appalled. Dickerson reported back to the Minister and recommended that he grant certificates to fourteen of the cases (the others needing further corroborating evidence).See Appendix 2)

On October 27, Mary Jo Leddy received a communication from Brian Davis indicating that the Minister had, indeed, issued certificates for fourteen of the cases and that the Department would proceed with the next steps. But there was now a new government and action on the fourteen cases appeared to have stalled.

Because of concerns expressed by many refugee workers about IRB decision making, Chairperson Nurjehan Mawani asked James Hathaway, Professor of Refugee Law at Osgoode, to conduct an independent investigation of the workings of the Board. In its presentation to the Hathaway enquiry the Coalition offered evidence to the effect that conditions in the most oppressive regimes were often not apparent when refugees arrived. Often, the documentation centres would not have that information at

hand. Even journalists were sometimes unable to have access to what was happening in dangerous situations of social/political conflict so refugees were, on such occasions, the first to report on actual conditions. But if the refugees' reports didn't tally with what was in the documentation centres, the refugee claim would be (wrongly) rejected. The brief also raised questions about the training of IRB members and role of the Refugee Hearing Officer which, the Coalition argued, should be non adversarial, though that was often not the case. It was a good session and Leanne McMillan, Hathaway's assistant, subsequently met with the Coalition on a number of occasions. (See Appendix 3)

Furthermore, in the fall of 1993, in a presentation at a CCR consultation, Mary Jo called for a Public Enquiry into the whole operation of the Immigration Department, a call that was subsequently supported by the CCR. This question was raised late in 1993 by members of the Coalition when they met with the (then) new Minister, Sergio Marchi. Mary Jo pointed to either chaos or corruption in the Department, citing the missing documentation at the September meetings with Brian Davis. Marchi responded in a letter to Mary Jo some months later denying that there was corruption and chaos in the Department (Mary Jo had said either corruption or chaos to explain the missing files, not chaos and corruption). Marchi rejected the idea of a public enquiry. He did respond to some of the other items raised in the earlier meeting.

For instance, the Minister asked Susan Davis and Lorne Waldman to investigate the matter of Post Claim Reviews. A submission to Davis/Waldman from the Coalition (Feb 9, 1994) noted that in the previous year there had been a zero percent acceptance of post claim reviews and therefore recommended that there be a suspension of all deportations of people from countries where political conditions put their lives at risk, and for all those who had suffered traumas such as rape, torture, imprisonment etc. (see Appendix 4).

In response to the various submissions it received after making public its response to the Hathaway Report (entitled "Rebuilding Trust"), the IRB stated principles that were unexceptionable but short on specific answers e.g. ensuring that its documentation centres had up to date information on country conditions that refugees were fleeing, the role of the Refugee Hearing officer to enquire or investigate rather than act as an inquisitor, the need to appoint IRB members with recognized expertise. These issues would continue to arise in the refugee determination process for years to come.

The very extensive Davis Waldman report, issued in the Spring of '94 (entitled *The Quality of Mercy*) proposed expanding the basis of H&C reviews and argued for an appeal "on merit" (in addition to the appeals to the Federal Court on matters of law). The Davis Waldman report and the Hathaway report are complementary and provided an excellent basis for a revision of refugee legislation and regulations. It would be an understatement to say that legislation that was later introduced failed to build adequately on what those reports proposed though what was recommended in them did have some effect. This will be noted further down in this paper.

Back to the fourteen cases. Action had clearly stalled on these cases. There were a number of communications in the early fall of 1994 expressing growing impatience with the failure of Department officials to act on decisions and promises made over the past year. On Nov 2, members of the Coalition

signed a letter to Peter Harder, Deputy Minister of Immigration, saying "Let us be very clear. Unless the situations which we described in our October 19 letter (requesting action on the fourteen cases) are corrected, we will seek our remedies in the Courts."

The response to the Coalition letter was the appointment of Mike Malloy, Director General of the Ontario Region, to review the outstanding cases. This occurred at a meeting held at York's Centre for Refugee Studies. On May 23, 1996, Malloy issued his report indicating that subject to meeting certain conditions (medical and security clearance etc), all cases could eventually be landed. (See Appendix 5 which identifies the original 24 cases and provides a report on their disposition as of Feb 20, 2001)

THE CALL TO CONSCIENCE AND SUBSEQUENT DEVELOPMENTS

The Coalition took a major initiative in the spring of 1995. After much consultation and through the indefatigable work of Coalition member Wilbur Sutherland, representatives of 30 different faith groups – including Christian, Jewish, Moslem, Buddhist, Sikh, Hindu, Baha'i – came together on June 27, 1995 at the Church of the Holy Trinity in downtown Toronto, and signed a "Call to Conscience" addressed to the Canadian people and the Canadian Government. (See Appendix 6 for the full text and list of signatories). The statement expressed a central concern that "None is Too Many" could become "the operative principle within Immigration Canada." The statement also attacked the "head tax", and the 975 dollar landing fee that refugees must pay, even though that fee was far beyond the resources of people who had been forced to flee their homeland, leaving everything behind.

It was a remarkable achievement – probably unprecedented – to get thirty leaders of different faith communities to agree on the wording of a two page document.

Irving Abella, Past President of the Canadian Jewish Congress and Alexandra Johnson, President of the Canadian Council of Churches forwarded the statement to the Prime Minister asking for his endorsement. The endorsement never came but the statement got extensive coverage in the media and stands as an important document expressing, in powerful language, the support of Canadian faith communities for refugees seeking a new home in Canada.

Through the course of 1996, the Coalition explored the possibility of launching a Charter challenge based on what it saw as a failure of the Department of Immigration to live up to what was called for in the Singh decision, notably a recognition of the principles of natural justice. What Hathaway had said in his report was that "a tribunal which adjudicates upon one's rights must act fairly, in good faith and without bias and in a judicial temper must give...the opportunity to adequately state one's case." The Coalition had two cases at hand which seemed to be good examples of Hathaway's point. One of the cases, supported by Amnesty, was that of Omar Osmond a notable Eritrean journalist who had published an article in the Globe and Mail about conditions in Eritrea (conditions which the IRB tribunal had denied in its rejection of Osmand). Mike Malloy reviewed this case, noting medical issues that had to be addressed and sought more documentation from the Eritrean Embassy. Sadly, Omar Osmand died before his case was adequately dealt with. The other case was that of Sami Durgan, a Kurd from Turkey, whose landing had been held up for security reasons. See below.

Through 1997, the Coalition continued to address a range of refugee cases and convened numerous consultations with various refugee advocacy groups including the Kingston Sanctuary group which was particularly concerned with the plight of a number of Iranian refugees. At a minimum, these consultations provided mutual support for those frustrated in their attempts to get fair treatment for refugee claimants.

In 1998, there were three major focal points for the Coalition. First, the "head tax" referred to above. Secondly, in 1997, the Minister of Immigration (Lucienne Robillard) had established a Legislative Review Advisory Group which published a Report entitled *Not Just Numbers.* Supposedly this report responded to points raised by Hathaway and Davis/Waldman. The Report proposed, among other things, the abolition of the IRB and the handing over of its responsibilities to "to trained civil servants." The consultation process set up by the Minister was seriously deficient and while there were some constructive proposals, there was much for refugee advocates – like the Coalition - to be critical of e.g. the inadequate consultative process, handing back refugee determination to civil servants, a "paper" appeal system and pejorative references to "economic migrants." (see Appendix 7) In the end, the IRB was retained but this would not be the last attempt to abolish it.

THE SAMI DURGAN AND SULEYMAN GOVEN CASES

A third point of focus for the Coalition extending through 1998, 1999 and 2000 were security cases involving Sami Durgan and Suleyman Goven. Both were Kurds from Turkey and were alleged, by CSIS, to be members of the PKK, a Kurdish political body deemed by Canadian authorities to be a terrorist organization. Durgan and Goven denied that they had ever been members of the PKK but they were quite open about their support for Kurdish rights in Turkey.

In her book, *At the Border Called Hope,* Mary Jo Leddy gives an account of Goven's interview with a CSIS official at which she was present. At the hearing, the official indicated to Goven that if he were prepared to name Kurdish refugees who were members of the PKK, the CSIS official was in a position to recommend that he be landed. Goven refused this offer and it soon became clear that this was a tactic commonly used by CSIS. In fact, on April 19, 1998, a letter was sent to Ward Alcock, Director of CSIS, signed by 14 Kurds, complaining that they had been invited to inform on fellow Kurds with a promise that this would make it easier for them to be landed. (see Appendix 8) The Security Intelligence Review Committee (SIRC) had earlier - in connection with a *Toronto* Star report about a Tamil refugee similarly propositioned about informing on fellow Tamils - questioned the propriety of the spy agency trying to recruit informants. CSIS denied that this was its practice but the evidence was now pretty clear. Mary Jo had witnessed it first hand.

With the support of the Coalition (and much support from Mary Jo) – and others – Sami Durgan, in March of 1998, embarked on a vigil to draw attention to his case. When Sami Durgan's case was earlier reviewed at the Adelaide St. meeting in Sept 1993, Immigration officials said he had 12 brothers living in Turkey so he was not at risk. In fact, he only had two brothers, one in Bulgaria and the other in Germany. A remarkable case of misinformation on the part of the Immigration Department.

In response to a letter which Mary Jo wrote in March of 1998 complaining to CSIS about the delay in granting security clearance to Suleman Goven , T.J. Bradley, Assistant Director of CSIS indicated that if she was dissatisfied with the response from CSIS, she could appeal to SIRC (the Security Intelligence Review Committee). And this she proceeded to do with Sharry Aiken and Barbara Jackman acting on behalf of Sami and Suleyman and with Mary Jo in attendance at all sessions of the SIRC hearings. The tribunal appointed by SIRC was Bob Rae who listened to all the testimony and, at one point, when CSIS introduced a document that provided an erroneous, but self serving, account of times and dates, Rae was outraged and said that the CSIS document was clearly a forgery.

In his report (April 3, 2000) Rae cleared Goven and Durgan of all charges of belonging to a terrorist organization and recommended that both be landed. (See Appendix 9) His report, however, went to the Solicitor General (to whom SIRC reports) and the Solicitor General's office did not send it to the Immigration Department which had power to grant landed status. Such a failure of inter departmental communication certainly didn't serve the cause of justice so the cases dragged on.

Early in 1999, Minister Robillard released a legislative review document, *Building on a Strong Foundation for the 21st Century,* outlining in broad terms the direction in which new immigration and refugee legislation was intended to move. In response, the Coalition offered *Comments on the White Paper* in which it made three main points: 1.New legislation must include a full, impartial appeal process for refugees whose claims have been rejected by the IRB 2.New legislation must include a variety of measures to introduce transparency and accountability into the security screening process, including a time limit and 3. Landing fees for refugees must be eliminated (see Appendix 10). The Coalition's response was circulated widely to members of parliament and many responded positively albeit without making actual commitments on any of the specific points raised.

Four members of the Coalition (Mary Jo Leddy, Ann Manuel, Don Heap and Michael Creal) met with the new Minister, Elinor Caplan on Nov of 1999 and raised points that had been made in response to the White Paper. It was a frank exchange and the Minister appeared to take the Coalition's concerns seriously. Not long after, she did announce that the landing fee had been eliminated and on March 1, the Coalition wrote to congratulate her. At the November meeting, Caplan also recommended that the Coalition set up a session with Gerry Van Kessel (Director General, Refugees Branch) as a follow up, and this occurred on March 23 at the Church of the Holy Trinity in Toronto. New legislation was pending but the meeting provided an informal setting for discussing the question of an appeal, criteria for H&C applications, security check processes etc.

The Coalition had already sent Craig Goodes (Director of CIC Security and Case Management) a copy of Bob Rae's SIRC report which had never been passed on to the Immigration Department by the Solicitor General's Office). Goodes promised to discuss it with the Minister. The delay, however, continued. Eventually, in March of 2001Goodes let it be known that if Sami Durgan were to write the Minister asking for ministerial relief and saying clearly that he had never been a member of the PKK, it would then "not be in the National interest" to withhold his landing. Such being the case, the Minister would then be a position to grant him status. This in fact happened and at the Fall Consultation of the CCR (2001), Sami Durgan was named "refugee of the year."

The offer was not, however, extended to Goven. His case stretched over several more years with numerous, unsuccessful, attempts to get action from the Federal Court (in 2002), ministerial intervention, and response from departmental officials with respect to recommendations in the Rae report. Eventually, with the possibility of a Civil case hovering in the background, there was a hearing before the Federal Court on May 10, 2006 at which it was clear that the case presented by the government's legal team was marked by confusion and omissions and the judge instructed the government lawyers to go back to the drawing board and do a full review of their evidence. In the end, the Government capitulated and on Sept 7, 2006, Suleyman Goven received his Permanent Residence Card. Suleyman wrote to the Manager of CIC in Etobicoke "this card represents a great deal of suffering and agony for me." He cited words from one of his friends: "It is a terrible thing to fight for so many years for such a simple thing." The whole story is told in Mary Jo Leddy's Book *Your Friendly Neighborhood Terrorist.*

POST 9/11 SECURITY ISSUES AND SUBSEQUENT DEVELOPMENTS

Following the 9/11 attack, security concerns became a priority in the U.S. and there was a call for tighter security at the Canadian border. The U.S. Congress authorized a tripling of the number of officers on the Canadian border (some Americans claimed – erroneously – that the 9/11 terrorists had entered the U.S. through Canada). At the same time, immigration authorities in Canada were determined to reduce the intake of refugees. The result was the Safe Third Country Agreement (signed December 2002 and effective on December 29 2002) in which Canada agreed to cooperate with the U.S. in tightening border controls, and refugees seeking entrance to Canada were forced to make their refugee claims in the U.S. (and vice versa). Since very few refugees sought to enter the U.S. through Canada and large numbers sought to enter Canada through the U.S., the agreement provided a way for Immigration Canada to achieve its goal of substantially reducing the intake of refugees. The Coalition, along with other refugee advocates in Canada (including, of course, the CCR) fiercely but unsuccessfully opposed this agreement (which was never debated in Parliament). In the fall of 2002 the Coalition declared a Civil Initiative to help refugees cross the border safely. It also made a presentation on Nov 20, 2002 to the House of Commons Committee on Citizenship and Immigration, referring to the Safe Third Country Agreement as "the None Is Too Many Agreement". There was a successful challenge in 2007 but it was overturned in the federal Court of Appeal. In 2018, the Federal Court did grant leave to appeal against the Agreement and the outcome of that appeal is still awaited.

During the Spring of 2001 there were hearings on a new immigration bill (Bill C-11). In the middle of the hearings, the 9/11 event occurred which heightened the focus on questions of security. The Coalition – and other advocacy groups - were concerned about the absence of clarity in the use of the term "terrorism". One person's liberation movement would be another person's terrorist movement. Consider the case of Nelson Mandela. The Coalition also wanted to see SIRC's position strengthened and it argued for more than a paper appeal process which C-11 was proposing. The Coalition made its views know in a presentation to the Standing Committee on Citizenship and Immigration and in Mary Jo Leddy's presentation to the Senate's Standing Committee on Social Affairs, Science and Technology. A further issue raised by the regulations accompanying C-11 was the question of undocumented refugees i.e. refugees who arrived without documentation either because it wasn't available to them as persons

fleeing persecution or because the country from which they came didn't provide identity documents like birth certificates. Even though at IRB hearings the issue of identity was dealt with, the regulations required specific documents before landed status was granted. This, said Andrew Brouwer (articulating the views of the Coalition) was both unnecessary and Illegal (under the U.N Refugee Convention).

In the end, Bill C-11 was passed without provision for an Appeal and with IRB tribunals reduced from two members to one!

Early in 2003, it was reported that Immigration Minister Denis Coderre had proposed to Cabinet that the IRB be abolished and a new system devised to deal with the backlog of refugees. Reaction of refugee advocates was immediate. Such a move, they argued, would violate principles underlying the Singh decision. Coderre subsequently denied that he had made such a recommendation but, once again, the idea of abolishing the IRB seemed to be in the air.

The Coalition's experience over the previous ten or more years led it into a discussion of what kind of country we wanted Canada to be. This led to a paper (May 2003) by Jack Costello entitled *Canada's Future: a Good Country or Colony of an Imperial Power.* (See Appendix 11) The paper articulated the value base for the work of the Coalition.

In 2004 the Coalition responded to enquiries about sanctuary from concerned persons in Regina, London Ontario, Montreal and Quebec City. On March 5, an Algerian refugee, Mohamed Cherfi, was arrested while in Sanctuary in a United Church in Quebec City. Local police entered the church on the grounds that Cherfi had violated a crtiminal court ruling that he not leave Motreal where he had been active in the support of Algerian refugees in that city. City police in Quebec handed him over to Immigration authorities who deported him to the U.S. The Coalition, along with many others, expressed outrage at this violation of sanctuary. Cherfi was eventually returned to Canada and ultimately achieved landed status but it was a troubling incident.

There were repeated attempts on the part of the Coalition to meet with the Minister, Judy Sgro, to discuss issues relating to sanctuary but these were unsuccessful.

As of July, 2004, six churches in Canada were offering sanctuary: Four Palestinians in Notre Dame de Grace in Montreal, an Ethiopian mother and three children in Union United Church in Montreal, a Columbian family in St Andrew-Norwood in Montreal, a Nigerian woman and her daughters in St. Cecelia's Roman Catholic church in Calgary and a Serbian woman in a church shelter in an Anglican church in Halifax.

Unhappy with these random events of sanctuary, Sgro decided on a meeting with church leaders to discuss the situation. The meeting was held on Dec 13, 2004. What she proposed was that the churches come up with a limited number of cases (no more than 12) in a given year and she would review them. But from the churches' viewpoint, what was needed was a proper appeal process and her proposal was no substitute. Sgro, however, said the idea of an appeal process was dead in the water. Sgro's aides suggested that her proposal was an interim measure with a review of the refugee determination system

in the offing. In the end, Sgro did provide relief for five refugees in sanctuary in Montreal and Ottawa, a move warmly welcomed in the Advent season by the churches involved.

Over the next few years the Coalition was involved in further cases in the Montreal, Ottawa and Toronto areas. Abdelkadar Belaouni, a blind Algerian refugee was in sanctuary in a Roman Catholic church in Point St Charles (lawyer Jared Will) and did a regular radio broadcast (Radio Sanctuary). Members of the Coalition participated in demonstrations on his behalf in Toronto and in the Minister's constituency office in Simcoe.

Overall, Kader spent four years in Sanctuary and was ultimately given status following a procedure Jared Will and Andrew Brouwer arranged with CIC Case Management. Kader left the country temporarily and through an overseas visa office (in Paris) received the appropriate documentation to re-enter Canada with status.

There was continuing consultation with a sanctuary group in Ottawa through this period and active participation in two Ethiopian cases in Toronto. Both of these involved young women who spent time in Sanctuary, in one case in Westhill United Church in Toronto, and the other, in Newtonbrook United church. In the latter case, the Federal Court judge involved in a review of the documents (Justice Campbell) said the case demonstrated the important role of the sanctuary movement in supporting a refugee who was initially rejected by the IRB and ultimately faced deportation.

There was a further case in this period involving a Nigerian woman who found sanctuary in an Anglican parish in Mississauga. After a complaint from a neighbor, she was picked up while gardening in front of the church by a local policeman unaware that her situation in sanctuary had been respected by the authoritles at CIC. Ultimately her case was resolved with CIC.

THE NATIONAL CONSULTATION ON SANCTUARY 2007

With a grant from the Canadian Auto Workers, the Coalition arranged a consultation on sanctuary on Nov 20-21 2007, that brought together people – from coast to coast - who had been involved (or were currently involved) in offering sanctuary. The point of the consultation was to learn from the experience of such people, provide an opportunity for mutual support, and offer a chance to reflect on the rationale and theological basis of sanctuary. About forty people participated and after sharing their experience in small discussion groups through the morning session, a panel responded to their reports. The panel was composed of an anthropologist from the University of Toronto, Hilary Cunningham, who had written a book on the sanctuary movement in the American southwest entitled *God and Cesar at the Rio Grande,* Heather Macdonald, responsible for refugee issues and policy for the United Church of Canada, John Juhl, a Franciscan priest whose Toronto parish had offered sanctuary to a refugee family from Costa Rica, and Peter Showler from the University of Ottawa and a former Chair if the IRB. In the evening, Gregory Baum, himself a refugee after World War II and a retired faculty member at McGill, offered ethical and theological reflections. The following morning session focused on the future. An account of the Consultation is found in Appendix 12 which includes an article published in the Fall 2010 issue of *Refuge,* a journal published by the Centre of Refugee Studies at York University in Toronto. A key point that emerged during the Consultation was that Sanctuary should be seen as a "Civil Initiative"

demanding that the Government live up to its commitment to provide a safe haven for refugees seeking an escape from situations where their lives were at risk. It was a valuable moment of stock taking and an opportunity to review the problems and achievement of the sanctuary movement in Canada. In the final analysis, it was agreed that an ethical imperative underlies the sanctuary movement. Meeting a refugee face to face is a call to action. John Juhl (a Franciscan priest) put it this way : "when a refugee family facing deportation came to my door asking for help what could I do? If the church does not stand up for people seeking refuge, what are we about? It's a moral responsibility. We are called to be prophetic. We are called to be a voice for the voiceless. Congregations offering sanctuary act in this tradition. They seek to combine the prophetic with the pragmatic."

In 2009 and 2010, two ships (to use a term that flattered the decrepit condition of the vessels), the Ocean Lady and the Sun Sea, arrived off the coast of British Columbia carrying – between them - over 500 Tamil refugees. The event was sensationalized by government authorities and standing on the deck of one of the ships, the Prime Minister and Minister Kenney celebrated their roles as persons protecting Canada from dangerous international smugglers - with no acknowledgement that these were refugees from life threatening situations in Sri Lanka. Among the "passengers" was a prominent Sri Lankan journalist, Maran Nagarasa who, among other things, had reported regularly to the BBC on conditions in Sri Lanka. When it became clear that his critical public assessment of the situation in Sri Lanka had put his life at risk (he saw what was happening to other journalists critical of the Sri Lankan regime), he had no choice but to leave and search for a country that would provide asylum. When he realized, after a long journey at sea, that the ship had arrived in Canadian waters, his hopes were high. However, he was immediately placed in detention where he remained for many weeks. Eventually, he was released through the efforts of PEN Canada (Mary Jo Leddy) and the work of Andrew Brouwer. Years later (in 2013) he was granted refugee status and landed. The Canadian government used the arrival of these refugees as an occasion to introduce draconian legislation dealing with arrivals that the Minister of Immigration could deem "irregular." Detention would be mandatory for such persons and there would be no chance to gain status for five years, which would almost eliminate the possibility of re-uniting with family members through sponsorship or other arrangements. In response to the new legislation, on Nov 10, 2011, the Coalition submitted a critique to the Sub Committee on Public Safety and National Security challenging the legislation – as did the CCR and other refugee advocacy bodies.(see Appendix 13)

In 2010-12 the Coalition successfully supported a Nigerian case in Toronto, and supported through email contact and skype a Salvadoran case in Vancouver. The Salvadoran had been in Canada for many years but was deemed inadmissible because he had belonged to a "terrorist" group in El Salvador (though that terrorist group actually formed the government in El Salvador in 1992!). Less successful was the case of a former KGB member from Russia. He was more or less conscripted into the KGB while still a student but rejected by Canadian immigration officials because of his former KGB connection. He was in sanctuary in a Lutheran church in Vancouver for three years and on one occasion gave a piano recital from that church broadcast by the the CBC. He eventually "fatigued out" and returned to Russia though his family was able to remain in Canada. There was also, at the same time, a war resister in Sanctuary in a United Church in Vancouver though the Coalition was not involved in that case.

During this period the Coalition facilitated several skype conferences with participants or activists in Toronto, Vancouver, Perth and Montreal. There was also the case – actively supported by the Coalition - of a Mongolian refugee in Sanctuary in an Anglican Church in the west end of Toronto. That case failed when allegations of sexual abuse were made against the claimant, though his wife and children did eventually achieve landed status. During this period there was also the continuing issue of Mexican refugee claimants coming from a country with manifold human rights abuses involving drug cartels and gangs using extortionist tactics. Canadian authorities seemed to find ways of turning a blind eye to all this when it came to dealing with Mexican refugees.

