

Don't slam the door

A Zimbabwean man dies a horrible death underneath a bus after trying to smuggle himself into the United States from Canada. Authorities allege that 300 Chinese migrants have been smuggled into Canada by boat over the course of four months. Border officials in Fort Erie and Niagara Falls say that they are being “overwhelmed” by 25 to 30 refugee claimants a day.

What we perceive to be a flood at our borders is a trickle compared with the masses of humanity on the move in search of sanctuary. Last month, tens of thousands of Afghan men, women and children poured across the Pakistani border to seek refuge. They are among the 12 million refugees around the world today. A further 10 million people have been displaced within their own countries. As Canada enters into a renewed debate about the future of immigration and refugee policy, it is important that we go in with our eyes open.

Canada's refugee program is seen by many countries as a model of humanitarianism. Both our sponsorship program and our quasi-judicial inland

The refugee and immigrant series was launched by the Caledon Institute of Social Policy in partnership with The Maytree Foundation's Refugee and Immigrant Program. The purpose of the series is to highlight the problems and policy issues that affect refugees and immigrants to Canada and to propose practical solutions to these problems.

refugee determination process have earned us widespread respect. Yet, in per capita terms, we are ranked 37th among the world's refugee-receiving countries. In 1999, Canada accepted a total of 24,367 refugees – not even close to the refugees-per-capita rate of countries of asylum in regions of conflict (such as Armenia and Guinea). Among Western nations, we rank behind Sweden, Denmark, Germany, Switzerland, Norway, Austria and the Netherlands.

Contrary to popular belief, it's not that easy to reach Canada if you're a refugee or if you are poor; if it were easy, people wouldn't turn to smugglers. So Canada's immigration rates remain relatively stable.

Yet Ottawa is under considerable pressure from conservatives in the United States and Canada to tighten the borders. That's what Washington is doing: Between 1993 and 1999, the Immigration and Naturalization Service (INS) budget grew from \$1.5 billion to \$4.2 billion (US). We're unlikely to go to the lengths that the United States has gone to try to stem the flow of Mexican migrants. But we're poised to move in that direction.

Last April, Immigration Minister Elinor Caplan introduced Bill C-31,¹ the proposed Immigration and Refugee Protection Act. This 'get tough' legislation was in large measure a response to the widespread concern generated by the 1999 arrival by boat of 600 Chinese migrants, as well as the usual allegations of abuse of Canada's refugee program. Tabled just months before the October 2000 election

call, the bill shielded the Liberals from right-wing criticism that they were ‘soft’ on refugees and smuggled immigrants.

That bill died on the order paper when the election was called. But some observers expect that it will be reintroduced in the next session. If so, Canadians concerned about human rights and compassion for refugees should be worried.

Admittedly, Bill C-31 includes measures designed to fix problems in the refugee system. The proposal for faster refugee determination is welcome – always provided that fairness not be sacrificed in the interest of efficiency. The bill’s increased penalty for migrant trafficking (\$1-million) could prove an important deterrent. The introduction of an appeal on the merits of a refugee claim is another major step forward.

However, Bill C-31 as a whole is deeply flawed. It omits too many important issues from the legislation altogether, leaving them to be dealt with, instead, through regulations. This is particularly true in the area of immigrant selection; the bill does not even offer guiding principles to which regulations must conform. It is an undemocratic approach, shielding some of the most important decisions about who gets into Canada from the public debate to which legislative initiatives are subjected.

Also of concern is the way Bill C-31 expands the power of immigration officers to refuse, detain or remove refugee claimants and even permanent residents, in some cases without due process. While there are undoubtedly situations in which refugee claimants need to be detained, Bill C-31 gives the Immigration Department too much discretion. Refugee claimants can be detained for no more compelling reason than administrative convenience.

Immigration Minister Caplan also has announced that efforts will be made to stop ‘undocumented persons’ before they get to Canada. This measure, ostensibly designed to protect the in-Canada refugee determination system from abuse, will place genuine refugees at risk.

It is a fact of life that many genuine refugees simply are unable to secure identity documents that meet Canadian standards. To save their own lives,

some have no choice but to resort to false documents or irregular means of travel to escape.

This is as true today as half a century ago when those who drafted the *UN Convention on the Status of Refugees* put in a clause explicitly prohibiting countries from imposing penalties on refugees who enter a country illegally (Article 31). Interdiction of such persons overseas almost certainly will prevent women, men and children who are genuinely at risk from ever gaining asylum. A better approach would be to reduce the pressure to enter Canada irregularly by increasing the number of Canadian visa posts in refugee-producing regions.

Efficiency and system integrity must not come at the expense of compassion and human rights. There is ample evidence that Canadians are prepared to accept more refugees than we currently do. The recent outpouring of support for ethnic-Albanian refugees from Kosovo demonstrated that the spirit with which we welcomed Vietnamese boat people two decades ago is still alive and well. If Ottawa wants to revamp our refugee program, it should build on this goodwill.

Around the world, 12 million refugees need help. Surely we can do better than Bill C-31. Let’s consider opening up opportunities for immigration to Canada to those who may not have cash or professional diplomas but nonetheless have the values and drive to succeed here. This may be the best way to run the traffickers out of business.

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1. For more information on Bill C-31, see Brouwer, Andrew. (2000). *The New Immigration Act: More Questions Than Answers*. Ottawa: Caledon Institute of Social Policy, May.

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