



THE CANADIAN BAR ASSOCIATION  
L'ASSOCIATION DU BARREAU CANADIEN

The Voice of  
the Legal Profession  
La voix de la  
profession juridique

December 22, 2004

The Honourable Judy Sgro, P.C., M.P.  
Minister of Citizenship and Immigration  
21st Floor  
Jean Edmonds South Tower  
365 Laurier Avenue West  
Ottawa ON K1A 1L1

Dear Minister:

RE: Refugee Determination Reform

I am writing on behalf of the National Citizenship and Immigration Law Section of the Canadian Bar Association, following your recent public statements about the need for "fundamental reform" of the refugee protection system.

We are sorry you were unable to attend the meeting scheduled with our Section Officers in Ottawa on November 5, as we wished to discuss this and other policy issues with you personally.

In your interview with the Globe & Mail, remarks to the Ontario Bar Association Immigration Law Section, and your appearance before the Parliamentary Committee last month, you spoke about fundamental reform, streamlining, and a need for a new approach to refugee determination. You noted six to twenty avenues of appeal available to refugee claimants, and the perception that economic migrants are queue jumping to circumvent application procedures.

While the CBA applauds your efforts with reform to date, such as bringing transparency to the process to select IRB members, we are concerned with the erroneous impression that there are multiple routes of appeal. Procedures such as pre-removal risk assessment, judicial review in federal court (limited by leave requirements), humanitarian and compassionate applications, and other equally limited avenues of judicial review, are simply not appeals.

The Canadian refugee protection system is lauded the world over for its fairness and efficiency. IRB Chair Jean-Guy Fleury recently cited former UNHCR representative for Canada, Judith Kumin, on five reasons why other countries should emulate Canada's current system:

**500 - 865 Carling, Ottawa, ONTARIO Canada K1S 5S8**

**Tel/Tél. : (613) 237-2925 Toll free/Sans frais : 1-800-267-8860 Fax/Télécop. : (613) 237-0185**

**Home Page/Page d'accueil : [www.cba.org](http://www.cba.org) E-Mail/Courriel : [info@cba.org](mailto:info@cba.org)**

1. Independent decision making, backed by good documentation and training;
2. Oral hearings for all claimants;
3. An expedited process for manifestly well-founded claims;
4. Consolidated protection grounds and a single status for all in need of protection;
5. Guidelines to promote consistency, and written reasons for decisions.

Other systems, like that of the United States, may look attractive on paper, but are slow, cumbersome and inherently unfair in practice.

The U.S. system, for example, has been criticized for its "roughness" on asylum seekers, who are regularly detained for 30 to 60 days or more, and whose fates are left to insufficiently trained officers and inconsistent decision-making. Once an assessment is completed, a negative finding is automatically forwarded to an Immigration Judge and then an Immigration Board of Appeals. The U.S. system handles barely 65,000 applications a year despite being a country ten times more populous than Canada. The U.S. system is not a model to be emulated in Canada and could not be successfully undertaken without a large increase in resources.

We look forward to consultation with you and your officials on any plans for reform. We note your commitment to meet with us on policy issues such as this.

Yours truly,

Wendy Danson  
Chair  
National Citizenship and Immigration Law Section

c.c. Daniel Jean, Assistant Deputy Minister, Policy and Program Development