It was becoming clear, in the light of the Harper/Kenney regime ("bogus claims" was a favorite Kenney term) that sanctuary should only be used as an absolutely last resort. In fact, in mid 2011 the government imposed restrictions on who could apply for a Humanitarian and Compassionate appeal, and when, introducing a new order of difficulty. Still, there were two successful sanctuary cases (referred to above) in that period involving young Ethiopian women who spent time in two United Churches in Toronto. In one case, the Federal Court judge (Justice Campbell), responding to a request for Appeal, observed that this particular case clearly validated the practice of sanctuary! The person was granted refugee status and eventually landed.

Sanctuary was avoided in another case involving a Guatemalan refugee family. In this case, the issues of "hardship" and the best interests of the children were argued and the case was successfuly petitioned before the U.N. Human Rights Committee. Hilary Cameron and Kristin Marshall were the lawyers who handled this case. Eventually, the family of four was granted landed status (despite the negative judgement of Justice Hughes of the Federal Court) and ultimately became Canadian citizens. The husband and wife, Mynor and Sonya, are now Board members of Sanctuary North which has a property near Bancroft Ontario where refugees can widen their experience of Canada and have the opportunity to combine recreation, work on the property, and time for reflection). Mynor and Sonya's two children are currently (i.e. 2018) students at the U of T and Ryerson.

It was also in the summer of 2010 that Mary Jo met with members of the German sanctuary movement in Berlin. That meeting was the beginning of an important relationship. Hans Thomae and Rita Kantenir Thomae who have been leaders of the Sanctuary Movement in Germany visited Toronto in June 2015. At a crowded meeting at the Church of the Holy Trinity on June 9, 2015, they gave an account of Sanctuary in Germany where, at that point, over two hundred congregations were providing sanctuary for refugees – with the government's sanction! The German Government's openness to Syrian refugees – and refugees from other parts of the middle east and Africa during this period – is a remarkable story. There will no doubt be a backlash but Merkel's position has been little short of heroic. The relationship with Hans and Rita has been sustained and, in fact, extended with the revival of the sanctuary movement in the U.S. Through skype, and beginning in 2017, regular sessions have been held linking Toronto, Berlin, Tuscon, Arizona, and the Stony Point Centre in the Hudson Valley in New York.

Refugee claimants from various countries continued to "fall through the cracks in the system" and in May 2012 the Coalition convened a regional consultation to review the situation with new refugee legislation in the offing (Bill C-31).

Peter Showler made an opening presentation which began with a success story. The father of a Nepali family who had been in Sanctuary for half a year was interviewed by a CIC official with a positive outcome. The family is now re-united though they had waited fourteen years to gain status! Showler went on to outline what was offered in the new system. There would be three kinds of refugees: regular, safe country, and irregular arrivals (with CBSA having power to designate "irregular" arrivals and CIC the power to designate "safe" countries). Irregular arrivals would be placed in detention with detention review after two weeks and then after six months. If they received a negative judgement, they would be deported. People who receive a positive decision would have to wait five years for permanent residency. Time lines would be short, limiting the opportunity to gain documents from abroad. "Regular arrivals" would have access to the RAD fifteen days after the negative decision. People from designated safe countries and "manifestly unfounded cases" or cases with "no credible basis" would have no access to the RAD. In short, the new legislation would increase the need for sanctuary because there were so many points where mistakes could be made. As Sean Rehaag put it, there would be more errors made and fewer errors caught. The new legislation which radically limits the opportunity to make Humanitairian and Compassionate Appeals and apply for Pre Removal Risk Assessment would seem to provide increased incentive to go underground.

Subsequent sessions of the consultation reviewed current sanctuary cases and considered future strategy and action: recruiting churches for sanctuary, discussion about when to go public about a sanctuary case and when to keep a low profile, questions about charitable status being at risk, psychological issues related to being in sanctuary – including the risk of building dependency - the need to support congregations offering sanctuary, ethical and theological issues etc.

One case (in 2012), involving a Jewish/Christian family from Russia via Israel was considered by the Coalition but rejected for "sanctuary" on the grounds that while Russian Jews who had converted to Christianity might be discriminated against in Israel, the discrimination couldn't be regarded as persecution. However, this particular family was accepted into sanctuary at Westhill United Church though the Coalition did not support the move. It was a difficult time for the family and the congregation and, in the end, the family were deported to Israel. It illustrated the need to have a solid case with a good chance for a successful outcome before making the commitment to provide sanctuary.

ROMA REFUGEE CLAIMANTS: A FAILURE IN JUSTICE

In the course of 2012 it had become clear that there was a serious issue with respect to the number of Roma refugee cases that were being rejected. Andrew Brouwer took on the case of one Roma family, the Pusumas (along with others). In the case of the Pusumas, a key document given to the lawyer was not translated and presented at the hearing and the lawyer didn't even show up to present the case but simply sent an "assistant". The document provided evidence that Josef Pusuma had been physically attacked for his work on Roma rights in Hungary (working in association with a member of the European Parliament). Without this compelling evidence, his claim failed. All subsequent appeals were rejected. On hearing the Pusuma story from Mary Jo Leddy, an Anglican Religious community (Order of the Holy Cross) in the west end of Toronto agreed to provide sanctuary for the family. In the meantime, the Coalition, led by Mary Jo and Andrew launched a professional misconduct complaint to the Law Society

against the Pusuma's lawyer Viktor Hohots. Eventually, another congregation willing to offer sanctuary had to be found because the Holy Cross community had to move to another location where sanctuary would not be feasible. Several venues were checked out including St. John's Church in Winona (Diocese of Niagara) which had a large vacant rectory. A church warden, hostile to the Roma, blocked that possibility.

Towards the end of 2012 Mary Jo approached Alexa Gilmour, Minister at Windermere United Church. Mary Jo explained that she had approached other congregations but they had explained that they were too busy with Christmas preparations to get involved with offering help for a refugees family! Alexa put the case to her congregation and they agreed. Since all the appeals - H&C, Pre Removal Risk Assessment, appeals to the Federal Court - had failed, getting the case before the Law Society of Upper Canada was the next step.

In the meantime, Kristin Marshall approached a film maker friend about doing a film on sanctuary. Over a relatively short time an excellent ten minute film was produced and is available on the Sanctuary website (Sanctuarycanada.ca). The film interviews a number of people from congregations that have provided sanctuary and includes an interview with the actual Pusuma family who were in sanctuary at that time.

A multi faith coalition was formed to support the case. Rabbi Arthur Bielfeld became actively involved as did Avrum Rosensweig, a social activist in the Jewish community. Avrum and Jenn MacIntyre undertook special responsibilities in the campaign working closely with Alexa Gilmour. The Pusuma's daughter "Lulu" became a focal point for media publicity which culminated in large demonstration in front of Minister Alexander's office in Ajax on May 23rd, 2014. The "free Lulu" demonstration requested a "Temporary Residence Permit" for the family. A procession including children, rabbis, holocaust survivors, refugee lawyers, clergy, the local Anglican bishop, circled the constituency office with shofars sounding, and much lusty singing. The Minister chose not to be in around but the petition was later left in his office.

The Minister, Chris Alexander, chose not to respond to the petition but the case against Hohots was finally dealt with by the Law Society. On Monday, March 2, 2015 Hohots admitted that he "failed to assume complete responsibility for his practice and that he failed to directly and effectively supervise the non lawyer staff of his office...." There were actually about 17 Roma complainants against Hohots and two other refugee lawyers but the most well known was the Pusuma family.

The Pusumas' time in sanctuary was long and arduous. In the end, they decided to go back to Europe (Hungary in fact though Germany was initially considered) to await the outcome of an appeal which was now greatly strengthened by the Law Society's decision. The request was for a Temporary Residents' Permit while a newly strengthened H&C case was being prepared. That permit was eventually granted and the Pusumas returned to Canada triumphantly on June 23, 2016. The Pusumas expectations were high and probably a bit unrealistic. There was a lengthy and difficult wait for permanent status which took a heavy emotional toll. Eventually, circumstances and morale improved but the family story is still to be written. Providing sanctuary had worked but the cost was considerable.

The most comprehensive survey of the situation of Romani refugees at that time (i.e. up to 2015) is provided by a paper written by Sean Rehaag, Jen Danch and Julianna Beaudoin entitled "No Refuge: Hungarian Romani Refugee Claimants in Canada" published by the Social Science Research Network.

Among many things documented in that report were some disturbing statistics. Between 2008 and 2012, three lawyers, Viktor Hohots, Joseph Farkas, and Elizabeth Jaszi, dealt with almost a thousand Roma refugees, but the overwhelming majority were rejected. In Hohot's case – he represented over 500 cases just to that point - the success rate was just one percent! All three lawyers were disciplined by the Law Society. In Hohots case there was a five month period of suspension and a two year restriction on representing refugees. (Jaszi was permanently disbarred). To observors, Hohots' penalty seemed pathetically slight. And those statistics only track cases up to 2012 so the total numbers are much greater. But the issue of lawyers failing dismally to represent refugee claimants (while collecting money from Legal Aid) has now been publicly documented and recognized by the Law Society. If this means that complaints to the Law Society about shoddy representation of refugee claimants will be taken more seriously in the future, it will mark a notable achievement.

But there is a lot of unfinished business relating to the Law Society's responsibility. The Pusumas now have permanent residence so theirs is a success story. But what of the hundreds of Roma claimants who were represented by the three lawyers? What does justice mean for the? What is the responsibility of the Law Society and Immigration Canada in their cases? This matter is currently being pursued by the Coalition with Mary Eberts, Maureen Silcoff, and other lawyers playing key roles along with Gina Robah Csanyi, Jenn Danch and others in the Roma community. The goal is to provide another chance for Roma claimants who were represented by the offending lawyers. It promises to be a long struggle.

POSTSCRIPT

In the autumn of 2018 Gloria Nafziger, long time in charge of the Toronto office of Amnesty International but now retired, agreed to become Chair of the Sanctuary Coalition. Time for fresh thinking about the role of Sanctuary. The need has never been greater.

Michael Creal

June 4, 2019

Appendix 1

FOR RELEASE: Monday, May 31/93 at 9:30 a.m.

A PROMISE OF CIVIL INITIATIVE TO PROTECT REFUGEES

We are here today to say that extraordinary measures must now be taken to protect the lives of genuine refugees. These people must rely on the decency of Prime Minister Mulroney and his willingness to intervene personally on their behalf. They may have to rely on our willingness to declare sanctuary -- a place of protection for refugees.

Today we make a promise to these refugees: WE WILL NOT ABANDON YOU.

We believe that most Canadians, most politicians, would be shocked to learn of the daily violation of the human rights of refugees in this country. Even in tough economic times, Canadians know there is a world of difference between being out of a life and being out of a job. Genuine refugees do not come to this country for a better life -- they come for a life.

In the past year, we have seen some genuine refugees deported, sent on the long journey back to the arbitrary detention, torture and death they had tried to escape. These people are not "cases" to us. They are human beings with names and faces. Their tears are like yours and ours. We have gone with refugees to the "removals" units. Husbands and wives have been separated. We have seen fathers shackled in front of their children, children put in "detention."

In the name of God, in the name of Canada, this must stop. We have been, we are, more decent than this.

Canada's refugee determination system largely reflects the basic sense of decency and fairness in this country. Nevertheless, when a mistake is made, it becomes a matter of life and death for someone.

We know of genuine refugees who are threatened with deportation -- not because their claims are invalid but because their claims were jeopardized by negligent lawyers, by incompetent translators, by culturally insensitive panel members or because of inadequate information about a country situation at the time of a hearing.

When a just claim is refused, there is almost no possibility of obtaining an adequate review of the decision. The grounds for an appeal to the federal court are restricted to the conduct of a hearing rather than the content of a refugee claim. New information, for example, is inadmissible. The only alternative is to request a review from Immigration Canada.

In the summer and fall of 1992, some lawyers and refugee advocates did present some serious requests for review to the office of the Minister of Immigration. This office said that such decisions had been delegated to officers at the local level. Local officers said that nothing could be done without a Minister's permit. We discovered that files (or parts of files) had been lost, that information from respected organizations such as Amnesty International was ignored. When genuine refugees fall between the cracks in a system, they can die there.

November 1992: In desperation, we called June Callwood who immediately called the Prime Minister who immediately recognized that human lives were at stake. He asked that the relevant files be sent to his office and ensured that they would receive a careful review. The response of June Callwood and Brian Mulroney was ignited by that marvellous spark of human decency which we believe is truly Canadian.

Twenty three carefully documented files were sent to the Prime Minister's office. All of these "files" detailed reasons why 23 human beings and their families were in danger of death if deported back to their own country.

It is important to read the attached "Chronology" of events to understand why we almost weep over what had happened by May 1993. While the Prime Minister was

under the impression that most of the 23 cases referred to him had been accepted, we knew something quite different from the Ministry of Immigration: 14 of the cases were slated for deportation. The refugees concerned were not, as usual, given any reasons for these decisions. We also knew that one file (at least) had been lost. Not one refugee had received a positive review. By this time one of the refugees was suicidal, some were on the verge of nervous collapse.

Three of these refugees were "removed" from Canada. Like Pontius Pilate, Immigration officials have washed their hands by saying that some would only be deported to the United States. But the United States Congress has never ratified the Geneva Convention of 1951 and is under no legal obligation to protect genuine refugees.

May 1993: Again, we called June Callwood who called the Prime Minister who intervened once more to stop the deportations for a month, with the promise of a serious review. Senior Immigration officials have promised that such a review will take place sometime after June 25 and possibly before the end of July 93. By this time Brian Mulroney will be out of office.

We do not want to question the sincerity of these officials. However, we have no doubt that the review of the 23 requests must be conducted before July 1/93. We are seriously concerned that refugees who have been on hold for years will not hold together much longer.We have no assurance that the new Prime Minister will have the time or interest to show mercy to these refugees -- or for others whose equally valid claims are in jeopardy.

What genuine refugees need is not only mercy but also justice. It is what they deserve. Canada has a legal obligation, under the Geneva Convention and its own Charter of Rights, to protect genuine refugees.

Thus, we are here today to make two demands, and one very serious promise:

First, we are publicly appealing to the Prime Minister and to **Immigration Canada to conduct a just review of these 23 requests before July I, 1993.**

Second, we are insisting that representatives of non-governmental organizations become participants in the post-claim determination review now conducted solely by Immigration officials who have no accountability to either refugees or the Canadian public.

Third, we make this promise: as citizens of Canada, we will not abandon genuine refugees. We are therefore prepared to take the civil initiative of declaring sanctuary for refugees in danger. this is not something we want to do but it may be all we can do, all that we must do, after July 1 -- Canada Day.

Let us say this clearly: the government of Canada has a legal obligation to protect genuine refugees If our government will not or cannot honour this obligation then we, as citizens of Canada, will protect these people.

This is not a step we take easily or lightly. But we are prepared to urge Christians and people of good conscience to take every non-violent means to protect innocent refugees. We are ready to accept all the consequences of such action; we are more than ready to argue our position in court: that citizens must take the initiative to ensure that a country honour its legal and moral obligations when the government does not.

This is not a threat. This is a promise made today to those refugees whose lives are in danger. We will not abandon you. We will not abandon the promise that is called Canada.

David R.L. Clarke
J. E. Adam
Alice Heap
Dan Heap
John Masterson
Alvin Wagner
Helen Gough
Cyril H. Powles
Michael Creal
Mary Jo Leddy
Mary Power
June Callwood
Margaret Quinn
Linda Bowron
Sid Surtel
Hedy Surtel
Lorraine Clemens
Charlene Hackman
Gerard Mindorff
Pat Hannigan
Lyn Hannigan
John Lapp
Doris Lapp
Patricia Anzovino
Harry Reuson
John Hilborn
A. Tolvanen
Nancy Pocock
Lorne Howcroft
Winifred Simpson
Jack Costello
Brice Balmer
Rudy Baergen
Rebecca Yoder-Neufeld
John Chamberlin
Anna Hemmendinger
Joan Birkhoff
Marjorie Powles
Malcolm Savage
Pam Leeb
Elliott Rose
Fran Sowtan
Ian Sowtan
Chris Rowntree
Karen Brown
Ted Whittaker
Ed Rowntree
Joe Sammon

(The signatories live in Toronto, Fort Erie, Niagara, Kitchener-Waterloo, Guelph, Hamilton and Exeter. They come from a variety of Christian denominations. Some are refugee advocates, students, teachers, nurses, professors and writers. There are Anglican priests and Roman Catholic sisters, a Catholic brother and priest, a United Church minister, Mennonite pastors and the wardens of the Church of the Holy Trinity. There is a lawyer and a member of parliament.)

NEW SIGNATURES ARE BEING RECEIVED HOURLY

Contacts: Mary Jo Leddy (1-416-516-3123)
Mary Power (1-416-516-3123)
Alice Heap (1-416-340-2688)

Appendix 2

Government of Canada / Gouvernement du Canada

Sister Mary Jo Leddy
Romero House
48 Wanda Road
Toronto, Ontario
M6P 1C6

OCT 27 1993

Copy of Copy

Dear Sister Leddy:

I have been informed that the office of the Honourable Doug Lewis has reviewed the twenty-four cases brought to its attention through your efforts, and the efforts of others who joined with you in bringing these cases to the Minister's notice. I have also been informed that the Minister has decided to intervene in some of these cases, specifically in the cases of:

Mohamed HASSAN (wife – their son could sponsor if he had means)	Said H. BERHAN
Kanagasabai SUBRAMANIAN	Thavamini VINASITHAMBY
Abdu I. HASSAN	Abdulkadir AHMEDDIN
Kidnan GANESHANATHAN	Tajedin FALOL
Jeyakumar KANESARATNAM	Nesredin IMAM
Alireza SHAHMOHAMADI	Sami DURGUN
Osman OMAR (died)	Hosseinali KARIMI

Let me thank you for the submissions you made in these cases. These and our meetings with you were very helpful to our assessment of these cases. Unfortunately, none of the persons whose circumstances were reviewed by post claim determination officers during September were accepted on the basis of criteria prescribed under the *post determination refugee claimant in Canada* class. The officers found these individuals were not likely to face an objectively identifiable risk which would constitute a threat to their lives, extreme sanctions or inhumane treatment if returned to their countries of nationality or residence.

The Minister has indicated his wish to assist the above individuals, strictly on the basis of humanitarian and compassionate grounds, so he has exercised his authority pursuant to subsection 114(2) of the *Immigration Act*. The Minister's wish is that they be landed in Canada, once they comply with all statutory requirements. Local Canada Immigration

.../2

Canada

Centre managers have been asked to contact each of the above individually to make the arrangements to give effect to these instructions.

To do this will require that the removal orders be executed, where possible by removal to the United States. Each person will need to have a passport and, with the assistance of the local immigration office, will have to arrange lawful admission to the USA. I trust you will convey to these people the need to quickly come forward and cooperate with immigration officials to conclude these cases.

As for the remaining individuals, they should present themselves to immigration officials to make arrangements to leave Canada. For those who do not wish to be returned to their country of nationality, the *Immigration Act* provides that they *may be allowed to leave Canada voluntarily and to select the country for which that person wishes to depart.* Canada Immigration can entertain their requests to be removed to some other country, provided they make appropriate preparations to obtain admission to that country.

In recognition of their interest and participation in the review process, I am sending a copy of this letter to Fay Sims of **Amnesty International** and Sister Gwen Smith of **VIGIL** so they can likewise advise those persons who solicited their assistance.

Yours truly,

Brian J. Davis
Director General
Case Management (Immigration)

cc: Fay Sims, Amnesty International, 440 Bloor Street, West
Toronto, Ontario M5S 1X5
cc: Sister Gwen Smith, VIGIL, 772 Palmerston Avenue
Toronto, Ontario M6G 2R5

Appendix 3

To: The HATHAWAY ENQUIRY

From: The SOUTHERN ONTARIO SANCTUARY COALITION and ASSOCIATES

(Signatories to this Coalition include members of Romero House, Vigil, the wardens, laity and clergy of the Church of the Holy Trinity, Toronto, writers, professors, clergy and lay leaders of various Christian denominations living in Toronto, Hamilton, Niagara, London, Fort Erie, Kitchener/Waterloo, Guelph. The coalition has worked in close consultation with Amnesty International)

As a coalition, many of whose members have been involved extensively in the support of refugees and refugee claimants, some of whom have attended a number of IRB inquiries and have gathered information for those inquiries and all of whom have participated in an intensive programme of support for twenty four particular claimants who were rejected both by the IRB and subsequently in a variety of appeals, we feel we have developed a considerable depth of experience with the IRB (as well as many other elements of the refugee determination process). We therefore welcome this opportunity to indicate concerns about the operation of the IRB which arise out of our experience.

We would like to focus on points which, in our view, clearly fall within the terms of this Enquiry but also touch on matters which may or may not fall precisely within the terms specified. Since #3 of your terms of reference is "to provide any other advice and make any other recommendations etc.," we assume this

gives you a certain amount of leeway. It will be clear that, in our view, an enquiry which encompasses all our concerns is urgently needed. Such an inquiry must include not only the procedures of the IRB but, even more importantly, an investigation of the scandalous practices of Immigration Canada: in its Post Claim Determination Process, in its review of Humanitarian and Compassionate Requests, in the procedures used in the detention centres, in removals and control. What we have learned is shocking to all of us who have believed in the basic decency of the Immigration system. We are grateful that this opportunity is available to raise at least some questions which we regard as urgently important. Our statement is not intended to suggest that the IRB has not worked well in a very large number of cases. What concerns us are those cases where it has not worked well and the reasons for those failures. Further, since the evidence is overwhelming that once a mistake has been made by the IRB, the difficulties of rectifying the mistake are sometimes virtually insuperable, it makes the integrity and effectiveness of the IRB's work even more crucial.

We turn now to some of our concerns in this regard.

I. FUNDAMENTAL JUSTICE

(GATHERING OF INFORMATION)

Accurate and substantial information about both the grounds for an individual's personal fear of persecution and also about

the objective conditions in a particular country is crucial to a refugee claim. Our concern is that, by definition, the most oppressive country situations are those in which accurate information is the least available. A dominant power obviously controls information coming out of a country. Such a power has the greatest interest in lobbying western governments i.e. such a power must convince the west of its interest in human rights in order to obtain aid and legitimacy. Those who are persecuted do not control the flow of information and they rarely have access to foreign embassies and consulates. Quite simply, it is too dangerous for them to make such contacts. In addition, the cutbacks in major media networks (and the ongoing poverty of alternate sources of information) make it difficult for even the most ardent information gatherers to put together quickly a true country profile - especially for those countries which have fallen outside of current geopolitical interest.

As a result, the refugees from a situation of persecution will often arrive ahead of the accurate and objective information necessary to substantiate their claim. This dilemma will only increase as the refugee determination process is speeded up. While the goal of speedy determination is laudable - both for the refugees and for Canada - it does place an onus on the board to take seriously the imperative that its decisions are genuinely "forward looking."

Fundamental justice would seem to imply that there is some burden of proof on the IRB to weigh the evidence of most recently

arrived refugees from a country against dated and possibly inaccurate information from a country of persecution. This burden of proof would only increase as the IRB process is accelerated. Unfortunately, the present practice of the IRB, in general, seems to have placed the burden of proof on the refugees. For a variety of reasons which we will elaborate, this is a heavy, if not impossible, burden to bear.

What we have learned is that when "new" or "previously unavailable" information arrives that is pertinent to the country situations or the individual's fear of persecution, THERE HAS BEEN NO FORUM IN WHICH THIS INFORMATION CAN BE TAKEN INTO ACCOUNT. It is not grounds for reopening a case at the IRB; it does not constitute grounds for appeal at the federal court and it is systematically ignored at Immigration Canada in the Post Claim Review process. This is a denial of natural justice by any account.

