



Independent Body for Immigration Complaints Urged

By Dr. Lorne Foster

The Canadian Council for Refugees recently petitioned the Immigration Department to create an independent office with a mandate to investigate complaints of suspect actions by immigration officials.

This new petition comes on the heels of two controversial incidents – first, the arbitrary detention of Tinula Akintola Modupe Akintade, by immigration officials who refused to believe she was British because of her accent; second, the recently published minutes of a secret review of the conduct of Immigration Canada agents in the Goven case, revealing that government officials fabricated a document to discredit a Kurdish refugee claimant.

Highlighted by the Akintade and Goven incidents, serious questions are now being raised about the accountability of the large-scale immigration bureaucracy in Canada, indicating that the most pressing need today is to bring Canadians into the decision-making process – which entails increasing public participation and performance monitoring.

In the first case, Tinula Akintola Modupe Akintade, a registered psychiatric Nurse at Springfield Hospital in England, recently came to Canada to visit a friend who had a new baby, and had her passport and explanations rejected out of hand as not being credible. Shocked and angry at how shabbily she was treated, Akintola said -- “It took me 10 years to get a British passport, and it took (Canada immigration) literally minutes to reject me after I submitted it.”

She was reportedly held in excess of 10 hours while her Canadian friend and host, Ben Ogunkeye, was deceived about the status of the situation, and prevented from making contact or obtaining legal representation.

Of course, a decision by an immigration officer to detain a person simply because she has a Nigerian accent and a British passport would be an error in law. However, the total bureaucratic control of information here inhibits any objective outside determination as to whether or not this is the actually case. (For) immigration officers are obliged by law to properly examine every application for a visitor’s visa, and may by law detain a person – as was officially purported in this and many other cases – on the grounds that the applicant was not answering truthfully to the questions, that she would resist returning to her country of origin, and that she could not afford the expenses involved. This is a catch-all or stock account-sequence often tailored to racial situations, which in the absence of demonstrable bad faith or bias, is not contrary to the Act or the regulations and not open to review.

Yet, it begs the very question that the Canadian Council for Refugees and others are now asking: Who should get to determine bad faith or bias? Who should get to redress racial profiling and bigotry? How do we ensure that the immigration bureaucracy is accountable to the principles of democracy and responsible to individual rights?

The odyssey of Mr. Goven is perhaps less legally equivocal, and so, even more suggestive of the proper answer.

In the Goven case, whom the Canadian Security Intelligence Service (CSIS) had accused of being a “Kurdish terrorist”, Immigration Canada agents fabricated a document to try to discredit his refugee claim. Subsequently, the CSIS conceded Goven was not a militant of the Kurdish Workers Party, a nationalist movement that has challenged Turkey’s systematic discrimination against its Kurdish minority. During an interrogation lasting eight hours, Goven was threatened and manhandled by CSIS agents. Shocked and angered by these methods, Goven filed a complaint with the Canadian Security Intelligence Review Committee, the state body charged with overseeing the actions of the CSIS.

In an attempt to discredit Goven, Immigration Canada officials presented the Review Committee with a bogus copy of the letter it had sent to Goven ordering him to meet with the CSIS agents. The bogus order gave a later time for the start of Goven’s interrogation, thus suggesting he had lied about its length. It also gave an address different from his then place of residence. “These modifications had as their aim to destroy Goven’s credibility,” said his former lawyer, Sharryn Aiken. Derek Hodgson, a spokesman for the Immigration Department and for federal Immigration Minister Elinor Caplan, nevertheless insists there was no wrongdoing on the part of the government or any government officials, although he does concede the document came from Immigration Department computers: “Immigration does not make false documents, does not use machines to decode secret messages or invisible ink.” Hodgson blames the entire incident on a computer malfunction, claiming that the Immigration Department’s computer software produced the bogus order. This explanation has been rejected by former Review Committee chairman and ex-Ontario Premier, Bob Rae. “Computers respond to human instructions. Someone made this computer produce this document – that is, made it produce a fake.”

“If they faked this document, lord knows how many others they may have falsified,” declared Goven, who fled to Canada precisely to escape such state tyranny.

“These revelations, and several others of a similar nature, are apparently only the tip of the iceberg” warned the past president of the Canadian Council for Refugees, immigration lawyer David Matas. “Certain people responsible for applying immigration security measures think that people on the other side will do anything to get into the country; from that point on, they view it as right for them to do everything in their power to keep [the refugees] out of the country and impose no limit on their actions.”

It is in this respect that an independent office with a mandate to investigate complaints and monitor the performance of the immigration system is the new rallying cry for greater public accountability, that could not only make significant inroads in addressing deficiencies, but also, could take meaningful strides in the area of public education and awareness.

No doubt Akintade and Goven will vouch for the fact that the best way to combat an arrogant bureaucracy is with an informed public.