What is also disturbing is that when "new" or "previously unavailable" information is used in an IRB hearing, there are IRB panel members and RHO's who consistently dismiss or distort that information. A case in point is Eritrea (see attached documents). For approximately a year (May '91 to May '92), panel members tended to reject all Eritrea claims on the grounds that things were safe in Eritrea because of the fall of the Ethiopian dictatorship. This view prevailed in spite of a memo from the head of the UNHCR in Canada (see attached document) to Mr. Gordon Fairweather stating that the situation was fluid and refugees

should not be returned to Eritrea and Ethiopia. Panel members ignored this letter or quoted from other parts of it to suggest that the situation in Eritrea was safe for all.

In any case, as early as January '92, there was evidence that the situation in Eritrea was unsafe for members of Eritrean opposition groups who had historically opposed the new provisional government. By June '92 this evidence was solidly supported by a variety of credible news sources.

Nevertheless, several board members and RHO's who heard Eritrean cases during and after the Spring of '92 tended to dismiss such information or belittle it. Worse, there was a tragic situation in which a refugee was viciously questioned by an RHO when he testified that he had been imprisoned by the Eritrean government and tortured. He was questioned for several days and ridiculed - even though there was a medical report from Dr. Donald Payne (a recognized world expert on torture victims) saying that this man would collapse under anything which resembled interrogation.

All of this suggests to us that the IRB can become self-justifying in the face of new information i.e. if the new information about Eritrea (from documents or from those who were tortured) is or was true, then many of the decisions which panel members and the IRB had made for many months were questionable. It is shocking that there are panel members who stubbornly cling to the rightness of their previous judgments - even when the evidence seems incontrovertible.

Panel members and RHO's seem to be assigned to specialize in certain countries. While this may create a certain expertise, it also creates a vested interest in not admitting new information which would call previous judgments into question.

In general, the IRB documentation centres seem to be quite helpful to lawyers and IRB members. However, the effectiveness of the centres can be attenuated by the self-justifying bias of members we have described.

We want to note in passing that there are lawyers who have very exhaustive documentation on certain countries. Unfortunately, they don't seem to take the initiative to see that this information is available to others through the documentation centres. We believe this is simply a question of overwork on the lawyers' part.

Once specific point regarding information: some panel members seem to treat memos from External Affairs in Ottawa as the "last word" about a country. In fact, these memos are often treated lightly even by diplomats (as we have learned). They may arrive from junior officials with little experience in a country (we have seen memos where the acronym of a political party was wrong) or they may be the result of a lobby effort on the part of an oppressive government.

Another point: we have heard from board members that their decisions are informally influenced by information obtained by a specific board members (e.g. someone who went to monitor an election). We believe that such information should be formally

set down in a report so it can be in the documentation centre and assessed by all concerned at a hearing.

Most important, what we have learned is that when a case fails at the IRB it is almost impossible to salvage. This became evident to us in two meetings held between representatives of our coalition and Blair Dickerson, Executive Assistant at that time to Doug Lewis (then Minister of Public Security), Brian Davis, Director of Case Management for the Department (and his assistant), and officers from the Toronto Office, Reinhardt Manzel and Louis Rivetz, in Toronto on Sept. 9 and 13, 1993. The meetings were perhaps unique: they provided an opportunity to review cases where we thought an injustice had been done, hear from officials in the department the reasons given for the decisions made by the IRB and subsequently, and explain our own grounds for believing the decisions to be wrong. For two days there was a frank and courteous exchange and, at the conclusion, both sides indicated that much had been learned. What follows in this section are **illustrations** of points which concern us very deeply. There is certainly more information we can share:

item #1. In the case of eight Eritrean applicants turned down by the IRB in 1991-92, the basis of the judgement was that the political situation in Eritrea was evolving "positively" and that, particularly since the referendum, Eritrea had become a multi-party state where members of the Eritrean Liberation Front would face no problems if they were returned. The evidence

presented by the claimants that they belonged to groups within the Eritrean Liberation Front that were unacceptable to the present government was simply rejected by the IRB. Even though that simplistic reading (i.e. that all members of the ELF were now acceptable in Eritrea) was challenged by evidence provided by Amnesty International, Africa Watch, The Jesuit Refugee Service in the Province of Eastern Africa and various other sources, it was the basis on which negative judgments were made and subsequently re-affirmed. Only the most extraordinary interventions (which ultimately resulted in papers being issued under the Minister's authority for landed immigrant status for the eight claimants on our list) were able to save these people from deportation. The information on which the IRB acted in these cases - and we can assume that were others like them - was seriously deficient.

Several lawyers and advocates (including ourselves) had presented massive documentation to Immigration Canada after these eight Eritrean cases had been refused at the IRB and at the Federal Court. During our two days of meetings, we discovered that this documentation did not seem to have been read by anyone. Furthermore, it was obvious that the documentation had either been lost or destroyed. This, in spite of the fact that it had all been sent to the appropriate offices (had even been sent to the Prime Minister's Office at his request) and sent to the offices of two ministers of Immigration and a Minister of State for Immigration.

On the basis of our experience and on the basis of the statistics of the Post Claim Determination Process, we believe it is dishonest to suggest to refugees that there is any hope for a just review of their cases once they fail at the IRB. Refugee lawyers must consider seriously what action they must take in the light of this fact: it is a waste of time and taxpayers' money to go through the motions with Immigration Canada in its present state.

item #2. In the case of a number of Sri Lankan claimants whose cases came before the IRB in 1990, negative decisions were made by the IRB on the grounds that the situation had stabilized at that point in Sri Lanka (which it had not) because the Indian Peacekeeping Force had left. To this date these decisions stand, even though in the following year similar claimants (even family members) were accepted by the IRB on the grounds that the situation was now seen to be unstable and dangerous for many Tamil Refugees. The points made above with reference to Eritrea about sources of information in situations of repression clearly apply to Sri Lanka. E.V., a Tamil from Sri Lanka described nine different occasions of interrogation, beatings and torture that he had experienced at the hands of the Sri Lankan military and two other occasions when he experienced similar treatment at the hands of Sri Lankan Security Forces. Because he arrived during a period of alleged stability, arrived, in other words "ahead" of the information flow, his testimony was not regarded as

"credible" (and Dr. Payne's judgment is that this person - facing deportation - simply couldn't sustain another "interrogation" if he were returned to Sri Lanka). Once again, it seemed that a Board decision based on inadequate information was virtually final. Once a person was deemed not to be a refugee, that person was deemed not to be at risk. We reiterate: the **quality** of the information used by the Board when it makes its initial decision is absolutely critical.

item #3. In May 1991 S.D., a Kurd from Turkey was turned down by the IRB. It was explained to us that the file indicated that it would not be dangerous for him to return to Turkey because twelve of his siblings were still in Istanbul along with his mother and father. In fact, as was pointed out by Mary Jo Leddy in our meeting (with Dickerson, Davis et al), he had only **two brothers**, one of whom was in Germany and the other in Bulgaria. When this man was turned down by the IRB and subsequently by the Court, we attempted to introduce the evidence of his active and public involvement in Kurdish protests here in Canada as well as the evidence of the increasing persecution of Kurds in Turkey. An extensive brief was sent by a lawyer to case management in Ottawa and to the local immigration office. S.D. was called in by Immigration to receive a notice of removal. During the interview we discovered that none of the lawyer's documentation was in his file. Information about his activities, the country situation and his family was again sent to various

immigration offices, to the Prime Minister, various Ministers etc. During our two day meeting with Blair Dickerson and Brian Davis, it appeared to us that Immigration had made its repeated negative decisions on the basis of faulty or distorted information - or even, perhaps, on the basis of a typo because the file said he had 12 brothers (in Istanbul) instead of 2 (who had actually fled Turkey for Europe). Obviously the only information which entered into these repeated rejections was the original IRB decision. (Further, S.D. was told by officials that he could go back to Turkey and "pretend that he was a Turk"!)

item #4. In July 1990, A.S. a Kurd from Iran was lectured to by the Board for being a rebellious youth. The Board judged that he would face only a minor administrative penalty if he returned to Iran. This seemed to be a case where at least some of the relevant information was before the Board (and one might have assumed that this would provide a legal basis for a successful appeal) but for some reason, it was ignored. The information - very briefly summarized - was that he left immediately after his brother had "disappeared." He had been working closely with his brother in getting shipments of food, medicine and clothing to the Kurdish area in Iran, activity regarded as dangerously subversive by the government. Subsequent interventions by Amnesty International have been to no avail. The Board decision of 1990, faulty as it was, stands.

We could elaborate but the point is that if justice is to be done in such cases, the Board must have the most accurate information available and its interpretation of that information must not be based on the assumption that if there is any doubt in the mind of the Board, the claimant must be deported. On this particular point we are particularly concerned.

Questions:

How is the IRB applying the definition of refugee in the Geneva Convention?

How can it be assured that 1) there are adequate information resources available to the Board and 2) that these are fully taken into account?

If doubt remains as to the validity of the refugee's claim (as distinguished from clear evidence that it is not valid), how is this resolved?

II. Another order of problems which we wish to raise has to do with the selection and training of members of the IRB. The document entitled "Managing Immigration: a framework for the 1990's" issued by the then Minister (Mr. Valcourt) spoke of changes in the training of Board members and "procedures for handling complaints and discipline of members." Since eight of our twenty four cases were handled by Board members since dismissed or disciplined (and this fact seemed to have no bearing on subsequent appeals), we are particularly concerned about this point. We are not persuaded that training has been sufficient,

not simply with respect to the capacity of Board members to process information in all these cases but with respect to dealing with cultural differences and the handling of cases where the claimant may have previously experienced torture along with interrogation. Quite simply, we know of hearings which have become interrogation sessions. It seems to us that a victim of torture is disarticulated by this process i.e. denied natural justice.

Our questions are, therefore, threefold:

1. Under Bill #55, a hearing officer was supposed to "facilitate" the hearing. The applicant was not to be cross examined like a criminal. What has happened to this "non-adversarial" role?

2. What are the criteria used and the qualifications required in the selection of Board officers?

3. In what ways does their training equip them to take into account not only skill and care in processing information but in the complexities of cross-cultural communication and specifically in the understanding of post torture trauma?

4. Would there be an advantage in having an N.G.O. representative sit in on all hearings? Would this, perhaps, increase the credibility of the entire refugee determination process?

III. No doubt others will raise questions about the quality of legal representation for claimants but we would be remiss if we did not say that some of our claimants were asked by lawyers to sign blank forms subsequently filled out by lawyers (as a result of complaints about this practice, there is now an instruction advising against it); some had no more than twenty minutes with legal counsel before the hearing began; one lawyer made out the P.I.F. as the hearing was conducted; one had to be instructed by IRB members how to proceed; others promised to file for leave to appeal and failed to. In one case, a lawyer fell asleep during the hearing and after he was wakened, the hearing was allowed to continue. (In the complaint to the Law Society the translator remembered the event but panel members couldn't). We also know of situations where lawyers vastly overbilled for legal work which was never done. In some situations we have attempted to address these serious problems by complaining to the Law Society and by reporting to legal aid. We have even approached the R.C.M.P. regarding the fraud of lawyers (one R.C.M.P. officer said he had been instructed to pursue refugee fraud but not legal fraud). Finally, it is our sad experience that there are refugee lawyers who know the negligence and incompetence of other lawyers (because they inherit the mess) but they do not report to the Law Society because it would entail such a hassle.

Among our questions are the following:

1. What steps can be taken to insure that legal resources available for the claimant are adequately trained for the specific tasks of refugee litigation and what safeguards can be put in place to insure that they will act responsibly?

2. What consideration is given by the Board to the failure/inadequacy of the claimants legal representation?

IV. Translators are key to the process but we encountered repeated complaints about interpreters from our group of twenty four. One woman from Sri Lanka, K.M., was told that her hearing would be delayed six months if she waited for an interpreter. Because she was anxious to have her case settled, she decided to proceed on the basis of her own limited English and soon regretted the decision as she became increasingly anxious and inarticulate in the course of questioning. Her testimony was not regarded as "convincing" by the Board. Another person, T.A.F. from Eritrea knew enough English to know that his interpreter who was clearly sympathetic to the E.P.L.F., (the government ruling party in Eritrea from whom he was fleeing), was reflecting this bias in the way he handled the translation. The Board determined that T.A.F. was in no particular danger if he were sent back to Eritrea. And we know from these and other cases that refugees have deliberately withheld vital information because they did not trust the translators to keep confidentiality. These are simply

illustrations of a factor in the IRB process which gravely jeopardises the process of justice.

Questions:

What criteria and qualifications are used to select translators?

What say has the claimant in the selection of a translator and how is he/she informed of it?

This represents a summary of concerns on which we will be pleased to elaborate.

Appendix 4

To: The Davis/Waldman Study
c/o Leanne MacMillan
York Lanes
York University

From: The Southern Ontario Sanctuary Coalition

Given that there was zero percent acceptance in post claim reviews done in Ontario over the past year (figures published by C.C.R. based on Immigration statistics), there is good reason to argue that the Post Claim review system has effectively collapsed. When this fact is placed beside evidence of serious failure in the I.R.B. process, fully documented in the Hathaway Report, it is clear that many refugee claimants rejected by the I.R.B. have been denied legal standards to which this country is committed: due process and natural justice. We are deeply concerned that these people are now at risk of deportation. The first paragraph of the attached memo to Dan Heap from Janet Dench of the C.C.R. does nothing to remove our anxiety. If officials in Immigration can read the Hathaway report as that paragraph suggests, we have reasons for profound misgivings. The fact is, we know of people being wrongfully deported even as we write this submission -- and it is our conviction that except for known criminals, there should be a suspension of all deportations of:

1. people from countries where political conditions put them at risk
2. all those who have suffered traumas such as rape, torture, imprisonment etc.

It is our hope that you would see an immediate recommendation of such a suspension to the Minister of Immigration as consistent with your study (and indeed anything less than such a recommendation as inconsistent). Further, it is our suggestion that, because it is likely to be some time before any recommendations you made could be implemented -- one senior I.R.B. official suggested a year! We hope he is wrong but that was his guess -- an interim panel of "notables" could be appointed whose responsibility would be to consider (with power to approve or delay) all those deportation orders which enforcement believed to be urgent (on grounds of proven criminality etc). This would limit, if not eliminate, instances of unjust deportation until a proper appeal/review system was in place. Also, because Enforcement would have to make a clear case for immediate removal, it would be a less onerous task for the panel than a consideration of all rejected claimants (assuming that most claimants would probably ask for such consideration).

****

What we suggest in the following is based on an assumption that the principal recommendations of the Hathaway enquiry will be accepted and that, therefore, there will be fewer faulty decisions made by the I.R.B. Our frustration over the past couple of years is that I.R.B. mistakes have not been that infrequent and that once a mistake has been made at that level, it has been virtually impossible to rectify it. Given a fairer (e.g. a non adversarial) I.R.B. process, there should be fewer cases where, for whatever reason, wrong decisions are made by the I.R.B. Still, it is inevitable that there will be mistakes and faulty decisions and it is to the question of handling such cases that we now turn.

1. With reference to the whole matter of post claim appeal/review, we find ourselves in agreement with many of the principles articulated by the C.C.R. For instance, we think that all processes affecting rejected refugee claimants need to be assessed: appeal, judicial review, postclaim review, humanitarian and compassionate review. We think the process (of appeal/review) must be governed by the following principles:

transparency of the process -- it should be unambiguously clear to everyone what constitutes grounds for review/appeal, what the procedures are, who conducts such reviews/appeals/, what the rights of the claimant are, what reasons underlie the ultimate decision,

competence of the decision makers -- they need to be persons without bias, persons knowledgeable with respect to human rights, law, country conditions, gender issues, mental health issues (particularly as these apply to torture victims etc).

accountability of the decision makers -- it should be exactly clear who has made decisions at any point in the process: there needs to be a signature and name attached at every point.

2. It is clear to us that there needs to be a way of dealing with post claim issues of substance as well as issues of procedure. For instance, where there is new information available with respect to a claimant or new information about the country conditions from which the claimant fled, there should be a way of reviewing the original decision in the light of the new evidence. Further, it is our conviction -- based on documented experience[1] that the review process should not operate within the Department of Immigration but within the I.R.B. There are various ways this

[1] Our submission to the Hathaway Enquiry, Mary Jo Leddy's address to the C.C.R. meeting in Calgary and the Sanctuary Coalition's January '94 presentation to the Greater Toronto Liberal Caucus provides some of the documentation. All these are available on request.

could be done and we prefer not to get into details but we offer the following as general suggestions.

Where there is new evidence or information, this could, perhaps, be put before a designated senior regional officer of the I.R.B. who had no connection with the original decision and if, in the view of that officer, the new information could have any possible bearing on the original decision, that officer would be authorized to put the entire file along with the new information to an I.R.B. review board composed of persons who themselves had no previous involvement with the case[2]. (Possibly there needs to be a special division of the I.R.B., with its own separate staff, to deal exclusively with reviews or perhaps there could be some rotating of functions of I.R.B. staff year by year. At any rate, it should be clear that whoever conducts the review should have had no connection whatsoever with the original decision). A procedure of this sort would not entail the review of every original decision because there would have to be clear grounds for re-opening the case. But it would make possible something which at present is denied: a review of a decision on substantive grounds.

3. Whenever a review is being conducted, oral as well as written submissions must be accepted. We stress the need of the claimant to feel that she/he had a full opportunity to present evidence and information.

4. In the case of reviews as well as in the case of original I.R.B. decisions, reasons should be given for the decision (and, as we suggested above, these reasons should appear over the signature and name of the relevant officer or official). This is of absolute importance to avoid any appearance of arbitrariness in the decision making process.

5. Leave to appeal to the federal court on procedural grounds needs to be retained but there needs to be a clear definition of jurisdictions i.e. would an I.R.B. review body ever hear evidence that faulty translation led to a misunderstanding of evidence and thus to a wrong decision? The answer to these sorts of questions needs to be clear.

6. While reforms already recommended by Hathaway and the sort of suggestions we have made about a review procedure should go a long way towards guaranteeing due process, we do not believe that the possibility of ministerial intervention should be removed at least until a revised process has been fully tested

[2] Hathaway suggests involvement of N.G.O.'s at certain points in the work of the I.R.B. Perhaps use could be made of notably experienced members of certain N.G.O.'s in a monitoring role in the post claim review process. This could have the effect of building greater confidence in the whole system.

and proven itself to be effective. In our view, the ministerial prerogative should never be removed altogether but practically speaking, it can be waived by the Minister. We certainly think this latter practice would be a mistake as long as there was <u>any</u> question about the operation of due process or the effective exercise of humanitarian and compassionate judgement.

Michael Creal
233 Vanier College
York University
(for the Southern Ontario
Sanctuary Coalition)

February 9, 1994

Appendix 5

The "TWENTY FOUR CASES" up-dated Feb 20,2001

1. The Kenya case was dropped as not viable

LANDED

2. Hedieh Ghazi, Iran, July '93 (announced by Minister)
3. Alireza Shamohamadi, Iran, June '95
4. Kidnan Ganeshanathan, S.L., July '95
5. Kanagasabai Subramanian, S.L., July '95 and his spouse, 6. Purvaneswary Kanagasabai S.L., July '95 (on the original list of twenty four but not on the list of fourteen)
7. Abdu Hasan, Eritrea, July '96
8. Nesredin Iman, Eritrea, July '96
9. Abdulkadir Ahmeddin, Eritrea, Sept. '96
10. Elithamby Vanniyasingham, S.L, April '97
11. Mohammad Hosseinali Karimi, Iran, April '97
12. Tajedin Ahmed Falol, Eritrea, May '97
13 Syrus Kamali-Kamazan, Iran, Landed under DROC (PDRC) '97
14 Akikul Hossain, Bangledesh, landing date ?
15 Said Berman, '97
16 Mohammed Hassan and his wife,

CONDITIONAL STAY

17 Fatma Musa - Malloy says when their son can look after them they will qualify for landing but they can't now be landed because of age etc.
18 and 19 are amnesty cases (listed in the 14), one of whom has resurfaced and the other is underground (Kanesarathnam and Vinasithamby)

20-21 ARE ROMERO CASES STILL TO BE DEALT WITH: Sami Durgan from Turkey was classified in Mike Malloy's memo of March 23/96 as only needing security clearance (Mari Jo has accompanied him to two security check sessions. In April 2000 SIRC recommended him for landing but he is still not landed. Osman Omar was listed in the 14 to be granted Minister's permits (Memo from Brian Davis Oct. 27, 1993) but never received his permit. He was also seen as a good candidate for a court challenge. Osman died in February 2001

22-24 Pasupathy (Amnesty - underground), Ranjithkumar (Vigil - underground), Mannikkavasagar (older, at risk of deportation)

Note: of the "fourteen," ten are landed, one has died, Sami awaits landing. The other two are 18 and 19 above.

It's not clear what happened to 22, 23, 24.

Appendix 6

A CALL TO CONSCIENCE

A Statement on Refugees from Faith Communities of Canada
June 27, 1995,
Toronto

Memories serve us well when they present us with the possibility of making choices and commitments that will make a difference now and in the future. This spring we marked the fiftieth anniversary of the end of the Second World War. We continue to remember how many lives were destroyed or diminished by a conflagration fueled by hatred and racism. This is a time to recommit ourselves as a nation to the values of freedom, tolerance and justice.

It was only after the war that we as Canadians slowly realized that while we were engaged in fighting a racist nationalism in Europe and the far east, we were engaging in our own forms of racism here at home. We became more aware we had treated certain groups with callous injustice.

In the book None Is Too Many, historians Irving Abella and Harold Troper documented how Canada had the worst record in the western world in accepting Jewish refugees. Many Canadians were shocked to hear this as we hold an image of ourselves as a tolerant and generous people. Nevertheless, it is true that a senior civil servant when asked by a reporter about the number of Jewish refugees Canada would accept, replied saying "none is too many". That policy was effectively implemented because politicians pandered to racist groups in the country, because the vast majority of the population did not know and did not seek to find out the truth of the refugee situation and because many official church bodies did not make a vigorous effort to speak out.

We will not let this happen again. We believe it is now our moral duty to speak about the reality of Canada's treatment of refugees. We know this reality because of the people in our respective communities who are working closely with refugees. Like them, we are worried that "none is too many" could become the operative policy within Immigration Canada today. We will not let this happen.

We are profoundly concerned about the situation of refugees who have come to our country because their lives are at risk. Most of these people are decent, often courageous human beings who were forced to leave everything that they had, everything that they were, because of their political convictions, their religious beliefs or their membership in a certain social group. Under the "Geneva Convention" and other international covenants, we as Canadians have bound ourselves to offering protection to these people. This commitment is a measure of our decency as a country.

Unfortunately, these people are being scapegoated for many of the profound social and economic problems in our country. In the media, refugees are often portrayed as criminals or potential criminals, as welfare frauds, as gate crashers etc. No doubt there are some people who have no right to claim refugee status but the vast majority of them are people who ask only for a second chance at life.

As people who have been shaped by the biblical tradition, we are called to welcome the stranger as we would welcome God in our midst. We reject attempts to portray refugees as problems rather than as people who bring great promise to our country. It is morally wrong to make scapegoats of these people. As a nation we have begun to feel very insecure about our national boundaries. However, it is wrong to think that those boundaries are threatened by the relatively small number of people who enter our country seeking refuge. Our boundaries have been and are being erased by vast transnational economic forces, by freer trade, by global communications.

It is tragic that while we are opening our borders for business, we are closing them to desperate people. We are profoundly disturbed by rumours of our government's plan to shut out refugees who arrive at our border via the United States. Our estimation is that any such policy would drastically reduce the number of refugees who could find safety in Canada.

We are often told, and then we think, that we have a generous and accepting refugee policy. in fact, ours is a rather modest effort. Compared with most countries in the world we accept a pitifully small number of people (less than half of one per cent of the world refugee population). The vast majority of refugees are welcomed and sustained by countries in the "two thirds world". It is almost impossible for refugees who are in danger of their lives to get a visa from a Canadian immigration officer overseas.

We also have in our communities people who work for Immigration Canada. We know most of them are decent people. We also know they are overworked and are often frustrated by conflicting and changing directives. However, our concern is that the financial resources of Immigration are increasingly directed to keeping certain people out instead of offering protection to genuine refugees.

We are particularly concerned about the "head tax" which was recently placed on refugees. Most refugees had to spend all their resources just to get to Canada. The cost of attaining landed immigrant status is virtually impossible for most of them. This makes it impossible for them to sponsor spouses and/or children who may be in situations of great danger. It also makes it very difficult for them to begin any serious job training program.

Let us reach out in mercy. Let us help these people stand on their own two feet. Let us not stand by and watch while they stoop and bend under the burden of the head tax.

SIGNATORIES

Alexandra Johnson
President, Canadian Council of Churches

Archbishop Michael Peers
Primate, Anglican Church of Canada

Most Reverend Nicola De Angelis, C.F.I.C.
Auxiliary Bishop of Toronto,
on behalf of the Canadian Conference of Catholic Bishops
and Bishop Faber MacDonald, chair of the Social Affairs Commission, C.C.C.B.

Deacon Michael Morcos
Ecumenical Officer, Coptic Orthodox Church Canada

Rev. Arie G. Van Eek
Executive Secretary, Council of Christian Reformed Churches

Pastor Henry A. Fischer
Dean of the Toronto Conference,
Eastern Synod Evangelical Lutheran Church in Canada
on behalf of Bishop William D. Huras

The Very Rev. Nicolas Boldireff
Archpriest of Christ the Saviour Cathedral, Toronto,
on behalf of His Grace Seraphim, Bishop of Ottawa and Canada,
Orthodox Church in America

The Rev. Drew D. Strickland
Moderator of the Presbytery of East Toronto of the Presbyterian Church in Canada
representing The Rev. Dr. Raymond Hodgson, Associate Secretary Justice Ministries,
The Presbyterian Church in Canada

Heather Macdonald, Staff Officer
Refugees, Immigration & Race Relations, United Church of Canada

Irving Abella
Past President Canadian Jewish Congress

Rabbi W. Gunther Plaut, O.C., O. ONT.
Senior Scholar, Holy Blossom Temple

Rabbi Baruch Frydman-Kohl
Beth Tzedec Congregation,
represented by Cantor Tobias Gabriel of Beth Tzedec Congregation

Rabbi Daniel Komito Gotlieb

.../2

Executive Director of Canadian Council for Reformed Judaism

Rabbi Mark Dratch
Shaarei Shomayim Congregation

CO-SIGNATORIES

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Manohar Singh Bal
Secretary, Ontario Council of Sikhs

Ellen K. Campbell
Executive Director of the Canadian Unitarian Council

Dr. Budhendra Doobay
President, Vishnu Temple

Edward Hyland, s.j.
Chairperson of Inter-Church Committee for Refugees

Sr. Betty Delio
Toronto Region Director of the Catholic Immigration Bureau of Toronto
on behalf of Constance Crosby Laidlaw, President of the Board of Directors of the
Catholic Immigration Bureau of Toronto

Jackie Kott, Integration Coordinator, Jewish Immigrant Aid Services, for Susan Davis,
National Executive Director, Jewish Immigrant Aid Services

Dr. Nancy Pocock
on behalf of Mona Callin, Clerk of Canadian Friends Service Committee

Michael Kerr
Coordinator, Karuna Community Services (Buddhist Communities of Greater Toronto)

Rochelle Wilner
Vice-President of B'Nai Brith Canada
and Ontario Chair of the League for Human Rights

Adilfo Puricelli
Co-Director of Mennonite New Life Centre of Toronto on behalf of
the Mennonite Central Committee of Canada

.../3

Tony Meers
Vice-Chair, Soka Gakkai International of Canada

Gerald Vandezande
National Public Affairs Director, Citizens for Public Justice

Dr. Nancy Pocock
Coordinator of the Quaker Committee for Refugees

Sam Ifejika
Coordinator, Jesuit Refuge Services, Canada

Henriette Thompson
Representing Don Posterski, Vice-President National Programs, World Vision Canada

Appendix 7
re "Not just numbers . . . "

Sanctuary Presentation
February 25, 1998
Second Draft

We, the Ontario Sanctuary Coalition, wish to offer the following statement on behalf of refugees who will be affected by the proposed Immigration Legislation. While many of the goals framing the new recommendations about refugee protection are admirable, we are concerned that the report may also engender adverse affects for refugees. The Ontario Sanctuary coalition is a network of diverse individuals who joined together in the summer of 1993 to commit themselves to the protection of refugees, particularly those refugees under notice of deportation despite imminent threats to their lives. We are a religious group and assist refugees on the basis of deeply-held faith values and convictions. We are also a law-abiding group and are firmly committed to seeing that Canada uphold its national and international obligations to refugees. We are unlike other refugee advocacy groups in that our compassion for and commitment to refugee protection comes from an intimate sharing of all aspects of the Canadian Asylum process with refugees themselves: from filing legal documents and attending hearings, to seeking housing, medical aid and social services as well as providing emotional support.

At face value, the goals of the proposed legislation regarding refugee protection are commendable. The new legislation, for example, calls Canada to take leadership in creating new models for refugee protection. It mandates the creation of an agency that will build on our obligation not to return persons to countries where their lives and liberty would be threatened "for reasons of race, nationality, political opinion or membership in a particular social group." In light of this goal, the proposed legislation notes that Canada should "reinvigorate its commitment to the displaced and the persecuted." Recommendation 87 says criteria (for admitting refugees) "should be consistent with Canada's obligation under the 1951 refugee convention and *other current and developing human rights and humanitarian standards*" (our italics). From our view, this point is very important and encouraging. It is a real step forward because, at the moment, the Convention on the Rights of the Child and the Convention Against Torture (to both of which Canada is a signatory) are not enshrined in our immigration law and persons have recently been deported from Canada in violation of these conventions. In our view, such deportations have been cruel and inhumane. This legislation's aim to protect persons from such deportations is therefore laudable.

But, while the report clearly *intends* to foster a substantial improvement in our refugee policies and practices, we are far from confident-- on the basis of our experience--that this improvement will, in fact, be achieved.

First, it will only be achieved if the officers chosen for the proposed new agency are part of a different "culture" than the one which characterizes Immigration Canada. This is not to suggest that there are not all sorts of good people working

at Immigration Canada. Our experience, however, has shown that Immigration Canada has developed a set of attitudes and practices (i.e., a culture) that does not embrace the underlying values and principles that the report seeks to enshrine, namely, "compassion, equity, due process and fairness." Nor has the immigration department been entirely free from political influence and pressure. While any new agency would obviously function under legislative authority, it could only do the job which the report visualizes if it had a distinctive and independent status and its officials saw their essential task as the *protection* of the persecuted and displaced rather than their speedy removal to some other country. In our view, something like the IRB, with its relative independence, might be in a better position to do the job that is envisaged. If the task of protection is to be placed in the hands of civil servants, they must work within an ethos that sees *protection* as fundamental.

Second, the report proposes that Protection Officers abroad network with human rights organization and consider *in situ* requests from person for refugee status. If there were sufficient numbers of such officers and if they were well trained and if they did in fact network with organizations immediately in touch with people in troubled areas (and not just rely on Canadian Trade Missions and Embassies for their intelligence), this would be a major advance. In Canada, Protection officers would hear and adjudicate claims of refugees who arrived on our shores, operating under " a broader definition of protection" and with procedures that would :"discourage non-genuine claimants." (Obviously it would be important to know exactly what these procedures were!) The Report also recommends the creation of an appeal system (an "internal paper review') for rejected claimants. This is certainly a step in the right direction since the absence of a proper system of appeal under the current arrangement is scandalous. But to constitute "due process," the appeal would need to be a good deal more than just the rubber-stamping of a decision already made. This is the obvious and real danger of all internal reviews.

In conclusion, we heartily affirm the expressed good intentions of the authors of this report. On the basis of our experience, however, with Immigration Canada for almost a decade--to say nothing of the scholarly studies of the Immigration department such as those by Fred Fletcher and Irving Abella--we have real concerns that the report's goals will not be realized.

Failure to improve Canada's commitment to the protection of refugees will indeed foster adverse social affects. Not only will it increase the suffering of individuals who are legitimately refugees, but it will also throw all people of conscience into a deep moral crisis. As people of faith, we feel that our commitment to "the least among us"--those without home or haven--is a fundamental one. In light of this conviction, any immigration policy that fails to protect the basic dignity and safety of refugees is one that, in conscience, we cannot accept.

Appendix 8

April 19, 1998

175 Keele St.
Toronto ON M6P 2K1
ph. 416-763-1303 FAX 416-763-2939

TO: Ward Alcock, Director of CSIS
and Maurice Archdeacon, Director of the Security and Intelligence Review Committee

Dear Sirs,

We the undersigned want to express our concern over way in which our security checks have been conducted by CSIS and by Immigration Security.

As members of the Kurdish minority in Turkey, we have persecuted for a century. We were forced to flee this oppressive regime and hoped to make a different and more peaceful life here. For a century we have resisted the attempts of the Turks to assimilate us and to use us against each other.

It has been a disappointing shock for us to once again be interrogated and intimidated during our security interviews.

During our security interviews, each one of us has been asked to inform on our fellow Kurds and we have been told that it would be easier for us to be landed if we did. We have nothing to hide as each of us will speak about ourselves but we will not be used against each other. We also know of Kurds who are landed or who are citizens who are still be harrassed and intimidated in this manner.

We want to know why we have been delayed for years in our process of landing while other Kurds are landed within 1-3 months.

We object to being placed under psychological pressure which continues the trauma we suffered in our own country.

Suleyman Goven
Haydar Ates
Ahmet Ucur
Haci Budancir
Zabit Otag
Nazli Vural
Serhat Durmus
Bilint Durmus
Sami Durgun
Kemal Koksecen
Riza Aga

Hatice Topal
Ali Vural
Hadi Elis

gees come forward
ıs of CSIS threats

PY PROBE: Refugee Thalayasingam ivakumar and Solicitor-General ndy Scott, right.

laimant Thalayasingam Sivakumar by romising the Toronto man asylum if he oied on fellow Tamils.

The strongly worded report by the Secuty Intelligence Review Committee, which versees CSIS, questioned the propriety of ıe spy agency trying to recruit as informrs some of the refugee claimants it creens for possible links to terrorism.

Solicitor-General Andy Scott said this eek he had been assured that CSIS gents do not make offers to refugees or efugee claimants who are approached for ıformation.

"No, they do not make offers," Scott aid. "CSIS has assured me . . . there is ever a relationship between their discusons with refugees and any status in anada."

Scott said CSIS had amended its proceures so that agents make it clear to potenal informants that they can't help them ith their immigration status.

But Goven says the CSIS agents he dealt ith explicitly offered him help with his mmigration case if he provided information. He said he was familiar with the interrogation techniques used by the CSIS agents because he experienced the same in Turkey, where he had been arrested and questioned by Turkish police because of his activity in the Kurdish community there.

"I told them, 'There is no difference between you and Turkish police, except the physical torture.' This is like psychological torture. You are under huge psychological pressure," Goven said.

A joint letter sent by Goven and the 13 other refugees to CSIS this week said: "We were forced to flee this oppressive regime (in Turkey) and hoped to make a different and more peaceful life here.

"During our security interviews, each one of us has been asked to inform on our fellow Kurds and we have been told that it would be easier for us to be landed if we did," the letter said.

"We object to being placed under psychological pressure which continues the trauma we suffered in our own country."

The 24-page review committee report was the result of a hearing conducted last year into the case of Sivakumar, who went public in 1996 with his claim that he had worked for CSIS for five years because agents promised he would be allowed to stay in Canada. But in 1994, CSIS broke off its relationship with Sivakumar and the agency now claims that it never promised him anything.

The review committee report noted "the potential for abuse in the recruitment of persons whose status in Canada is undetermined or precarious: the risk being that (CSIS) could take unfair advantage of a person who would prefer not to be of assistance but who is concerned that failure to co-operate would affect his or her chances of obtaining status."

Appendix 9

Security Intelligence Review Committee

CANADA

Comité de surveillance des activités de renseignement de sécurité

PROTECTED -
PERSONAL INFORMATION

File No.: 1500-83

April 7, 2000

Ms. Sharryn J. Aiken
Osgoode Hall Law School
York University
Room 233
4700 Keele Street
Toronto, Ontario M3G 1P3

Dear Ms. Aiken:

RE: MR. SULEYMAN GOVEN'S COMPLAINT

In conformity with paragraph 52. (1) (b) of the *Canadian Security Intelligence Service Act*, please find enclosed the Committee's report containing the findings of the Committee's investigation with respect to your client's complaint under section 41 of the *Act*.

You will note that the report has been severed in conformity with national security requirements and for privacy considerations.

Yours sincerely,

Susan Pollak

Susan Pollak
Executive Director

Encl. (1)

P.O. Box / C.P. 2430, Station / Succursale "D"
Ottawa, Canada K1P 5W5
613 990-8441

EXPURGATED VERSION

SECRET

File No.: 1500-83

April 3, 2000

IN THE MATTER OF A COMPLAINT UNDER SECTION 41 OF
THE *CANADIAN SECURITY INTELLIGENCE SERVICE ACT*

Mr. Suleyman Goven

Complainant

- and -

The Canadian Security Intelligence Service

Respondent

Dates of Hearing:	September 15, 16, 23, 24, 25, 1998 October 9, 1998 November 10, 23, 1998 December 2, 21, 22, 1998 January 26, 27, 1999 February 1, 2, 1999
Place of Hearing:	Toronto
Before:	The Honourable Robert Keith Rae, P.C., Q.C.

Counsel:	Ms. Sharryn Aiken, for the Complainant
	Mr. Lorne Waldman, for the Complainant
	Ms. Barbara Jackman, assisting for the Complainant
	Mr. Robert Batt, for the Service
	Ms. Christine Evans, for the Service
	Mr. Gordon Cameron, for the Committee
	Ms. Sylvia MacKenzie, for the Committee
Witnesses:	Mr. Suleyman Goven, as the Complainant
	Ms. Mary Jo Leddy, for the Complainant
	Prof. Amir Hassanpour, for the Complainant

SECRET

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REPORT

I. INTRODUCTION

This report is made pursuant to section 52(1) of the *Canadian Security Intelligence Service Act*, R.S.C. 1985, c. 21 (the "*Act*") after the completion of an investigation in relation to a complaint made pursuant to section 41 of the *Act*, on behalf of Mr. Suleyman Goven (the "Complainant").

As part of the investigation, hearings were held by the Security Intelligence Review Committee (the "Committee") on September 15, 16, 23, 24, 25, 1998; October 9, 1998; November 10, 23, 1998; December 2, 21, 22, 1998; January 26, 27, 1999; and February 1, 2, 1999. The Canadian Security Intelligence Service was represented by Mr. Robert Batt and Ms. Christine Evans. At the beginning of the hearing, the Complainant was represented by Mr. Lorne Waldman who was replaced by Ms. Sharryn Aiken who was assisted by Ms. Barbara Jackman. As the Presiding Member assigned to the investigation of this complaint, I was assisted by Mr. Gordon Cameron and Ms. Sylvia MacKenzie.

This report is made to the Solicitor General of Canada and the Director of CSIS (the "Service") and contains the Committee's findings and recommendations based on the documentation, oral evidence, and the submissions of both parties available to the Committee's investigation.

The report, subject to the limitations of the *Act*, will be forwarded to the Complainant and his representatives.

1.1 The Complaint to the Director

On August 1, 1997, the Complainant, through his representative, Ms. Mary Jo Leddy,[1] submitted a letter of complaint to the Director of the Service, Mr. Ward Elcock. The Complainant's representative indicated that immigration officials had informed them that the Complainant's landing papers were being held up because of his immigration security screening clearance. The letter asked why the security screening process was taking so long and when it would be finalized.

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[1] Ms. Leddy is the Director of Romero House which houses and assists recently-arrived immigrants to Canada. Ms. Leddy worked with many members of the Kurdish community as part of her broader work in the refugee community in Canada. Ms. Leddy is an Officer of the Order of Canada who is recognized widely for her humanitarian work.

1.2 The Director's Response

The Assistant Director Secretariat, Mr. T. J. Bradley, replied as follows, on behalf of the Director of the Service on 11 August 1997:

> " (...) The Canadian Security Intelligence Service (CSIS) received a request from Immigration officials concerning Mr. Goven's application. The results, relative to those enquiries, have been reported to Citizenship and Immigration Canada Headquarters." (October 18, 1996)

1.3 Jurisdiction

Section 41 of the *Act* provides as follows:

> "41.(1) Any person may make a complaint to the Review Committee with respect to any act or thing done by the Service and the Committee shall, subject to subsection (2), investigate the complaint if
>
> (a) the complainant has made a complaint to the Director with respect to that act or thing and the complainant has not received a response within such period of time as the Committee considers reasonable or is dissatisfied with the response given; and
>
> (b) the Committee is satisfied that the complaint is not trivial, frivolous, vexatious or made in bad faith."

The Complainant's representative was not satisfied with the Service's response; she argued that the Director's response was less than clear: did it mean that the Complainant had actually passed the security check, or did it mean that CSIS had completed the screening and informed CIC that the Complainant should not be granted landing?

The Complainant's representative added that she wanted to complain in a formal way about the duration and the manner of this security review. She noted that the Complainant was accepted as a Convention refugee in March 1993, and that because of the delay in his landing status he had been unable to enroll in the engineering course at either McGill University or at the University of Toronto where he had been accepted. He has not been able to pursue meaningful employment because of this delay. She added that she attended his security interview, which was conducted by two CSIS investigators. She described this interview, which lasted several hours, as

an interrogation. The officers demanded his "full co-operation" and he was reminded repeatedly that the officers had the power to refuse his landed status. To her it seemed obvious that the Complainant was being asked to act as an informer for CSIS or he would not be landed. To the Complainant and Ms. Leddy, the length and the manner of this security screening process were objectionable.

In a letter to the Director,[2] the Complainant again identified the issues. He resented the interview he had had with CSIS investigators; in his view, it was more an interrogation than an interview. He said that he had been asked to reveal the names of PKK members in return for landed status and was repeatedly asked if he was a member. He had the impression that nothing he said could satisfy the CSIS investigators. The Complainant explained that when he arrived in Canada, there was no Kurdish community centre, and that to rectify this situation he along with some friends tried to establish one. The Complainant had the distinct impression from his interview and the interviews that other Kurds had had with CSIS investigators, that the Service suspected that the Centre was a front for the PKK. According to him, the effect of this on the community was simply devastating: CSIS was separating the Kurds from each other at a time of adjustment when they needed each other most. The Complainant added that he wants to be involved in Canadian life yet he feels marginalised and wanted to get out of this "limbo" situation.

The Director did not respond to this letter of complaint. I understand from Service officials that the Service felt that the Committee was already seized of the matter since the Complainant had initiated this letter

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[2] Letter dated March 27, 1998

1.4 Investigative Procedures

1.4.1 Document Review

I began my investigation of this complaint with a review of the documentation provided by CSIS. Counsel for the Complainant also provided a severed version of some documentation received as a result of requests submitted to the CIC under the *Privacy Act* and the *Access to Information Act*.

1.4.2 Committee Hearing

In accordance with paragraph 48(2) of the *Act*, I provided both parties with an opportunity to make representations and to present evidence.

Prior to the actual hearing, a pre-hearing meeting[3] of all Counsel took place and correspondence was exchanged[4] in which the terms of reference[5] for the complaint were detailed and agreed upon by all parties.

For some portions of the hearing, the Service asked that the evidence be adduced in the absence of the Complainant and his Counsel. I granted these requests, but I also ordered that a severed version of the transcripts or summaries of the evidence adduced in this manner be made

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[3] Pre-hearing meeting of July 29, 1998 where three points, common to both complaints, were raised: the nature of the Kurdistan Workers' Party;

Other aspects, also common to both complaints, were addressed individually: the length of time taken by the security screening interviews conducted by CSIS (including the convocation for the interview, the nature of the questions posed, the manner in which the questions were posed, the reporting after the interviews, the destruction of notes, the lack of transcripts, the distinction between having to cooperate under sections 14 and 15 and agreeing (volunteering) to cooperate with CSIS (in furtherance of the Service's mandate under section 12)), and the nature of CSIS' advice to CIC.

[4] Letter from Mr. Lorne Waldman dated August 14, 1998. CSIS' letter of response dated August 31, 1998.

[5] The terms of reference entailed: the nature of the PKK (is the PKK a terrorist organization?); the concept of membership (is a definition necessary?);

The other aspects common to both complaints were to be addressed individually: the length of time taken by the security screening applications; the security screening interviews conducted by CSIS (including the convocation for the interview, the nature of the questions posed, the manner in which the questions are posed, the reporting after the interviews, the destruction of notes, the lack of transcripts, the distinction between having to cooperate under sections 14 and 15 and agreeing (volunteering) to cooperate with CSIS in furtherance of its section 12 mandate)), and the nature of CSIS' advice to CIC

available to the Complainant and his Counsel. To the extent possible, Counsel for the Complainant were later given an opportunity to cross-examine the witnesses who gave evidence. During all in-camera ex-parte sessions, I instructed my Counsel to vigorously cross-examine the Service's witnesses, taking the role of Counsel for the Complainant in his or her absence from the sessions.

II. THE COMPLAINANT

2.1 Convention Refugee

The Complainant is a 43-year old man. He was born in the town of Tunceli, in Turkey. He grew up in a predominantly Kurdish area. He is a Kurd, whose religion is Alevi. He left Turkey in late 1990, travelled across Europe by train, and spent a few months in Ireland. While he initiated a refugee claim in Ireland, he abandoned it and came to Canada with a valid visa from the Canadian Embassy in Dublin. He came to Canada on April 8, 1991 and claimed protection as a Convention refugee. He was recognized as a Convention refugee in March 1993. The Complainant's Personal Information Form (PIF) on which his refugee claim is based, indicated that he left Turkey not only because he feared persecution from the Turkish Government but also because he feared persecution from a guerilla organization known as Turkish Workers Peasant Liberation Party (TIKKO).

The PIF also detailed the nature of his involvement as a local union representative[6] in the Confederation of Revolutionary Workers Union (known as "DISK") until September 1980 when the civilian government lost power in a military coup. The new government declared unions illegal. In this document, the Complainant says that he did not take part in any union activities after DISK was declared illegal. Notwithstanding his withdrawal, he was arrested,[7] detained, and tortured.[8]

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[6] The Complainant worked for some years as a mechanical engineer for the Turkish National Railway

[7] For five months, without ever being charged

[8] The Complainant's Personal Information Form recounted the extent of the torture

The Complainant, in his PIF, also stated that his father and a cousin were accused of being informants for TIKKO and subsequently assassinated. After his father was killed, the Complainant apparently incurred the wrath of TIKKO for denouncing that organization in the media. He received two threatening telephone calls and, believing his life to be in danger, he left Turkey on December 16, 1990 to go to Ireland[9] and then to Canada.

On March 15, 1993, the Complainant applied for permanent residence status.

III. THE SERVICE'S ROLE IN THE IMMIGRATION PROCESS

3.1 Statutory Role

According to section 14 of the *CSIS Act*, the Service may:

> (a) advise any Minister of the Crown on matters relating to the security of Canada, or
>
> (b) provide any Minister of the Crown with information relating to security matters or criminal activities.
>
> That is relevant to the exercise of any power or the performance of any duty or function by that Minister under the *Citizenship Act* or the *Immigration Act*, 1984, c.21, s.14.

In conformity with section 15 of the *CSIS Act*, the Service may conduct such investigations as are required for the purpose of providing advice pursuant to section 14.

The Service has the sole responsibility for security screening immigrants and refugees who apply for permanent residence within Canada. The Service may conduct investigations of prospective permanent residents to determine their admissibility to Canada in accordance with section 19 of the *Immigration Act*.

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[9] The Complainant said that he made a refugee claim with Irish authorities but they could not find an interpreter for him, so he abandoned his case and decided to come to Canada. The choice of Canada was inspired by his having met a Canadian while in Ireland who told him about Canada and Canadian life

3.2 Inadmissible Classes under Section 19 of the *Immigration Act*

The relevant subsection of 19(1) of the *Immigration Act* reads:

> 19 (1) No person shall be granted admission who is a member of any of the following classes:
>
> (f) persons who there are reasonable grounds to believe
>
> (iii) are or were members of an organization that there are reasonable grounds to believe is or was engaged in ...
>
> (b) terrorism, except persons who have satisfied the Minister that their admission would not be detrimental to the national interest;

IV. THE ISSUE: THE NATURE OF THE SERVICE'S ADVICE TO CIC

4.1

On August 9, 1995, the Service forwarded its advice to CIC.

the Service informed CIC that it did not intend to proceed with certificate action pursuant to section 40.1 of the *Immigration Act*.

The Complainant was assessed in responding to the CSIS investigators.[10] CSIS specified that it was not able to make a determination regarding the Complainant's potential for engaging in any PKK inspired violence in Canada "at this time".

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[10] The investigators added that past experiences the Complainant may have had with police/security people may have made him reluctant and fearful. Despite their efforts to reassure him, he continued to prevaricate

4.1.1 The Impact of the Advice on CIC's Decision

"In making decisions following receipt of advice from CSIS, CIC may consider a myriad of factors. CSIS is not in a position to ascertain whether the information provided by the Service is the sole factor in any subsequent decision by CIC. Consequently, any statistical information Security Screening could collate would be out of context and could easily misrepresent the nature or extent of any impact."

4.1.3 The Information Reported to CIC from the Interview Conducted by CSIS' Investigators

According to the brief, the interview conducted with the Complainant indicated that he:

- reluctantly admitted having developed a strong sympathy for the PKK in Canada, and demonstrated extensive knowledge of the group;
- denied knowing whether or not the PKK existed in Canada as an organization but stated that all Kurds living here would be sympathizers;
-
-
- admitted to taking part in, as well as helping to organize, the occasional demonstration;
- claimed that no money collected as membership fees by either Centre was used to support the PKK;
- initially denied having been in contact with PKK representatives here or abroad.

V. OTHER RELATED CONCERNS RAISED BY THE COMPLAINT

5.1 The Length of Time Taken for the Security Screening Process

5.1.1 The Service's Position

The Service argued that, in relation to the applicant, the screening process took two years and two weeks[12] and that the Committee should find that the time taken by the Service was reasonable given the circumstances of the case.

5.1.2 The Complainant's Position

Counsel for the Complainant have argued that while it is acknowledged that responsibility for some of the delays associated with immigration security screening rests directly with CIC, the Service should be held accountable for delays that are directly related to its own procedures. Family reunification is effectively denied to individuals in the immigration "limbo" situation. The Complainant and his family have suffered, in very real human terms, the devastating effect of a prolonged separation. In the view of Counsel, the Service has presented no open evidence that would constitute a basis for according this case such exceptional treatment.

The Complainant's representative, Ms. Mary Jo Leddy summarized the situation as follows:

> "In the present situation, the division of responsibilities results in a Pilate-like situation of irresponsibility in which everyone can wash his or her own hands. CSIS officers can claim that they only give advice to Immigration Security. However, when you talk with Immigration Security officers they say they are only following the advice of CSIS. No one has to face the refugee whose life hangs in the balance. (...) No one is responsible for mistakes and no one has to face the consequences of their decisions (...)."

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[12] Insofar as the Service was concerned

According to the Complainant's Counsel, a period of six months for a security clearance would be a reasonable standard. They have further submitted that the concerned individual should be informed if the Service is not able to complete its function within the six month period. The reasons for the delay, to the extent possible, should be disclosed to the individual. Counsel added that, in any case where twelve months have elapsed and the Service has failed to transmit its report to CIC, the individual should be informed in writing of a right to initiate a complaint with the Committee.

5.2 The Interview Process

5.2.1 Convocation for Interview and Attendance of Representatives

Counsel for the Complainant submitted that an individual required to attend a security screening interview should receive written notice of the date and time of the interview one month in advance of the scheduled interview date. The notice should include a clear indication that the interview will be conducted by CSIS officers, the purpose of the interview, and the fact that the applicant has a right to attend with Counsel or other representatives. Counsel argued that, at times, representatives of the Service have discouraged individuals from bringing representatives to interviews, and that when such people are present, the Service draws an adverse inference from that presence.

The Service contended that this was the first time this had been identified as a potential issue. Without the benefit of having fully explored the ramifications internally, the Service said that it had no plans, at this time, to discuss with the Department of Citizenship and Immigration, internal policies and procedures with respect to the convocation letter.

5.2.2 The Accuracy of Reporting

Counsel for the Complainant noted that no transcripts are kept of the interviews, but rather the notes taken by the investigators are merely put into a report. The actual notes of the interview are subsequently destroyed, with the effect that if a person later seeks to verify the exact questions and answers, it is impossible to do so.

With respect to the interview of Mr. Goven, there are two dramatically different versions: the Service's version (i.e., the notes incorporated in a pre-formatted report); and an account found in Ms. Leddy's book.[13]

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[13] At the Border Called Hope (Harper Collins, 1997), under the heading "I Will Never be Safe" found at pages 73-82

The Service contended that the Service's policy provides that a report should be based on information obtained during the interview and should address all of the concerns and questions raised by CSIS Headquarters. The Service is not a police agency, thus the policy on notes and their destruction is appropriate to the Service's mandate under sections 12, 14 and 15, which involve the powers to collect information, to conduct investigations, and to advise. The Service was unable to produce any original record of the interview because it was not taped, and the interview notes of both investigators were consolidated into a report and then destroyed. The Service argued that it was appropriate to rely exclusively on that document as the single and authoritative record of the interview.

Counsel for the Complainant noted that rather than affording the Complainant the opportunity to address perceived inconsistencies, CSIS' investigators responded by emphasizing the importance of the Service's role in the immigration process. Yet, under cross-examination, it became very evident that the investigators' assessment of the Complainant was based on a number of inaccuracies and distortions with respect to the information actually provided by the Complainant. Often, the very information that could have assisted the officers in forming conclusions was not elicited from the Complainant.[14]

5.2.3 The Use of Informants

Noting that evidence had been presented which had not been disclosed to the Complainant and his Counsel, and accepting that national security interests provide sufficient legal justification for not disclosing such evidence, the Complainant's Counsel emphasized the Committee's responsibility to determine the original sources of the information, the nature of their interest and, through proper examination, to ascertain the reliability of the evidence.

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[14] As an example, Counsel noted that the CSIS investigator concluded that the Complainant was lying when he did not mention participating in a demonstration in Montréal. Counsel argued that if the Complainant had been confronted with the information that his name appeared on a permit for the demonstration at issue, he would have had an opportunity to clarify, as he did in testimony before the Committee, that he was not involved in the organization of the demonstration, that he was in Toronto on the actual date of the demonstration, and that he only put his name on the permit because he was requested to do so. In order words, the Complainant believed he was responding to the question honestly when he denied involvement in the Montréal demonstration because in his mind, lending his name to the permit application did not mean that he was involved in organizing or participating in the event. The fact that Mr. Goven was in Toronto on the date in question was an appropriate answer to the actual question of the CSIS investigator and Counsel argued that the Service should have put the fact that the Complainant's name was on a permit application to afford him an opportunity to explain. According to Counsel, the fact that the Complainant's name was on the permit was a matter of public record and national security interests would not have been compromised if this information had been provided to the Complainant

5.2.4 The Recruitment of Informants

The Service submitted that this aspect of the complaint had not been substantiated: while the Complainant said that during his security screening interviews, questions concerning other members of the Kurdish community were raised by the Service's investigators, he had not testified that there were any efforts made to recruit him as a long-term source of the Service. Consequently, the Service urged the Committee, in its report, to clearly state that this aspect had not been substantiated.

Counsel for the Complainant have argued in this case, as well as the case of that evidence before the Committee demonstrated that the two individuals perceived that they were being recruited as informants. Whether it was for a one-time report or on a long-term basis, and whether the incentive was money or something more valuable in their present situation (i.e., a positive recommendation for landed status), the impact of the perception remained the same. Counsel articulated the issue as follows: the concern is not just the matter of what the Service's actual intentions were in regard to recruitment, but the manner in which statements by Service personnel have the reasonably anticipated effect of intimidating the applicants and contributing to their perception that they are being asked to provide information in exchange for a positive recommendation from the Service.

VII. CONCLUSIONS

7.1 General Findings

7.1.1 Relevant History Concerning the PKK

When the allied forces broke up the Ottoman Empire in 1920, the Kurds were promised a state of their own: Kurdistan. The promise never materialized. "*Kurdistan*" was divided between Turkey and to a lesser extent between Iran, Iraq, Syria, and the former Soviet Union. Throughout this century, the Kurds have been subject to repression, especially in Turkey and Iraq. The precondition for equality under Turkey's constitution and laws is that the Turkish Kurds can enjoy the freedoms and rights guaranteed under that constitution to "all Turkish citizens" only if they deny their heritage.

Substantial evidence was presented to the Committee with respect to the treatment of the Kurdish minority in Turkey, including documentation from Amnesty International and Human Rights Watch. Turkish officials often argue that nearly one-fourth of the 450-seat Parliament is made up of "Turks of Kurdish origin". In reality, however, only those who deny their ethnic identity can actually participate. The persecution of anyone involved in Kurdish issues is also well documented. The case of several Kurdish M.P.s has been widely publicized in the West,[17] but it is not unique. Journalists working on newspapers related to the Kurdish issue have been reported missing, and the offices of newspapers and magazines have been bombed. Anyone writing about the Kurds risks persecution, torture, and death. There are also well-documented cases of academics, scientists, and writers in Turkish jails serving lengthy prison terms for their political views.

On April 12, 1995, representatives of Turkish Kurds, not allowed to voice their aspirations in Parliament, set up a Kurdish Parliament in Exile to further their effort for a peaceful solution. Kurdish M.P.s persecuted by Turkey, as well as representatives of the ERNK, are Members of that Parliament, currently based in Brussels and which was working on a major Kurdish National Congress Meeting. In 1999, Turkish authorities captured and arrested Abdullah (Apo) Ocalan, the leader of the PKK. After his arrest, he issued a strong denunciation of violence and terrorism, a position supported by the leadership of the PKK. Ocalan has been convicted of crimes against the Turkish people and has been sentenced to death.

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[17] When some of these Kurdish individuals do identify with their own ethnic origin, they suffer for it. In 1994, Turkey persecuted and later prosecuted 15 Members of Parliament who openly stated they were Kurds and voiced the demands of their own electorates -- demands which the Turkish majority qualified as "terrorism", even though they were the demands of the people who had elected them

Among the major political movements in Kurdistan is the Partye Karkaran-e Kurdistan or Kurdistan Workers' Party (known by its acronym PKK). It was officially founded by Abdullah (Apo) Ocalan in 1978 in Istanbul. It has emerged as the focal point of nationalist Kurdish resistance to Turkish rule in the past two decades.

The PKK has been both a military and political organization in Turkey. It carried on guerilla warfare and armed struggle in Turkey, and on Turkey's borders, until the capture of its leader Abdullah (Apo) Ocalan in the spring of 1999. It has carried out bombing activities in most of Turkey's major cities and in parts of Western Europe. The Service estimated that approximately 30,000 people have been killed in the PKK's struggle to obtain an autonomous Kurdish state.

Currently, the PKK consists of a main political body which is the Party itself. In effect, this body functions as its legislative arm while the Kurdistan National Liberation Front (ERNK)[18] and the Kurdistan National Liberation Army (ARGK) are its executive bodies. The overall political, social, and military apparatus of the organization is complex. Each function or activity is carried out by separate committees.

In reaching my conclusions on the issues, I have been guided by my review of the Service's documentation, the submissions of both parties, the study of the case law, as well as the academic literature.

7.1.2 Faced With a New Reality

Canada's multicultural, multi-ethnic character and the high proportion of immigrants that make up its present population present undeniable unique benefits. Regrettably, this reality can also entail, in a small number of cases, a less enviable reality: people fleeing from violent political conflict in their own countries who, by choice or pressure, continue to support or even participate in that violence either in Canada or in their former homelands.

CSIS has been assigned the responsibility to monitor these activities abroad and in Canada for the purpose of advising the Government of any resulting threats to the security of Canada. In the context of Immigration, the task in which the Service must engage when conducting a security assessment (such as was undertaken with respect to the Complainant) is to determine whether the person could reasonably be said to be a "member" of an organization that has engaged in "terrorism".

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[18] The ERNK is trusted with a diplomatic peace-time mission and appears to be actively involved in international diplomacy, meetings with foreign governments and officials in an attempt to find a solution to the conflict through dialogue

When dealing with membership in organizations, it is important to consider first the type of organization. If the main purpose of the organization is to commit crimes against humanity (or war crimes), membership in such a group would be sufficient to be excluded from Canada, as this is an organization where the majority of its activities amount to heinous crimes against humanity. To be recognized as a member of such a brutal and limited-purpose organization or simply belonging to it, would be sufficient to be excluded from refugee protection.

The determination is rendered more complex, however, when dealing with an organization which has not only a sinister purpose, but also engages in other activities such as education, charitable work or an organization with a cell focused on a diplomatic mission and the recognition of the most basic human rights.[19]

As the McDonald Commission recognized in its report, a contextual perspective is important. In its coverage of national security rejection criteria for refusing to grant citizenship, the Commission noted:

> "A series of Security Service misinterpretations of government guidelines is of concern to us. Also of concern to us is the RCMP description of terrorists as 'members or active supporters of ... guerilla or liberation organizations'. There are many liberation and even guerilla movements around the world fighting for the same principles of democratic government that we desire to protect in Canada. It has been said that 'one man's terrorist is another man's freedom fighter'. The objective of the terrorist act must be taken into account by the security intelligence agency; there should be no automatic assumption that an applicant who committed such an act in another country is likely to behave similarly in Canada or even to plan from Canada another act of violent political coercion in his homeland. Reports recommending the rejection of citizenship should reflect such considerations.[20]

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[19] These "rights" include the right to political representation, the right to learn and speak the mother tongue, the right to maintain the cultural heritage, the right of the individual to have a say in his or her own future, and most specific of all, the right of the community to defend itself against assimilation by other dominant cultures.

[20] McDonald Commission, Freedom and Security Under the Law, 2d Report, Vol. 2, p. 835, para. 24

The Service, like all Canadian public bodies, has to engage in the difficult task of differentiating between political activism and activity which poses a threat to the security of the country. This is not an easy task. There are thousands of requests for entry into Canada from immigrants seeking landed status and refugees seeking asylum.

The task is particularly difficult when it comes to refugees who are by definition people who seek to come to Canada because of political repression in their homeland. It is often their activism that gives rise to their seeking refuge in Canada. The political cultures from which they come are often violent and repressive. Many refugee applicants have been imprisoned and tortured for their beliefs. I have heard extensive evidence from the Complainant of his own precarious situation in his home country.

Both the *CSIS Act* and the *Immigration Act* draw a line between "terrorism" and "threats to the security of Canada" and legitimate political activism and dissent on the other. As a practical matter, Canadian agencies do not work in a vacuum. Canada's efforts to protect its citizens from violence are matched by many other governments.

The Committee heard evidence of working relationships with a number of countries in which names of organizations and individuals are shared on the common assumption that they represent a real or potential threat because of the risk that they will engage in acts of terrorism.

This list is not timeless. For example, the African National Congress (ANC) and the Palestine Liberation Organization (PLO) were both widely viewed by the Western intelligence community as "terrorist organizations" until quite recently. Leaders of these organizations were not admissible to Canada without a special permit. That has now changed. Prime Minister Chrétien described Nelson Mandela as the "world's greatest citizen" when Canada honoured President Mandela with its highest accolade, a Companionship in the Order of Canada. A few years before, Mr. Mandela's political party was labelled a "terrorist organization".

The purpose of both the *CSIS Act* and the *Immigration Act* are not to stifle a wide range of political views, however, outlandish. The provisions are there to permit a specific exclusion of people who represent a real threat to the security of Canadians. The Committee fully recognizes that there are groups and individuals who believe that the achievement of their political or religious goals permits them to engage in violent attacks on civilians, to bomb buildings, blow up planes, and kill people outside a framework of law. These are examples of terrorism.

Counsel for the Complainant, Ms. Jackman, argued that it was logically impossible to differentiate between the use of the tactics mentioned above by states as opposed to individuals. She presented an extensive argument on this point. The Service did not present a single, unified, precise definition of "terrorism", preferring to rely on "we know it when we see it" and the working relationships described above.

7.2 Specific Findings

7.2.1 With Respect to the Service's Assessment of the PKK

I have no difficulty with the overall conclusion[21] that the PKK has (1) resorted to armed struggle rather than a political one in pursuit of its goals and (2) in doing so, has inflicted harm on civilians, both in Turkey and in Western Europe. Consequently, given the provisions of section 2 of the *CSIS Act* and section 19 of the *Immigration Act*, CSIS is justified in its conclusion that the PKK is an organization which has engaged in violence against civilians for the achievement of its ends, and as such is an organization which has engaged in terrorism. CSIS' view that this requires surveillance of PKK activity in Canada is therefore justified. The level and intensity of this surveillance is a matter of judgment dictated by evolving historical facts.

It would be tempting to subscribe to the view that having defined the PKK as an organization that engages in violence is sufficient, and to stop my analysis here. In my view, this is no longer a viable alternative. In the late 1980s, one could perhaps ignore the impact that foreign conflicts have on Canadian soil. But now, the Canadian reality has changed and continues to change too much for us to ignore such realities.[22] A more sophisticated approach is called for on the part of Canada's intelligence agency. The PKK, like other similar movements, has to be seen as a far more complicated phenomenon than simply a terrorist organization. As an expert agency providing advice to its client-department (CIC), CSIS cannot ignore the ongoing conflict, just as it cannot ignore the widespread support the movement seems to have.

Any analysis related to either a determination of an organization as a "terrorist organization" or a definition of "membership" in such organizations can only be further exacerbated when the organization apparently represents the aspirations of several million Kurds in Turkey and abroad. The Service's own numbers show that of the 10,000 to 15,000 Kurds residing in Canada,[23]

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[21] It is important to note that Canadian authorities have not been alone in reaching this conclusion.

[22] For the purpose of this investigation, I am talking about the PKK but I am very conscious that many of my comments could apply to similar movements also represented in Canada.

[23] With the largest numbers located in Toronto, Montréal, Ottawa, and Vancouver.

In instances where virtually the entire ethnic community in Canada is reported to support an organization branded as "terrorist" and its struggle for the cause, the Service's representatives must be expected to distinguish between varying degrees of support for the organization by the applicants being interviewed, and the nature of their membership in the organization. The Service's Headquarters should also play a major role in this assessment, which should no longer be done in an ad-hoc manner. If a sophisticated analysis is not provided to officials making assessments, and if better guidelines are not available, arbitrary decisions and errors will affect innocent people.

7.2.2 With Respect to the Definition of a "member of an organization t there are reasonable grounds to believe is or was engaged in acts terrorism"?

I heard much evidence on the definition of the word "member" in section 19 of *Immigration Act*. It must of course be noted that the notion of membership in an organizat engaged in terrorism is not referred to in the *CSIS Act*. It is a concept applied to the *Immigration* only.

The Service's two most senior witnesses, and both took the position that membership was, in ; words, "more and more an amorphous

concept", in which various criteria would be applied in distinguishing between passive sympathy and the level of active support that would lead to a conclusion of "membership".

The difficulty with this line of approach is that it casts a very wide net, and that a great many people who are politically active Kurdish nationalists, who are peaceful, law abiding and non-violent, will be labelled as "terrorists". In my view, that is exactly what has happened in the case of Mr. Goven. He has been unfairly labelled. He is not a member of a terrorist organization.

The additional problem to which the Service must address itself was referred to in the evidence of two of its own witnesses, and The PKK in Turkey and Syria was a para-military organization. "Membership" in such an organization would not come easily. It would involve extensive training and discipline. Membership would be limited to a small cadre of dedicated ideologues with the traditional Leninist mode of organization intensified by military discipline. I do not believe this definition applies to Mr. Goven.

The purpose of the *Immigration Act* is not to prevent people sympathetic to the Kurdish struggle from seeking asylum in Canada. Nor is it to prevent people with strong political views about events in Turkey from continuing those activities within the law in Canada.

The evidence points to membership and leadership shifting on a fairly constant basis.

Nor is a simple assertion by a human source that someone else is a member of the PKK a "fact". It is an expression of opinion from within a beleaguered community where rumour and gossip inevitably feed on each other. Someone could well have a personal grudge, and knowing how damaging such an opinion could be when given to CSIS (usually for money), it is difficult to see how much stock can be placed on that kind of "information".

There is no doubt that the PKK political philosophy and that the PKK political organization in Europe (as it did to other Kurdish organizations in North America)

It is clear that for several years after his arrival in Canada, the Complainant assumed a leadership role in the Canadian Kurdish community. It is also clear that he was instrumental

7.2.3 With Respect to CSIS' Assessment of the Complainant

The key allegation, and CSIS' conclusion, was (and is) that Mr. Goven was (and is) a member of the PKK, and that he lied about this in his interview. At the time of the interview in 1994, the two CSIS investigators believed that they had strong evidence to support their conclusion

A significant issue at this point turns on the nature of the CSIS interview itself. The Service's view is that it is an investigatory process that provides part of the factual basis for the security report to Immigration

As such, the Service argues that there is no "duty of fairness" to the interviewee in the sense that there would be at a judicial hearing. The problem with this view is that it ignores the impact of this interview on the applicant for landed status.

From the Service's perspective, the full burden of explanation as to the nature of his political activities is on the applicant.

This perspective fails to take into account the thrust of the SIRC report of 1997-98,[25] where the Committee makes it clear that the Service has a duty to "provide an opportunity to explain adverse information". Mr. Goven was never given this opportunity. Mr. Goven was not told that the Service believed that they believed that Mr. Goven was a member of the PKK, and that the PKK was an organization engaged in terrorism.

The investigator's account of the interview was an important basis of the security report provided to Citizenship and Immigration Canada by CSIS in August 1995. It alleged that Mr. Goven had "blatantly lied" in the interview about his involvement with the PKK. However, in her testimony, one of the two investigators admitted that Mr. Goven that he stated that he supported the objectives of the PKK but was not supportive of violence, and that she "couldn't recall" whether it was difficult to get him to commit to his actual views on the PKK.

The most significant purported evasions of Mr. Goven in this crucial interview in October 1994 were two: first, Mr. Goven allegedly denied knowing until shown a photograph; second, and more significantly, he feigned ignorance about the activities of the PKK in Canada or of knowing who was and who was not a member.

On the first point, I am persuaded by the evidence of Ms. Leddy that in fact Mr. Goven knew

The second point is far more complex. From the Service's perspective, the reluctance or refusal of an interviewee to name names and provide complete information is proof of something to hide.

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[25] SIRC Annual Report 1997-98, Research Study # 105 titled "CSIS' Role in Immigration Screening"

Mr. Goven's testimony was that his father had been killed in Turkey by Kurdish extremists who believed he had informed on them. Mr. Goven's surmise that his interview soon turned into an enquiry into his political beliefs and associations was quite correct. He had already heard from others of enquiries being made by CSIS into political activities in their community, and he had clearly decided that he would not be drawn into a process of labeling others as "members" of the PKK. He was tortured in Turkey. He believed that information in the wrong hands could bring harm to people, and that in any event his "information" could be wrong.

His response to the charge that his answers were "equivocal" is that he felt a "huge psychological pressure". He was not offered food all day, and was exhausted and depressed by the process. The entire experience reminded him of his interrogations in Turkey except for the physical torture. In that circumstance, and in that frame of mind, he simply was not going to "name names".

There was much evidence and argument about the definition of the term "member", but I need not deal extensively with the issue because even if I apply the liberal definition used by the Service, I conclude that the facts simply do not support the conclusion that Mr. Goven was a member of the PKK. The line between membership in and support for an organization is not a clear one, but the main indicator of membership in an organization is responsiveness to direction and control by the organization. When there are not clear criteria with which one can determine whether or not a person is a member of an organization, support for the organization and association with its members are of course relevant factors in assessing membership. These factors are also consistent with simple support for the organization, and so in order to reach a reasonably reliable conclusion as to membership, one needs evidence that the person in question was prepared to respond positively to specific directions from the organization in circumstances where a member would be expected to so respond.

The Service's written submissions contain 20 short paragraphs summarizing the salient points alleged to be demonstrative of the reasonable grounds for a belief that Mr. Goven was a member of the PKK. Yet, neither these paragraphs nor the evidence I heard, amount to such grounds but rather describe instances in which Mr. Goven has taken some steps supportive of the PKK, or has been in association with someone alleged to be one of its members, or is described by

some member of the Kurdish community (who has himself heard this) as a member of the PKK. It is true that when membership in an organization is not strictly defined, one must look to various indicia of membership and piece together a conclusion on this issue, but the points cited by the Service are thin and strained as a basis for a conclusion as to actual membership in the PKK, and the conclusion is too conjectural to be said to be based on "reasonable grounds". There was certainly enough supportive activity on Mr. Goven's part to attract the initial attention of the Service, but not to constitute reasonable grounds for a conclusion of membership.

I am convinced of Mr. Goven's sincerity. The Service's conclusion that he "blatantly lied" is exaggerated and, in the circumstances, has had a devastating effect on Mr. Goven's life in Canada.

As a result of this interview and other assessments of his activities and character, Mr. Goven was the subject of a report from CSIS to Citizenship and Immigration Canada in August 1995

With respect to this position, I have to admit that I pose the same question that Counsel for the Complainant have outlined in their submissions: If a person is determined to be a member of a terrorist organization but poses no threat, then this indicates that the provisions are being misinterpreted. If the person poses no threat, the person is not a member because member should be read to cover only those who do pose a threat, in the sense that the person actively and knowingly participates - directly or as a conspirator or aider and abettor - in illegitimate violent activities in another state or unlawful activities in Canada.

On a practical point of view, this assessment has meant that Mr. Goven has had no response from Citizenship and Immigration Canada to his request for permanent residence status. I find this situation unacceptable.

7.2.4 With Respect to the Length of Time for Security Screening

The Service received a request to assist CIC in the security screening of the Complainant's application for permanent residence as an independent immigrant on July 16, 1993. Over five months passed between the date on which the Service received the file from CIC and the

date on which the Service initiated *any* action on it (February 1994), and a further eight months before the Complainant was called in for an interview (October 1994). Ten more months passed before the Service reported its conclusions to CIC (August 1995). CSIS highlighted the fact that CIC has now had the response from the Service since August 9, 1995.

It is trite to say that simple cases will be disposed of quickly while complex cases will take longer. What is not acceptable, however, are lengthy passages of time during the process where little or nothing is being done to advance the file, where administrative delay and shuffling of the file from one person to another results in unproductive lapses of time. The chronology of the Complainant's security screening file reveals many such periods.

The Service's defence of this delay as acceptable demonstrates both an insensitivity to the burden that the delay imposes on the individual concerned and a tolerance of simple bureaucratic inefficiency. The seriousness of this process, both from a national security point of view as well as a compassionate aspect for the stress that the passage of time imposes on the concerned individual - requires greater managerial rigour.

7.2.5 With Respect to the Convocation for Interview

I received evidence that when CIC convokes individuals for a security screening interview to be conducted by investigators of the Service, the individual is neither informed about the purpose of the interview nor of the fact that it will be conducted by investigators of the Service. Service policy specifies that CSIS employees are to identify themselves to the individuals being interviewed.

I find that a security screening interview is intimidating enough without being sprung on a person without notice. In some cases, the inevitable result will be a high degree of nervousness and confusion, which cannot be productive. Furthermore, I believe that both the individual and the Service's interests are well served by having Counsel or other representatives attend the security screening interview. The presence of an advocate can provide much needed reassurance for the individual.[27] To the extent that the individual feels less vulnerable and well represented, the Service will be better able to accomplish its objectives in the interview.

I do not accept the Service's assertion that the convocation for an interview conducted by CSIS for the purpose of assisting Immigration is a matter entirely internal to CIC.

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[27] Particularly in light of the fact that many will be refugees who have suffered interrogations and torture in their country of origin and for whom English is not their first language

VIII. RECOMMENDATIONS

OF SIRC REPORT DATED 7/2000 WITH REFERENCE TO BOTH SOLICITOR DUNCAN AND SULEYMAN GOVEN

I recommend that the Service inform CIC that following its investigation, the Security Intelligence Review Committee has recommended that the Complainant's application be processed for landing.

I recommend that the Service's Headquarters continue to play a major role in the assessment of prospective immigrants so as to ensure that this assessment is not done in an ad hoc manner and that it benefits from an accurate view of the organization and its representation in Canada.

I recommend that a more sophisticated analysis framework be developed for officials making assessments and that better guidelines be made available to the different interveners with respect to the definition of "membership" and the definition of a "terrorist" organization.

I recommend that the Service's immigration security screening activities be conducted for the express purpose of issuing a clear recommendation to CIC that an individual be granted or denied permanent residence based on security grounds.

I recommend that any amendment to the *Immigration Act* and the *Citizenship Act* include a corollary provision to section 14 of the *CSIS Act*, to the effect that on matters relating to the security of Canada, the decision to grant or deny an application for permanent residence be based primarily on the investigative agency's recommendation.

I recommend that CSIS immigration security screening assessments seek to determine if there are reasonable grounds to believe that the individual was engaged in, or is engaged in, or may engage in activities that constitute a threat to the security of Canada as defined in section 2 of the *CSIS Act*, which implies that it does not include lawful advocacy, protest or dissent unless carried out in conjunction with any of the activities described in paragraphs (a), (b) and (c).

I recommend that an individual required to attend an immigration security screening interview with CSIS investigators receive written notice of the date and time of the interview two weeks in advance of the scheduled interview dates.

I recommend that the written notice specify that the interview will be conducted by CSIS investigators, its purposes,[31] and the fact that the applicant has a right to attend with Counsel or another representative. Considering that a recommendation to grant or to deny an application for permanent residence must be based upon adequate information, the notice should so inform applicants.

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[31] The notice could refer to the legislative mandate: the representatives of the Service will be conducting the interviews in order to issue advice to the Department of CIC in determining the applicant's admissibility in light of the inadmissible classes of section 19(1) of the *Immigration Act* and the definition of "threats to the security of Canada" as defined in the *CSIS Act*

In instances where the Service has operational information concerning the applicant, I recommend that the relevant operational desk be consulted prior to the interview and that any adverse information be provided to the CSIS investigator in a document that has been approved for release to the applicant.

I recommend that no immigration security screening interview be conducted without the Personal Identification Form having first been provided and fully reviewed by the CSIS investigator.

I recommend that the Service be held accountable for delays due to its own processes and that in any case where twelve months have elapsed before the Service transmits its advice to CIC, the individual concerned be informed in writing of a right to initiate a complaint with the Review Committee.

As one can hardly exaggerate the importance of facts having regard to all of the circumstances, being accurately observed, reported and recorded, nor can one exaggerate the necessity upon their being extracted from the record, of having them fully, fairly and objectively expressed, I recommend that a recording be made of all immigration security screening interviews and that this recording be retained at least until a decision is made by CIC on the Service's advice regarding the application. In the event that the Service provides a negative conclusion, the recordings should be kept until the immigration status is determined.

I recommend that within the briefing unit of the Service's immigration Security Screening Branch, a Committee be created composed of the investigator who met the individual, an investigator from the operational desk relevant to the organization the individual is alleged to be a member of, an individual whose responsibilities will be to challenge the adverse findings, and a representative of Legal Services. The purpose of the exercise will be to ensure uniformity and accuracy in the information forwarded to CIC.

Original Signed By
Original Signé Par

The Honourable Robert Keith Rae, P.C., Q.C.
Chair

ATTENTION: NAMEO
NANNY
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April 19, 2000

TO: The Hon. Elinor Caplan, Minister of Immigration
ATTN: ~~Seth Rudin~~ JAMIE SPRINGER and NIKKI MACDONALD
Re: Report of the Security and Intelligence Review Committee. Sami Durgun and Suleyman Goven

Dear Elinor,

The Security and Intelligence Review Committee has completed its report on the complaint lodged by two Kurdish men against CSIS. This report is very significant and I trust you will consider all its implications in terms of policy, legislation and procedures.

The complaints were initiated by me because I was a witness at the security reviews in which each of these men were told that the landing process would go easy for them if they informed on other Kurds. They refused and their landing process was made doubly difficult.

It became clear to me during these interrogations and during the subsequent SIRC hearings that what has terrorized these two men is that there is no legislated definition of what a "terrorist group" is and what "membership" in such a group means. This means that it is left up to a CSIS agent or single Immigration officer to make this definition. For the sake of weeding out a few real terrorists in Canada a whole field of innocent people is being mowed down and the tractors are out of control.

I was so outraged by the ineptness and gross disregard for justice demonstrated in these interrogations that I urged Sami and Suleyman to appeal to SIRC and to trust in the procedures of justice offered by SIRC.

The SIRC report completely exonerates these two men and recommends that they be landed--without any qualification. Counsel has forwarded a copy of the report to Craig Goodes and I understand that no action will be taken with regard to a response until you and the Solicitor General have been consulted.

I urge you to take the initiative and act quickly and clearly to give these two men their landed papers. This will give some recognition to their hope, a hope held in spite of extreme difficulties, that Canada would still be a place where they could be safe and could find the justice that they were denied in Turkey.

Suleyman and Sami have lost the last, perhaps best, ten years of their lives because of the security shadow that was cast over them. They arrived as young men and now they are old. They have lost opportunities to study, countless possibilities for meaningful work, housing and the simple human fulfillment of marriage and a family. Suleyman was continually harrassed, his phone tapped, his girl friends called in, his personal belongings stolen. Sami

was finally driven to waiting day and night for over forty days in bitter cold just to get some answer as to why his life had been put on hold. Their suffering has been tragic and unnecessary.

The SIRC recommendations are so clear that they merit your immediate attention. These two men have much to offer this country and if they were once treated decently I think it would go a long way to mitigating the terrible memories they have of certain Canadian systems.

Let me reiterate what I said to you on the phone. Most refugee advocates recognize the importance of ensuring that criminals and terrorists are not given protection in Canada. Count on our support in this regard. I have been convinced of this since my doctoral work with Emil Fackenheim. Subsequently I became involved with Sol Littman and Irving Abella in several efforts to bring Nazi war criminals to trial. In 1982 I issued a public statement criticizing the Pope for agreeing to meet with Kurt Waldheim. In the past ten years of living with refugees I have become even more passionate about this issue because I live with those who have suffered greatly because of criminals and terrorists.

I also know that the word "terrorist" is now being used so losely that innocent people are being painted into a very dark corner, for years and years. I believe that you can bring light to this issue and a clear-sighted sense of justice.

In closing I want to let you know that the plight of these two men has been a matter of widespread concern. Groups such as our Sanctuary Coalition, the CCR, ICCR and the Canadian Autoworkers have taken up their cause. People such as June Callwood, Sonia Smitts, Archbishop Terry Finlay and Rabbis Dov Marmur and Gunther Plaut stood with Sami in the cold during his long vigil. The courage and persistence of these two men has so impressed many that they have received awards as "Refugees of the Year." They will be honoured at Metro Hall on May 4 (because Refugee Rights Day had to be postponed on April 4 because of the strike of the civic employees). It will be difficult not to mention their struggle, their hopes and the conclusions of the SIRC report. If the event had occurred as planned this would not have been so difficult.

I know you are out of the country until later this month. The Sanctuary Coalition has agreed not to release the SIRC report until you have had a chance to read it and to determine action. I urge you to do this immediately. I will phone you on May 3 because I cannot imagine how we can withhold this report on May 4.

At the present I am on a writing fellowship at the Banff Centre. You can reach me there at 403-762-6100 ext 7757. Or alternately, you could contact Andrew Brouwer who is co-ordinating this effort for the Sanctuary Group at 416-944-2627.

May I take this opportunity to wish you a Happy Passover.

Sincerely,

Mary Jo Leddy

Appendix 10

March 26, 1999

Legislative Review Secretariat
Narono Building, 10th Floor
360 Laurier Avenue West
Ottawa, Ontario
K1A 1L1

Dear Mesdames/Sirs,

Enclosed please find the Southern Ontario Sanctuary Coalition's *Comments on proposals in "Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation"* (March 25, 1999).

Based on its experience in solidarity with refugees in Canada at risk of deportation to places where they face persecution, the Southern Ontario Sanctuary Coalition makes three main points in the attached document:

- New legislation must include a full, impartial appeal process for refugees whose claims have been rejected by the IRB.

- New legislation must include a variety of measures to introduce transparency and accountability into the security screening process, including a time limit.

- Landing fees for refugees must be eliminated.

We look forward to the tabling of draft legislation in the trust that these fundamental issues of justice and fairness will be addressed there. If we can be of any assistance, including by providing further detail about our experiences and proposals, please do not hesitate to contact me.

Sincerely,

Michael Creal
Southern Ontario Sanctuary Coalition

187 Browning Avenue
Toronto, ON M4K 1W7
Tel. 416-466-4216
Fax 416-466-3628

Encl.

COMMENTS ON THE WHITE PAPER

A RESPONSE TO "BUILDING ON A STRONG FOUNDATION FOR THE 21ST CENTURY: NEW DIRECTIONS FOR IMMIGRATION AND REFUGEE POLICY AND LEGISLATION"

SOUTHERN ONTARIO SANCTUARY COALITION
TORONTO, MARCH 26, 1999

INTRODUCTION

The Southern Ontario Sanctuary Coalition is a network of diverse individuals who joined together in the summer of 1993 to commit themselves to the protection of refugees, particularly those refugees under notice of deportation despite imminent threat to their lives. We assist refugees on the basis of our shared, deeply-held faith values and convictions. We are firmly committed to seeing that Canada upholds its national and international obligations to refugees. Our compassion for and commitment to refugee protection comes from an intimate sharing of all aspects of the Canadian asylum process with refugees themselves; from filing legal documents and attending hearings to seeking housing, medical aid and social services as well as providing emotional support.

We welcome this opportunity to offer our observations with respect to the proposed new directions for refugee and immigration policy as laid out in *Building on a Strong Foundation for the 21st Century.* We are grateful that the Minister heard the calls of the refugee solidarity community and tabled a white paper for public discussion before moving on to proposed legislation. We take this document, therefore, in the spirit of *proposals*, and trust that our comments will help to shape the legislation when it is drafted.

Though each of us brings views and expertise from our various areas of engagement in refugee issues, we will limit our comments in this brief to three matters directly affecting the people we serve as a coalition: namely, refugees in Canada

THE RIGHT TO APPEAL IRB DECISIONS

We were glad to see that the Minister has rejected the proposal of the Legislative Review Advisory Group to replace the IRB with a Protection Agency within the Department of Citizenship and Immigration (CIC). We believe that the independence and quasi-judicial status of the IRB are extremely important and should be strengthened rather than weakened. We therefore also support the proposal for a much more transparent process for the selection and appointment of qualified board members.

The white paper furthermore proposes something called "consolidated decision-making" to strengthen refugee protection. In proposing that the IRB take into account not only the Geneva Convention but also other "instruments" to which Canada is signatory (such as the Convention Against Torture) as well as the protection elements of the current humanitarian and compassionate review, it is suggested that three decision-making layers be reduced to one. We believe there could be merit in this if:

1. the criteria for humanitarian and compassionate review were unambiguously clear and adequately reflected the meaning of those words; and

2. it could be guaranteed that members of the IRB were adequately trained to make all these critically important assessments.

Assuming that members of the IRB were selected and trained in such a way as to meet the highest standards of competence in the work assigned to them (an achievement certainly not to be taken for granted), it is still crucial that there be a proper appeal system to handle mistakes that will inevitably be made even in the best of all systems. There must be some way of dealing not only with errors made by IRB members, but also with new information that comes to light regarding an individual claimant or their country of origin, or changes in country conditions that would affect the safety of the claimant. This point has been made over and over again by refugee advocates, by the Hathaway report and was the reason the Davis/Waldman study was commissioned several years ago. The current proposals fail to answer this need. The best they offer is an assurance that "pre-removal risk assessment would be available in appropriate circumstances," whatever that means.

An appeal procedure is necessary to meet standards of due process (something Canadians insist on in every area of law) and also to reduce inconsistencies in the decision-making of the IRB. There would need to be a procedure to establish whether or not there were proper grounds for appeal in any given case (to eliminate frivolous requests) and the appeal would need to be more than a paper transaction. These are important points of detail but our concern in this brief statement is to argue the principle rather than work out the details. *An appeal procedure MUST be included in the legislation.*

We believe this to be a fundamental issue of conscience. Without access to a fair and substantive appeal, innocent people will be hurt. We have no doubt that, should the new legislation once again fail to include an appeal process, there will be a dramatic growth in the sanctuary movement. Whether legal or not, people of faith across the country will act on their conscience and offer sanctuary to innocent refugees whose lives are at risk and who have been denied any other recourse.

INTRODUCE TRANSPARENCY AND ACCOUNTABILITY IN SECURITY SCREENING

We are distressed by the tone of much of the discussion of inland refugee claimants in the white paper, which seems to cast them not as persecuted people in need of sanctuary but as criminals and terrorists. While we do not dispute the point that there is abuse in our refugee determination and landing program, we object strenuously to any approach to

refugee policy which subverts Canada's obligation to provide asylum, making it secondary to CIC's desire to prevent abuse. We view Canada's increasing focus on overseas interdiction as a chilling example of this inversion of primary and secondary concern. By setting up new and ever higher roadblocks to prevent "undocumented" asylum-seekers from reaching our borders to claim refugee status, we cannot help but bar many, many desperate people who *genuinely need* our protection.

We are also particularly concerned that the sections of the white paper dealing with security checks are so general that they may result in the deportation of innocent people back to situations of grave danger.

Canada has a responsibility to protect its own citizens, but it has an equal obligation to protect those who are fleeing persecution in their country of origin. While the present Immigration Act prohibits landing of people who are members of organizations involved in terrorism, there is no definition of what constitutes a "terrorist" group and what constitutes "membership" in such a group. It is left entirely up to individual officers to decide who could be called a member of a terrorist group. This leaves the door wide open for abuse and injustice by Immigration officers. Is someone called a terrorist simply because he or she is against the repressive policies of their government? Many refugees have fled their own country because they were part of legitimate liberation movements. The present lack of definition of what constitutes membership in a terrorist organization makes it entirely possible that those who have legitimately dissented in their own country and in Canada could be judged as inadmissible to Canada.

In addition, the white paper does not clarify the relative responsibilities of the Canadian Security Intelligence Service (CSIS) and Immigration Security in doing the security checks. We have been informed that all CSIS checks are done and recommendations are made within two years after a person has been accepted as a Convention refugee. Yet, the application for landing can rest with Immigration Security for years. The duplication and overlap between Immigration Security and CSIS must be clarified. Under the present circumstances, it is even questionable what use the Immigration Security Section serves. What is it doing that is not being done by CSIS or by the RCMP?

There also needs to be a time-limit for security checks. We are acquainted with cases in which refugees have had their landing held up for 5 years, 10 years and more because of an incomplete security check. The lives of innocent people – refugees who have already had to flee persecution -- are being destroyed because CSIS and/or CIC doesn't want to close their file. This is completely unacceptable. There needs to be a strict limitation on the length of a security check. We propose three years. If CSIS and CIC are unable to find any incriminating evidence within that time, the refugee in question should be landed. If hard evidence turns up at some point after the refugee has been landed, the legislation still gives the government the power to revoke status and undertake deportation proceedings.

In addition, there must be some group that can act as a watchdog over Immigration Security and Enforcement. These sections of CIC are the only police/security force in the

country without a watchdog. Even CSIS is accountable to the Security Intelligence Review Committee.

RESCIND LANDING FEES

We are surprised and disappointed that the white paper makes no mention of eliminating landing fees for refugees. As taxes levied on one group among many in society, the $500 processing fee and the $975 Right of Landing fee, or Head Tax, discriminate against newcomers. There is no justification for targeting refugees and immigrants for these special taxes.

Because the Head Tax is a flat-rate tax and does not reflect newcomers' ability or inability to pay, it has a deeply inequitable impact on immigrants and refugees from Third World countries, most of whom are relatively poor and are people of colour. Beyond unfairly penalizing them in Canada, the Head Tax may well therefore act as a deterrent to these prospective newcomers.

The Head Tax causes long delays in family reunification. Prospective sponsors who cannot immediately afford the $975 required to sponsor a spouse/co-parent and are unable to access loans are forced to postpone sponsorship until they have saved the required amount. The imposition of these delays through the Head Tax constitutes a violation of the principles of family unity articulated in the Universal Declaration of Human Rights and the protections accorded to families in the United Nations Convention on the Rights of the Child.

The Right of Landing Fee Loan Program does nothing to mitigate the inherent injustice of requiring refugees to pay an exorbitant fee for right to stay in Canada. Even assuming for a moment that all who need them are indeed given loans, the discriminatory impact remains the same.

However, the loan program is not without practical flaws as well. Refugees in our communities have been turned down for loans, despite their clear need, because they are unable to furnish proof of their ability to repay the loan.

The $500 processing fee and the $975 Right of Landing fee have been heavily criticized not just by the affected community but also by the UNHCR, the Canadian Human Rights Commissioner, all five political parties in Parliament (including the Liberal Party), leaders of every major faith community in the country, and countless ordinary concerned Canadians. *Landing fees must be rescinded for refugees.*

Appendix II

Canada's Future: A Good Country or Colony of an Imperial Power?

Introduction:
This statement is being made by a Christian group called The Sanctuary Coalition. Over the past 12 years the Coalition has acted on behalf of refugee claimants who have systematically and over the course of several years been failed in one way or another by the refugee system in Canada.

We have researched, advocated, met with politicians and presented briefs to parliamentary and Senate hearings committees. We have pressed formal charges on behalf of a Convention Refugee to SIRC against CSIS (and won).Through cooperation and confrontation with officials, collaboration with colleagues, companionship with one another, and the silent accompaniment of one of our claimants through a 42 day-and-night winter vigil of prayer outside federal offices in Toronto pleading for humanitarian consideration (to no avail), we have come to know the best and the worst of Canadian attitudes, the IRB, and CIC–along with its always inscrutable and often controlling bureaucracy.

In this statement we look to the future as we address the needs of refugees and the needs of Canada in its dealing with them. We "remember" our Canadian values and make our proposals in the conviction that the struggle for a just and humane policy for refugees is at once a struggle for justice for asylum seekers as well as for the soul of Canada. Both, at this time, could be fairly judged to be slipping away from our care.

I. Preamble:
Our position is grounded in the following assumption: ***Canada is a sovereign country that yearns for justice for all, and its people wish it to remain so identified*** in their relationships with all other sovereign nations and in all international forums.

At the heart of Canadian experience is the conviction that positive relationships among nations are based on shared respect, freedom and equality for all persons and peoples. These relationships, Canadians believe, are formed freely and cooperatively. As they develop they deepen the common good which all individuals and peoples share and hope to share as the only sure ground for the community we are striving to become.

World community arises and progresses as a "covenant" among peoples. By this term we mean not only economic or political arrangements but the human drive to share with all people the best of our human aspirations and achievements. It is a drive transformed into a commitment to form a true world unity. Out of this desire and commitment arises the recognition of our basic obligations to one another and the basic rights we can claim with one another. It is on the basis that the weak can lay claim to a place with the strong, that those at the margins are able to claim an equal place with those at the centre of power.

To express that vision practically at this time requires that we face up to the current "facts" in international affairs; but also to the ideals that have for decades informed our Canadian identity and our ways of proceeding--at the UN and on every international stage we share with other nations and peoples.

The vision in this paper is of a Canada that simply cannot be true to itself or its best accomplishments without continuing its internationally-admired openness to refugees, a tradition that is seriously in peril through recent government policies and practices here and in other industrialized countries.

II. Background: A Canadian Tradition to Remember

It is not by accident that Canada, despite its limited size and power, gained great esteem in international relations in the decades following the Second World War. We want to recall very briefly some of the accomplishments that made Canada respected internationally in the area of receiving newcomers. We also note the positive approach that Canadian policy-makers often took in their way of assessing causes of problems and proposing solid solutions to them.

- ***Canada has played an internationally recognized role in the area of private resettlement of people at risk.*** The UNHCR and the international community recognized this role by granting the prestigious Nansen Medal to the People of Canada.

- ***Historically (since 1980) Canada pioneered the use of the UN Commission on Human Rights as a forum for linking human rights and massive exoduses--and implicitly for addressing the causes of refugee flows and building solutions.*** Just this year, through negotiations influenced by the Canadian Government delegation, the UN Commission on Human Rights altered its resolution on Mass Exodus so as to recognize that refugees and asylum-seekers have human rights which must be protected after they flee.

- ***Canada played a significant role in developing the UN human security agenda and applying it to victims of conflict***--civilians, refugees and internally displaced persons.

We must not fail this positive international heritage. We believe we can be faithful to our best Canadian tradition through refugee policies that focus with imagination, insight, fairness and compassion on the needs of asylum seekers in our particularly complex circumstances . We also believe the more vulnerable peoples of the world need us to be faithful to this Canadian tradition, now more than ever.

III. Problems with existing policy

While Canada remains at this time among the most open of western countries in its

legislation and its practices for receiving refugee claimants its level of performance on behalf of refugees is slowly being undermined both from outside pressures (especially since 9/11) and from within the country and the Government.

We offer here a sketch of the deteriorating international context for refugees which now significantly influences Canadian attitudes and official practices:

- ***Refugee dignity and security needs are being undermined globally by measures aimed to deter asylum seekers from the West.*** Western states have introduced stiff measures of interdiction, intensified deportations, slowed down sponsorship processes, and increased the use of illegal detention to deter claimants from arriving at and settling inside their borders. Many of these measures have been taken without regard for the human rights of asylum seekers that these states have pledged themselves to defend. Other states, seeing the example of the industrialized countries, have felt obliged to adopt these same harsh measures.

- ***Sharing in responsibility among States for refugees and asylum seekers has begun, in some places, to become degraded to a system of payoffs*** with more powerful states able to pick and choose whom they wish to accept or to pay poorer states, in various fashions, to hold back asylum seekers.

- ***Undermining refugee rights has undermined human rights***. The fact that well-endowed western states can deny rights to asylum seekers, often as a matter of convenience, undermines efforts to implement international human rights standards in general. Worse, the potential for calling on human rights systems as a means of addressing the causes of refugee-creation is being diminished by these actions.

The second part of this review of current policy focusses on Canada's own refugee policies and practices. Are they continuing to reflect what we have called Canada's best traditions? The answer is: only partly.

In its April 4 (Refugee Rights Day) report card on our domestic policies and practices over the past year, ***the Canadian Council for Refugees (CCR) gave the Government two passing grades.*** They were on:

- the "***Consolidation of Grounds***" for protection outside the criteria stated in the Convention. For example, spousal abuse and gender abuse have become recognized by Canada as situations in which a person may truly be in need of international protection.

- and, ***granting of post-secondary education Canada Student Loans*** to recognized refugees prior to their gaining permanent resident status. This overturns the *years of waiting* to continue their education that has been the typical lot of a refugee who has been accepted but is not yet landed.

However, CCR cited ***six areas in which the rights of refugees had been diminished as a result of our domestic policies***. These areas included:

- ***Non-implementation of the appeal clause of the Immigration and Refugee Act.*** "As a result, refugee protection decisions, on which a person's life may depend, are now made by a single decision-maker with no right of appeal" for the claimant.

- ***Signing the Safe Third Country Agreement.*** This will result in many refugee claimants being turned away at the Canada/US border and forced to stay in the USA where they fear persecution and may not even be allowed to tell their story.

- ***Direct backs of claimants to the USA*** has been taking place since January 2003 with the result that many people unable to enter Canada have been turned over to US jailers with serious risk of family break-up and deportation as well as possible persecution in their country of origin.

- ***Greater use of detention*** than ever before by Immigration Canada on the basis of lack of sufficient documentation. This breaks from past practice and represents an instance of international law being broken by law-enforcement officers in the name of enhancing "security".

- ***Resettlement processing at home and abroad has slowed down.*** As a result: hundreds of people will lose a chance for a new life, the government will perhaps not meet its target for resettled refugees, and private sponsoring groups become discouraged from submitting even "urgent" applications.

- ***Linking refugees with terrorism*** has become an accepted myth through pressure exerted by the USA and by enforcement officers unaccountable before the law for their judgments. The Canadian government has an obligation to challenge this unfounded link–but has not done so in a systematic way.

The sad fact is that Canada already exercises many of the harsh practices and injustices that have become increasingly common among the largest countries in the English-speaking world and many countries in Europe.

IV. Seeking a Just and Humane Way Forward in a Global Context

In seeking for a way forward, we must begin by acknowledging the overwhelming influence of the United States in Canadian cultural, economic and political life. Our specific point of concern here is ***the intimate connection in the US between their refugee policy and foreign policy.*** The pervasive, even indiscriminate, linking of these two concerns since 9/11 frequently counters international law obligations to asylum seekers. Undertaken mainly in the name of national or continental security, the US approach now exercises undue influence on the Canadian Government's attitudes, policies and practices.

In tracing this larger context we have set the terms for considering two major features embedded in current Canadian policy and practice that require serious review with regard to exercising our obligations to refugee claimants: (1) our Canadian approach to security and (2) our Canadian way of selecting refugees for resettlement in Canada.

1 a. **Criticism of the Current Canadian Approach to Security:**

We believe the consuming concern for security that currently blankets the United States springs from a general fear of further attacks. This free-floating fear is promoted by US government officials as "realistic," and it has taken on the status of a patriotic duty. Fear is clearly a pervasive, even a cultural, factor in the US at this point. Post 9/11 fear has provided an ideal occasion for the US government to invoke the need for increasing government-related controls in a blanket fashion.

On the basis of Canada's perceived need to cooperate with the American-style concern for security, ***our Canadian government has installed anti-terrorist legislation and acquiesced to many US-initiated harmonizing imperatives in a way that deeply threatens our distinctive Canadian culture***, especially in our attitude to individuals and international realities. The 9/11 crisis has provided a justification for diminishing precious human rights confirmed over decades and even centuries of courageous struggle. This is done in the name of "national security," a term that didn't have common use in Canadian parlance before recent events imposed its use on us.

Related to the issue of security (as defined by the US and accepted to a significant degree by Canada) is the expanded and effectively unmonitored role granted to enforcement institutions (the FBI, CSIS, and immigration officials, as well) in their surveillance, interrogation and enforcement activities. ***Investigative and enforcement agencies must not be allowed to drive the agenda, policies or responses with regard to Canadian refugee policy and practice.*** It is crucial that they be publicly accountable for actions they take in the name of security.

How does this apply to refugees? Receiving refugees who come to the Canadian border is an obligation for Canada according to our international commitments. However, ***having access to the Canadian border and Canadian procedures has now become one of the most fragile of rights for a refugee claimant.*** It could be said that the Safe Third Country Agreement proposes to remove that right almost entirely for people who wish to come to our border to make a refugee claim.

We ask: ***have we simply cooperated with US concerns or have we been appropriated by them?***

1 b. **Towards a Positive Canadian Approach to Security**

We believe that the "culture" behind our response since 9/11 is not Canadian. It neither

expresses nor enhances the Canadian character.

Our history and the current responses of the majority of Canadians to recent US-initiatives confirm this view. First, ***Canada is not seen as a "dominating" force in international relationships as the US is.*** Secondly, ***the vast majority of Canadians do not believe that Canada is threatened by imminent attack.*** We do not experience ourselves even after 9/11 as a people that first and foremost needs to live in fear. This is not our cultural, social, psychological or historical reality, and we call on our leaders to recognize and act in the light of that very significant difference between the US and Canada.

The Government's decision not to support the invasion of Iraq was a positive action related to this difference of reality and response. However, ***many other government actions since 9/11*** and even since the declaration not to cooperate in the invasion of Iraq ***have failed to maintain our distinctively Canadian view of good order and its relationship to a distinctively Canadian form of governance according to Canadian interests***.

It is absolutely crucial that the Canadian Government accept, and be seen to accept, that ***security, first of all, concerns the protection of persons*** **and their rights** ***not the protection of borders and the ideal circumstances for trade***. We would be a better and a safer country if we would act systematically on this order of priority.

We must insist now more than ever on independent Canadian judgment in this tradition. The US government may choose to pursue policies that seek to promote its own narrow national interest. Canadian policies must be directed precisely to addressing questions of national and global justice within our own traditions. Canadians are more than ready for that kind of policy.

Returning to our primary focus on refugees, ***we insist that security motives not be used as a means to prevent Canadians from welcoming refugees to our country in the manner in which our commitments require of us.*** Refugees are the easiest and most vulnerable victims of any free-floating fear. They must not become the scapegoats of a self-protection mechanism that will accomplish nothing for asylum seekers, do little for our security, and lead to the diminishment of our national spirit.

With regard to determining refugee claims we re-assert our Canadian principles: Refugee processing requires efficiency, effectiveness and fairness. It also requires open-mindedness, compassion and accountability to the Canadian people and the international community.

2. Canada's Determination to Process More Refugee Claims Abroad

The Government's determination to invest heavily in overseas processing of refugee

claims has some merits that can be recognized. It also provides some challenges and clear weaknesses at this time with regard to our international obligations. We note some of them here:

a) ***It is crucial that the right to a fair process be meticulously guaranteed in overseas selecting*** and that records relating to how this processing is carried out be available to later review.

b) Even with a system of overseas selection in place, ***some people will still be arriving at our borders and airports to claim refugee status***. We would expect the government to insist that our independent approach to asylum claims ***in Canada*** (including right to appeal) be followed in every respect for each of them.

c)***Our overseas processing of refugee claimants needs to be improved.*** Currently we have major inconsistencies between inland judgments and those done outside Canada. (i) In Canada, hearings are conducted and judgments are made by the IRB. Abroad, this process is done by CIC officials. (ii) In Canada, hearings are recorded and judgments along with the reasons for them are kept as written records. To our knowledge, no similar records are currently kept or required abroad. (iii) Criteria for acceptance within Canada are restricted to those of the Convention and its Protocol along with recently accepted gender and abuse-based norms. By contrast, it is clear from past practice abroad that interdictions made during airport interrogations and in other venues have frequently appealed to "immigration" criteria (education, language, etc.), not "refugee"-related criteria, in forming judgments on acceptance. CIC in its foreign-based judgments of refugee claimants has sometimes selected "desirables" and culled "undesirables" according to criteria outside those that apply to the IRB in its functioning within Canada. The simple fact is that Canada has not always accepted applicants on the basis of their reasonable claim of being at risk. And these judgments are not clear and accountable since, to our knowledge, there is no record kept of them.

d) Finally, we note that ***family reunification is a key area of "failure to act" on the part of CIC***. Canada's failure to unite families more quickly and efficiently could easily be improved. Yet it is not being improved and no convincing reasons for this failure are being offered. Families are not being united when we know that by bringing the spouse and/or children to Canada, Canada could more cheaply and easily work on any outstanding particulars while the family is together and the children are in a positive and healthy setting during their most formative and sensitive years.

V. Finding Practical Alternatives: Caring for Rights and Security Together

Canada can implement an approach that includes concern for rights and security at once. We offer the following proposal to ensure that both the rights of claimants and the security of Canada can be successfully pursued:

1. ***Extend the IRB's area of responsibility and service (or an equivalent civilian***

refugee and IDP rights.

- ensuring a UN agency is found to champion the physical security of IDPs.
- promoting transparent multilateral policy making.
- advancing the role of poorer, less powerful States in international decision making (subject to international standards).

VI. Conclusion:

We end as we began: encouraging a reaffirmation of our distinctive and best Canadian traditions in the care for refugees. Doing so requires a care for the world community even as it demands fair and compassionate policies and practice within Canada. These are the most trustworthy bases for ensuring justice and genuine security in Canada and in our world relationships. They are also the only means for Canada to increase ins stature as a just and moral nation.

Sanctuary Coalition
May 2003

Appendix 12

Santuary Conference - November 20-21, 2007

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WHAT IS ENTAILED IN OFFERING SANCTUARY?

Findings from a Consultation held at Romero House
Toronto, November 2007

On November 20-21, at Romero House in Toronto, close to fifty people from across Canada came together to compare their experiences in offering sanctuary to refugees facing deportation to places where their lives would be in danger.

What follows is a summary of some of the more important findings/conclusions

Sanctuary has been offered in Canada in a variety of settings: churches, religious communities and homes, in each of these cases with a significant number of successful outcomes. It is only offered when all legal options have been exhausted though if legal representation has been seriously deficient, a change of lawyers may be the appropriate step before moving to sanctuary. Sometimes, however, even after sanctuary is in process, a successful outcome for a person or family in sanctuary has been the result of a freshly formulated Humanitarian and Compassionate application or even a new risk assessment where compelling new evidence is presented. On other occasions, success was achieved through Ministerial intervention.

Congregations that offer sanctuary have to be confident that they are supporting a valid refugee claim and therefore that claim has to be thoroughly scrutinized (and it is a fact that far more requests for sanctuary have to be rejected than are accepted). It is important to understand that in the process of reaching a positive decision, members of the congregation have time to come to know the person/family more completely than immigration officials or IRB judges. It is not a matter of the sanctuary providers being "better" than immigration authorities but of their being in a position to see and hear the desperation of the refugee claimants and getting to know their stories more fully. This is simply a fact though it may not fit well within the perspective of government officials. Nonetheless, it is a point that deserves recognition. Having sufficient time with a refugee claimant clearly affects the capacity to assess the *credibility* of a complicated refugee claim, and establishing credibility is obviously a central point in the refugee determination process.

Since there are many people of good will within the refugee system, it makes sense to reach out and try to work with them, and in a number of cases this has led to a successful outcome. But it is also the case that government officials tend to be intolerant of sanctuary and often the bureaucracy seems impenetrable. Frequently the government strategy is to "wait out" cases, assuming that either the congregation or the refugees concerned will give in through sheer exhaustion. This is all the more evident because in recent times the length of time in sanctuary has been increasing. In other words, sanctuary is a huge undertaking for all concerned: it takes enormous perseverance and commitment from everyone involved. In the process, there are many dark and discouraging moments as well as well as quite profound moments of learning and growth.

But sanctuary is never offered or undertaken lightly. And the experience is not an easy one.

Different social/political meanings of sanctuary were considered. Sanctuary could be seen as a power conflict or a challenge to "the powers that be", a challenge that arises out of a prophetic tradition that brings to light abuses in systems of power. Hillary Cunningham, a University of Toronto anthropologist who has written extensively on Sanctuary saw sanctuary "as a diagnostic site disrupting power relationships and creating new social geographies." This was exemplified in the U.S. sanctuary movement which had major political dimensions and ended up in the courts. Peter Showler, a former Chair of the IRB examined fundamental issues of law. He argued that a moral vision underlies law. Natural justice arises out of that vision and, ideally, that is what law rests on. Particular laws and particular applications of laws are always open to challenge and the Charter, the constitution, and international instruments can be used as a basis for a challenge. Most cases that end in sanctuary do so because there is something wrong either with the law or the application of the law. In this connection the point was made repeatedly that the failure to implement a proper appeal system – called for in IRPA – to deal with matters of substance in the refugee claim, was a major reason for the existence of the sanctuary movement in Canada. On the other hand, it was pointed out that the effectiveness of an appeal system would depend entirely on how it was constituted and administered. A badly constructed appeal system would make little difference. Still, most participants believed that the sanctuary movement existed because of deficiencies in the Canadian refugee system, many of which could be remedied, and they looked forward to a day when sanctuary would no longer be needed. Whether that day would ever come was another question.

An important issue that recurred in the course of the discussions was whether sanctuary was a form of civil disobedience or represented a "civil initiative." Most participants thought in terms of a civil initiative that called upon the government to honour its commitments to the protection of refugees, specified in IRPA, and to various international instruments – like the Convention Against Torture – that the government had signed onto. Seen in this light, congregations offering sanctuary were upholding the law, not breaking it. Civil disobedience, on the other hand, was the repudiation of what was regarded as a bad law or a bad practice in the name of a "higher law" or in the name of those foundational moral principles upon which law is supposed to be based. In most arguments supporting sanctuary in the Canadian context, the principle of civil initiative is cited as the grounds for action.

One full session of the consultation was devoted to the religious/ethical basis of sanctuary and began with a presentation by Gregory Baum, a retired Professor of Religious Studies at McGill University. Baum's presentation was wide-ranging and comprehensive and what follows are just some of the points in his presentation:

1. One needs to look at the conditions and imperial/political conflicts in the world that generate refugees and find ways of addressing the sources of the problem. In this connection, the definition of refugee needs to be widened to include, for example,

environmental refugees. And we need to be aware of situations where our own country is complicit in practices that force people to become refugees.

2. Church teaching since the nineteenth century has argued that people have a *right* to move. While the state has a right to control migrants, there is an issue of justice for people on the move (migrants). Migrants are not just social problems: they are people seeking to escape oppression and build a new life.

3. Offering sanctuary is an act of charity – in the deepest and richest sense of that word. Helping an individual person is enormously important (here Baum described his own experience of being helped as a refugee at a personal level and how that help opened up a whole world of possibilities for him).

4. Besides being an act of charity, offering sanctuary is an act of resistance. It is saying, in effect, "we live out of a different kind of logic than that which appears to prevail in the existing power system." It is also an act of resistance to bureaucracy as Max Weber described it i.e. bureaucracy as an expression of rationality where everything is governed by an extensive system of rules administered by officials who must obey these rules scrupulously. Bureaucrats may detach themselves from their feelings and be controlled by rules. Individual human beings can easily fall through the cracks in a bureaucratic system. This is the experience of many refugees.

5. Even though in our time we no longer have an overarching social vision of a political project that can solve our problems (e.g. the socialist dream), we can create micro alternatives that live out of a different logic than that which prevails in our culture. The sanctuary movement may be seen as part of this. The act of offering sanctuary is therefore not an isolated, arbitrary act but a model of other ways of being and acting. It is also an indication that relatively small groups can act effectively and create new forms and structures.

In the final analysis, it was agreed that an ethical imperative underlies the sanctuary movement. Meeting a refugee face to face is a call to action. John Juhl, a Franciscan priest, put it this way: when a refugee family facing deportation came to my door asking for help what could I do? If the Church does not stand up for people seeking refuge, what are we about? It's a moral responsibility. We are called to be prophetic, we are called to be a voice for the voiceless. Congregations that offer sanctuary act in this tradition. They seek to combine the prophetic with the pragmatic.

Appendix 13

Submission to the Subcommittee on Public Safety and National Security

On Bill C-4

Preventing Human Smugglers From Abusing Canada`s Immigration System Act

Submitted by the Southern Ontario Sanctuary Coalition

Nov 10, 2011

The Southern Ontario Sanctuary Coalition has been in existence for twenty years. It was created in response to mistakes made in the Canadian refugee determination process that put certain refugee claimants at risk of torture, imprisonment or even death if they were returned to their countries of origin. In many cases, it has succeeded in preventing the deportation of refugees to life threatening situations and it has continued, since its inception, not only to address the situation of individual refugees wrongly facing deportation but also to advocate reforms and improvements in Canada`s refugee determination system.

The Coalition's primary objective has been ***fairness*** in the treatment of refugee claimants, one of the objectives of recent legislation, but one that is easily compromised in the name of haste and political expediency. A fair process is one that never fails to treat each refugee claimant as a person – a human being -whose very life could be at stake whatever route they may have taken to arrive in this country. Over the years, the Coalition has gained extensive experience in responding to the situation of a variety of such persons as they have attempted to negotiate their way through a system that is constantly changing, has many merits, but still allows people to fall through the cracks of a complex legal/bureaucratic structure. The work of the Coalition has entailed extensive, face to face, experience with refugees.

Many of those wishing to present their views to the Committee will focus on the serious problem of a whole year's detention (which will apply in a number of cases). Others will question the five year wait before landed status is available. Still other will focus on the deleterious effects of detention on children and the delay in family re-unification. In this short brief, we would like to focus on the Minister's authority to "designate" irregular arrival.

Clearly, the proposed legislation is a response to refugees arriving on Canada's shores by boat. But put this in perspective: as Professor Audrey Macklin at the University of Toronto's Law School has pointed out, in the past 100 years just 2700 refugees have arrived in Canada by boat, an average of 27 per year! Each time a group of refugees has arrived by boat – beginning just before World War I – the event has been sensationalized, creating an atmosphere of panic. Canada should never produce legislation based on the panic of the moment. When it does, the results can be disastrous. Consider legislation that interned Japanese Canadians in the Second World War despite the fact that not a single charge of espionage was ever laid.

Canada has proper measures in place to determine admissibility and identify terrorists. The draconian measures proposed in C-4 are inappropriate at best and brutal at worst.

The issue of "smuggling" has been cast in the grimmest light. Anyone who has studied the history of refugee movements, going back no further than the Holocaust, knows that countless innocent lives would have been lost if they were not "smuggled" to safety. Consider the number of Canadians who would not be alive today if they had not been helped by "smugglers"? Where groups who profit from smuggling operations can be identified, they should pay the appropriate penalty (and penalties are already specified in section 177 of IRPA). But those seeking to escape persecution or death by resorting to what may be their only hope of escape should *never* be targeted for punishment. Yet this is precisely the effect of Bill C-4. If the Minister is of the opinion that the mode of arrival of refugee claimants violated the human smuggling provisions of IRPA, those refugees – including children – would be subject to detention for an entire year with no review process available, contrary to sections 7 and 12 of the Charter. Beyond that, even claimants found to be convention refugees would be subject to a five year wait before landed status was available, before being able to apply for other family members to join them, or before being granted documents that permitted travel.

Furthermore, the Bill gives the Minister power to designate a group arrival as irregular if it's his opinion that the examination of members of that group with respect to their identities and admissibility cannot be conducted in a "timely" manner. In other words, detention of people seeking asylum can be mandated for a whole year on what are actually grounds of administrative convenience.

The power to designate, referred to above, is subject to no defined process. The Minister is not required to justify his opinion with respect either to the matter of "timely processing" or with respect to his suspicion that Section 117 of IRPA has been violated. And Bill C-4 makes designation retroactive to March 2009 so that passengers in the *Ocean Lady* and the *Sun Sea* ~~are~~ subject to this new legislation.

The consequences of this arbitrary power to designate are extremely punitive for reasons cited above: detention for a year and a five year wait before landed status is possible.

If the Government of Canada is sincere in following the terms of the Geneva Convention and prepared to give protection to asylum seekers whose lives are in danger, and who manage to reach our shores, this legislation will be withdrawn and reconsidered.

In closing, we would emphasize that in this brief we have concentrated on one point: the discretionary power given to the Minister in Bill C-4. We totally support what is presented in the submissions of Romero House and the Jesuit Refugee Service, submissions which focus on other crucial points. We request that these three submissions be considered in conjunction one with the others.

ATTENTION: NAMEO
NANNY
LOUISE

175 Keele Street
Toronto, Ontario
M6P 2K1

Tel:(416) 763-1303
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April 19, 2000

TO: The Hon. Elinor Caplan, Minister of Immigration
ATTN: ~~Seth Rudin~~ JAMIE SPRINGER and NIKKI MACDONALD
Re: Report of the Security and Intelligence Review Committee. Sami Durgun and Suleyman Goven

Dear Elinor,

The Security and Intelligence Review Committee has completed its report on the complaint lodged by two Kurdish men against CSIS. This report is very significant and I trust you will consider all its implications in terms of policy, legislation and procedures.

The complaints were initiated by me because I was a witness at the security reviews in which each of these men were told that the landing process would go easy for them if they informed on other Kurds. They refused and their landing process was made doubly difficult.

It became clear to me during these interrogations and during the subsequent SIRC hearings that what has terrorized these two men is that there is no legislated definition of what a "terrorist group" is and what "membership" in such a group means. This means that it is left up to a CSIS agent or single Immigration officer to make this definition. For the sake of weeding out a few real terrorists in Canada a whole field of innocent people is being mowed down and the tractors are out of control.

I was so outraged by the ineptness and gross disregard for justice demonstrated in these interrogations that I urged Sami and Suleyman to appeal to SIRC and to trust in the procedures of justice offered by SIRC.

The SIRC report completely exonerates these two men and recommends that they be landed--without any qualification. Counsel has forwarded a copy of the report to Craig Goodes and I understand that no action will be taken with regard to a response until you and the Solicitor General have been consulted.

I urge you to take the initiative and act quickly and clearly to give these two men their landed papers. This will give some recognition to their hope, a hope held in spite of extreme difficulties, that Canada would still be a place where they could be safe and could find the justice that they were denied in Turkey.

Suleyman and Sami have lost the last, perhaps best, ten years of their lives because of the security shadow that was cast over them. They arrived as young men and now they are old. They have lost opportunities to study, countless possibilities for meaningful work, housing and the simple human fulfillment of marriage and a family. Suleyman was continually harrassed, his phone tapped, his girl friends called in, his personal belongings stolen. Sami

was finally driven to waiting day and night for over forty days in bitter cold just to get some answer as to why his life had been put on hold. Their suffering has been tragic and unnecessary.

The SIRC recommendations are so clear that they merit your immediate attention. These two men have much to offer this country and if they were once treated decently I think it would go a long way to mitigating the terrible memories they have of certain Canadian systems.

Let me reiterate what I said to you on the phone. Most refugee advocates recognize the importance of ensuring that criminals and terrorists are not given protection in Canada. Count on our support in this regard. I have been convinced of this since my doctoral work with Emil Fackenheim. Subsequently I became involved with Sol Littman and Irving Abella in several efforts to bring Nazi war criminals to trial. In 1982 I issued a public statement criticizing the Pope for agreeing to meet with Kurt Waldheim. In the past ten years of living with refugees I have become even more passionate about this issue because I live with those who have suffered greatly because of criminals and terrorists.

I also know that the word "terrorist" is now being used so losely that innocent people are being painted into a very dark corner, for years and years. I believe that you can bring light to this issue and a clear-sighted sense of justice.

In closing I want to let you know that the plight of these two men has been a matter of widespread concern. Groups such as our Sanctuary Coalition, the CCR, ICCR and the Canadian Autoworkers have taken up their cause. People such as June Callwood, Sonia Smitts, Archbishop Terry Finlay and Rabbis Dov Marmur and Gunther Plaut stood with Sami in the cold during his long vigil. The courage and persistence of these two men has so impressed many that they have received awards as "Refugees of the Year." They will be honoured at Metro Hall on May 4 (because Refugee Rights Day had to be postponed on April 4 because of the strike of the civic employees). It will be difficult not to mention their struggle, their hopes and the conclusions of the SIRC report. If the event had occurred as planned this would not have been so difficult.

I know you are out of the country until later this month. The Sanctuary Coalition has agreed not to release the SIRC report until you have had a chance to read it and to determine action. I urge you to do this immediately. I will phone you on May 3 because I cannot imagine how we can withhold this report on May 4.

At the present I am on a writing fellowship at the Banff Centre. You can reach me there at 403-762-6100 ext 7757. Or alternately, you could contact Andrew Brouwer who is co-ordinating this effort for the Sanctuary Group at 416-944-2627.

May I take this opportunity to wish you a Happy Passover.

Sincerely,

Mary Jo Leddy

March 26, 1999

Legislative Review Secretariat
Narono Building, 10th Floor
360 Laurier Avenue West
Ottawa, ON K1A 1L1

Dear Mesdames/Sirs,

Enclosed please find the Southern Ontario Sanctuary Coalition's *Comments on proposals in "Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation"* (March 25, 1999).

Based on its experience in solidarity with refugees in Canada at risk of deportation to places where they face persecution, the Southern Ontario Sanctuary Coalition makes three main points in the attached document:

- New legislation must include a full, impartial appeal process for refugees whose claims have been rejected by the IRB.

- New legislation must include a variety of measures to introduce transparency and accountability into the security screening process, including a time limit.

- Landing fees for refugees must be eliminated.

We look forward to the tabling of draft legislation in the trust that these fundamental issues of justice and fairness will be addressed there. If we can be of any assistance, including by providing further detail about our experiences and proposals, please do not hesitate to contact me.

Sincerely,

Michael Creal
Southern Ontario Sanctuary Coalition

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Encl.

COMMENTS ON THE WHITE PAPER

A RESPONSE TO "BUILDING ON A STRONG FOUNDATION FOR THE 21ST CENTURY: NEW DIRECTIONS FOR IMMIGRATION AND REFUGEE POLICY AND LEGISLATION"

SOUTHERN ONTARIO SANCTUARY COALITION
TORONTO, MARCH 26, 1999

INTRODUCTION

The Southern Ontario Sanctuary Coalition is a network of diverse individuals who joined together in the summer of 1993 to commit themselves to the protection of refugees, particularly those refugees under notice of deportation despite imminent threat to their lives. We assist refugees on the basis of our shared, deeply-held faith values and convictions. We are firmly committed to seeing that Canada upholds its national and international obligations to refugees. Our compassion for and commitment to refugee protection comes from an intimate sharing of all aspects of the Canadian asylum process with refugees themselves; from filing legal documents and attending hearings to seeking housing, medical aid and social services as well as providing emotional support.

We welcome this opportunity to offer our observations with respect to the proposed new directions for refugee and immigration policy as laid out in *Building on a Strong Foundation for the 21st Century*. We are grateful that the Minister heard the calls of the refugee solidarity community and tabled a white paper for public discussion before moving on to proposed legislation. We take this document, therefore, in the spirit of *proposals*, and trust that our comments will help to shape the legislation when it is drafted.

Though each of us brings views and expertise from our various areas of engagement in refugee issues, we will limit our comments in this brief to three matters directly affecting the people we serve as a coalition: namely, refugees in Canada

THE RIGHT TO APPEAL IRB DECISIONS

We were glad to see that the Minister has rejected the proposal of the Legislative Review Advisory Group to replace the IRB with a Protection Agency within the Department of Citizenship and Immigration (CIC). We believe that the independence and quasi-judicial status of the IRB are extremely important and should be strengthened rather than weakened. We therefore also support the proposal for a much more transparent process for the selection and appointment of qualified board members.

The white paper furthermore proposes something called "consolidated decision-making" to strengthen refugee protection. In proposing that the IRB take into account not only the Geneva Convention but also other "instruments" to which Canada is signatory (such as the Convention Against Torture) as well as the protection elements of the current humanitarian and compassionate review, it is suggested that three decision-making layers be reduced to one. We believe there could be merit in this if:

1. the criteria for humanitarian and compassionate review were unambiguously clear and adequately reflected the meaning of those words; and

2. it could be guaranteed that members of the IRB were adequately trained to make all these critically important assessments.

Assuming that members of the IRB were selected and trained in such a way as to meet the highest standards of competence in the work assigned to them (an achievement certainly not to be taken for granted), it is still crucial that there be a proper appeal system to handle mistakes that will inevitably be made even in the best of all systems. There must be some way of dealing not only with errors made by IRB members, but also with new information that comes to light regarding an individual claimant or their country of origin, or changes in country conditions that would affect the safety of the claimant. This point has been made over and over again by refugee advocates, by the Hathaway report and was the reason the Davis/Waldman study was commissioned several years ago. The current proposals fail to answer this need. The best they offer is an assurance that "pre-removal risk assessment would be available in appropriate circumstances," whatever that means.

An appeal procedure is necessary to meet standards of due process (something Canadians insist on in every area of law) and also to reduce inconsistencies in the decision-making of the IRB. There would need to be a procedure to establish whether or not there were proper grounds for appeal in any given case (to eliminate frivolous requests) and the appeal would need to be more than a paper transaction. These are important points of detail but our concern in this brief statement is to argue the principle rather than work out the details. *An appeal procedure MUST be included in the legislation.*

We believe this to be a fundamental issue of conscience. Without access to a fair and substantive appeal, innocent people will be hurt. We have no doubt that, should the new legislation once again fail to include an appeal process, there will be a dramatic growth in the sanctuary movement. Whether legal or not, people of faith across the country will act on their conscience and offer sanctuary to innocent refugees whose lives are at risk and who have been denied any other recourse.

INTRODUCE TRANSPARENCY AND ACCOUNTABILITY IN SECURITY SCREENING

We are distressed by the tone of much of the discussion of inland refugee claimants in the white paper, which seems to cast them not as persecuted people in need of sanctuary but as criminals and terrorists. While we do not dispute the point that there is abuse in our refugee determination and landing program, we object strenuously to any approach to

refugee policy which subverts Canada's obligation to provide asylum, making it secondary to CIC's desire to prevent abuse. We view Canada's increasing focus on overseas interdiction as a chilling example of this inversion of primary and secondary concern. By setting up new and ever higher roadblocks to prevent "undocumented" asylum-seekers from reaching our borders to claim refugee status, we cannot help but bar many, many desperate people who *genuinely need* our protection.

We are also particularly concerned that the sections of the white paper dealing with security checks are so general that they may result in the deportation of innocent people back to situations of grave danger.

Canada has a responsibility to protect its own citizens, but it has an equal obligation to protect those who are fleeing persecution in their country of origin. While the present Immigration Act prohibits landing of people who are members of organizations involved in terrorism, there is no definition of what constitutes a "terrorist" group and what constitutes "membership" in such a group. It is left entirely up to individual officers to decide who could be called a member of a terrorist group. This leaves the door wide open for abuse and injustice by Immigration officers. Is someone called a terrorist simply because he or she is against the repressive policies of their government? Many refugees have fled their own country because they were part of legitimate liberation movements. The present lack of definition of what constitutes membership in a terrorist organization makes it entirely possible that those who have legitimately dissented in their own country and in Canada could be judged as inadmissible to Canada.

In addition, the white paper does not clarify the relative responsibilities of the Canadian Security Intelligence Service (CSIS) and Immigration Security in doing the security checks. We have been informed that all CSIS checks are done and recommendations are made within two years after a person has been accepted as a Convention refugee. Yet, the application for landing can rest with Immigration Security for years. The duplication and overlap between Immigration Security and CSIS must be clarified. Under the present circumstances, it is even questionable what use the Immigration Security Section serves. What is it doing that is not being done by CSIS or by the RCMP?

There also needs to be a time-limit for security checks. We are acquainted with cases in which refugees have had their landing held up for 5 years, 10 years and more because of an incomplete security check. The lives of innocent people – refugees who have already had to flee persecution -- are being destroyed because CSIS and/or CIC doesn't want to close their file. This is completely unacceptable. There needs to be a strict limitation on the length of a security check. We propose three years. If CSIS and CIC are unable to find any incriminating evidence within that time, the refugee in question should be landed. If hard evidence turns up at some point after the refugee has been landed, the legislation still gives the government the power to revoke status and undertake deportation proceedings.

In addition, there must be some group that can act as a watchdog over Immigration Security and Enforcement. These sections of CIC are the only police/security force in the

country without a watchdog. Even CSIS is accountable to the Security Intelligence Review Committee.

RESCIND LANDING FEES

We are surprised and disappointed that the white paper makes no mention of eliminating landing fees for refugees. As taxes levied on one group among many in society, the $500 processing fee and the $975 Right of Landing fee, or Head Tax, discriminate against newcomers. There is no justification for targeting refugees and immigrants for these special taxes.

Because the Head Tax is a flat-rate tax and does not reflect newcomers' ability or inability to pay, it has a deeply inequitable impact on immigrants and refugees from Third World countries, most of whom are relatively poor and are people of colour. Beyond unfairly penalizing them in Canada, the Head Tax may well therefore act as a deterrent to these prospective newcomers.

The Head Tax causes long delays in family reunification. Prospective sponsors who cannot immediately afford the $975 required to sponsor a spouse/co-parent and are unable to access loans are forced to postpone sponsorship until they have saved the required amount. The imposition of these delays through the Head Tax constitutes a violation of the principles of family unity articulated in the Universal Declaration of Human Rights and the protections accorded to families in the United Nations Convention on the Rights of the Child.

The Right of Landing Fee Loan Program does nothing to mitigate the inherent injustice of requiring refugees to pay an exorbitant fee for right to stay in Canada. Even assuming for a moment that all who need them are indeed given loans, the discriminatory impact remains the same.

However, the loan program is not without practical flaws as well. Refugees in our communities have been turned down for loans, despite their clear need, because they are unable to furnish proof of their ability to repay the loan.

The $500 processing fee and the $975 Right of Landing fee have been heavily criticized not just by the affected community but also by the UNHCR, the Canadian Human Rights Commissioner, all five political parties in Parliament (including the Liberal Party), leaders of every major faith community in the country, and countless ordinary concerned Canadians. *Landing fees must be rescinded for refugees.*

WHAT IS ENTAILED IN OFFERING SANCTUARY?

Findings from the Consultation held at Romero House Toronto, November 2007

On November 20-21 at Romero House in Toronto, close to fifty people from across Canada came together to compare their experiences in offering sanctuary to refugees facing deportation to situations where their lives would be at risk.

What follows is a summary of the consultation's findings.

A. On the first morning, groups at the consultation were invited to

Compare their experiences
Analyze their experience
Identify the spiritual/ethical meaning of their experience

The results of these discussions are summarized under these three headings

I *Comparing experiences*

1. Different settings for sanctuary noted: church, religious communities, homes
2. Variety of approaches
    a. Church offers sanctuary and goes public
    b. Church offers sanctuary but does not go public
    c. Church says no but family in congregation offers sanctuary
    d. Family seeks another solution

(Success reported in these different cases)

3. Decision-making **must** include the whole congregation and the issues need to be worked through carefully
4. Must be clear that the family really **needs** sanctuary
5. Best legal advice is essential – may need to change lawyers
6. Important to use resources of ethnic communities
7. Try for a win/win with the government –doesn't always help if the approach is to make the government look bad
8. Sanctuary is often a life and death issue but the refugee(s) go through periods of loneliness, confusion, depression

II *Analysis of the experience*

1. Problems in dealing with government:
    a. Government is intolerant of sanctuary
    b. Hard to deal with constantly changing Ministers
    c. Bureaucracy can seem impenetrable, arbitrary
    d. Government "waits out" cases
2. Helpful to know about other cases (breaks sense of isolation)
3. Offering sanctuary can be seen as a civil initiative – holding Canada to its commitment to protect refugees (some spoke in terms of civil disobedience)
4. Issue of going public or going into hiding
5. Length of time increasing – need to confront the possibility of the long haul
6. What IS a refugee? The definition may need to be re-thought
7. Some cases are "pristine"; others more ambiguous
8. Importance of empowering persons (refugees) in disempowering situation

III *Spiritual meaning of the experience*

1. The **personal** encounter/relationship is fundamental
2. The experience can be hugely enriching – always difficult but moments of grace
3. Extended time in sanctuary reveals the "banality of evil"
4 Congregation becomes political
5 Biblical stories relate – what is entailed in being fully human
6 Need to let refugees know they are a gift not a burden
7. Don't attribute all darkness to government – we all know moments of darkness
8. Need to protect integrity of sanctuary movement – can't say yes in every case
9. Entails faith encountering ideologies
10. Fear and anxiety upon undertaking sanctuary is real and natural

In the subsequent general discussion the following are some of the points that emerged

1. Sanctuary offers a space for those who have fallen into a dangerous hole in the government's exercise of justice
2. The absence of an appeal system (that addresses issues of substance) is one of the reasons for the existence of sanctuary
3. Two demands are made on the churches (or whoever is offering sanctuary): the first is to deal with the immediate person/family at risk and the second is to address problems in the "system" that give rise to the need for sanctuary

4. There is a challenge to build bridges with politicians and officials with conscience

B. The afternoon session began with a panel of four who reflected on "Sanctuary at this juncture in our history."

I ***Heather Macdonald*** (long time official in the United Church responsible for refugee policy)

Spoke as a voice of "realism'. Sanctuary is about power – the church or a congregation challenging the government's power. Important to be **practical, pragmatic, principled.** If sanctuary doesn't appear to provide a way out in a particular case, don't offer it. But sanctuary needs to be protected as a viable form of civil disobedience. It is a prophetic form. Ultimately, what we want is to change the law (or its administration). Most of us want to act for justice (including people at CIC) and many sanctuary cases have been solved because of the humanity of government bureaucrats. But it's very important to be clear about principles and objectives when one is undertaking sanctuary....

II ***John Juhl*** (Franciscan priest in the parish of St. Philip Neri, Toronto)

A refugee family facing deportation came to our door and asked: "what can you do for us?" The parish had some room so we said stay here. They stayed and almost never went out. On one occasion the little one went out to the dentist. Someone (a friar) took the kids to school (the school was very cooperative). Why did I offer sanctuary? After deciding it was a legitimate case, the question was: how can we help this family live a normal life? It was a period of asking what can I do and where is God leading. To the very end I believed it was the right thing to do. A small support group was very important but there was an emotional and psychological cost – and a financial one, $22,000 for a year and three months. But my feeling is this: if the church does not stand up for people who are refugees, who will? It's a moral responsibility, something we do as a witness. We are called to be prophetic, a voice for the voiceless

III ***Peter Showler*** (formerly Chair of the IRB, now teaching refugee law at the University of Ottawa)

I will speak from the perspective of law. Underlying law is a moral vision, humanistic or spiritual, common human dignity or the sacredness of the individual. Natural justice does not arise out of a body of law; it arises out of something deeper and that something deeper is what, ideally, the body of law rests on.

Most cases that end in sanctuary do so because there is something wrong with the laws themselves. Or, there is something wrong in the application of law. These things can

be challenged using the charter or the constitution or, sometimes, international instruments.

In refugee work, you see a lot of cases that went wrong (You don't see the right cases). IRB members have a huge responsibility and a huge challenge and they are aware of their ability to affect human lives.

There are soft hearts in bureaucracies. As Chair of the IRB I tried to soften the institution. When we communicate with each other we need to recognize the dark and the light in ourselves. Everyone in Canada has a soft and hard heart. Good communication is where I put my hope and my efforts

In undertaking sanctuary, there has to be rigour in the decision and tremendous persistence. But sanctuary is a temporary response, not a final answer....

IV ***Hilary Cunningham*** (Professor of Anthropology at the University of Toronto and author of a book on the sanctuary movement in the U.S. *God and Caesar at the Rio Grande)*

I'm speaking to you as a cultural anthropologist interested in social movements in which everyday people with few resources but with creativity find ways to meet political challenges. The sanctuary movement in the U.S. (which I studied) is a good example. Politics and religion are in a dynamic relationship and the sanctuary movement inserts itself in this dynamic. Sanctuary as an underground movement was very active bringing refugees from Central America through the States all the way to Canada.

I've always seen sanctuary as a diagnostic site disrupting power relationships and creating new social geographies. It's good to look at social movements comparatively (i.e the sanctuary movement in the U.S. and the movement in Canada) because it sparks creativity in others who are in a similar situation. In Arizona they are creating a digital archive of spiritual and theological issues arising out of different ways of doing sanctuary. The micro dynamics are very complex. Congratulations to all who are prepared to embrace the beast!

Among issues raised in the discussion that followed was the question of an Appeal Division. How big a difference would this make? Peter Showler felt that it would make it possible to overcome some mistakes made by the IRB but the effectiveness of the RAD would depend on the quality of the people appointed to it. He also noted that at present, if the error relates to the question of credibility (of the claimant), it is like the kiss of death. It is very difficult to overcome a judgement of "no credibility" even if that judgement was wrong.He also cited the fact that 89% of the cases presented to the Federal Court do not receive leave to appeal.

There was also a discussion about "good" and "bad" cases asking for sanctuary. Heather Macdonald suggested that the question here was the possibility of a successful outcome: putting someone in "jail" for one or two years can do a lot of harm. Generating false hope can lead to depression, suicide watches etc.

About the question of civil initiative vs. civil disobedience. Hilary explained that in the American situation both viewpoints were argued. Those who took the civil initiative approach in the U.S. argued that the U.S. practices were breaking U.S laws and they won on this point. Appealing on the basis of international protocols can be more complicated..

There was also much discussion about what really constitutes a refugee in today's world. Is it time to broaden the definition e.g. to include environmental refugees? To challenge assumptions about scarcity?

C. In the evening session Gregory Baum offered theological and ethical reflections summarized in the following points:

1. Important to document accounts of refugees – otherwise their stories will be lost to history.
2. Jesus as a refugee – putting aside the historicity of the account in Matthew's gospel, what is described as happening to Jesus is true for many refugees. His situation was the result of an imperial system which, in effect, creates refugees. We need to look at the forces which cause refugees, a world wide phenomenon. And today there is a general movement against "foreigners."
3. The World Alliance of Churches (first and third world) published a document in 2006 analyzing the American Empire: national security strategy, military presence of the U.S. all over the world, an economic empire managed by the World Bank, wealth creation (how it will allegedly solve problems of poverty). The American Empire is not alone. It has many allies including Canada. Need to look at this because refugees are very much connected with these developments.
4. The culture of "security" where refugees are seen as different, seen as "them".
5. Roman Catholic teaching since the nineteenth century has argued (so old fashioned that it's now radical) that people have a right to move. While the state has a right to control "migrants", there is an issue of justice for people on the move (migrants).
6. Need to review the definition of refugee. Environmentally-driven or economically-driven refugees can starve. This has to be reckoned with.
7. No need to call the sanctuary movement civil disobedience. Call it civil initiative or civil participation. These are better terms because governments have to respect their own laws and international law.
8. Offering sanctuary is an act of charity. Helping an individual person is enormously precious. (At this point, Gregory Baum described his own experience as a refugee and how a certain individual helped him pursue a university education, allowed him a new life).
9. Beyond being an act of charity, giving sanctuary is an act of resistance.. It is saying that we live out of a different kind of logic....

10. It is also a resistance to bureaucracy. Max Weber described bureaucracy as an expression of rationality where everything is governed by an extensive system of rules administered by officials who must follow these rules scrupulously. This is what has led to pessimism about bureaucracy: bureaucrats may detach themselves from their feelings and be controlled by rules
11. The sanctuary movement has a spiritual meaning because it is a sign that Christianity is not simply conformed to culture
12. Gregory Baum said that he has recently delved into contemporary Moslem literature and has been enriched by the Moslem sense of God's "glory" and the sense that God "cares"
13. We have lost the socialist dream and there seems to be no political project that can solve our problems. But we can create micro alternatives, systems that live out of a different logic than that which prevails in our culture. The sanctuary movement is part of this. It is a form of protest, an investment in love, love of justice....

D. In the final day's group discussion about "where do we go from here?" the following points emerged or were reiterated:

1. ***A moral primacy arises in meeting someone (i.e. a refugee) face to face. It is a call to action.***

2. ***When contemplating the possibility of sanctuary, it is crucial to get the best legal advice. Sanctuary is a last option; there may be other routes to follow. It is important to know how the system works, what CBSA does and doesn't do etc.***

3. ***Need for careful preparation for a congregation contemplating sanctuary. Doing sanctuary is more demanding than it used to be. Need to be prepared for the long haul and to face frustrations in the process.***

4. ***Need to understand the cultural background of the refugees and see them as persons who are central in the decision-making process.***

5. ***There are no silver bullets to achieving success.***
    a. ***Recognize that in all governments and bureaucracies there are people of good will – seek them out***
    b. ***Find ways to build public support***
    c. ***Focus on the local but keep the big picture in mind***
    d. ***Recognize the need to balance the prophetic and pragmatic***
    e. ***Note that religious leaders have limited power in the public realm There may be moments when they can be very helpful but local witness is central.***

6. ***Even though there is a diversity of situations leading to sanctuary, communication among those offering sanctuary is extremely important An e-***

mail network would be valuable. Perhaps such a network could be formally declared and related to the CCR .It could entail a coalition of congregations across the country providing mutual support and sharing information. I

7. *Other suggestions:*
    a. *Perhaps "cities of refuge" (as in the Hebrew Bible) could be identified*
    b. *Perhaps other could accompany refugees in sanctuary as a way of showing support and making a larger public statement*
    c. *A list of lawyers sympathetic to the concerns that lead to sanctuary could be prepared*
    d. *Involve youth in the process*
    e. *Sanctuary provides an image of the gospel in action – a radical expression of Christian*