LETTERS TO THE EDITOR

Withdraw US war resister bulletin

On July 22 of this year, Citizenship and Immigration Canada sent a directive to all immigration officers in Canada that sets a basic principle of refugee law on its head. The directive, Operational Bulletin 202, concerns the processing of military deserters who claim refugee status in Canada.

The first paragraph of the directive sets out the following line of logic: Military deserters from other countries have sought refugee protection in Canada. Desertion from the Canadian military is a serious criminal offence. Therefore these deserters may also be serious criminals and therefore inadmissible to Canada.

Conscientious objection to military service, whether by draft resisters or deserters, is a widely recognized ground for granting refugee protection, both in Canada and internationally. Over the years, hundreds of conscientious objectors have been given protection, although not all deserters or draft resisters are accepted as refugees.

The facts of each individual case are considered, particularly: the motives and sincerity of the claimant, the legality or illegality of the military exercise they are seeking to avoid, and the possibility of excessive punishment or discriminatory prosecution.

These are all facts and issues of law to be decided by a member of the Immigration and Refugee Board after hearing the claimant's testimony and evidence.

It is fundamentally wrong-headed and a violation of the UN Refugee Convention to suggest that deserters are automatically inadmissible to Canada before hearing their claim because desertion is an offence in their own country.

Although the bulletin cites a general principle of law, a closer reading identifies the real target of the directive, namely military deserters from one country, the United States. I presume then that military deserters from other, less friendly and more offensive regimes, such as Iran, Burma, Sudan, North Korea, possibly Syria and Kyrgyzstan, are still welcome to seek refugee protection in Canada and that their violation of state laws will not be a deterrent to making a refugee claim.

The bulletin implies that military deserters from the US should be treated differently than deserters from other countries. There is no basis in law for that proposition. At the risk of repeating myself, that is the job of the IRB and not something to be decided prematurely by a border official before the evidence is heard.

The bulletin then discloses that its precise target is even narrower, namely those US deserters who have already had their refugee claims denied and who have asked to remain in Canada for humanitarian reasons. Once again, the government appears to be circumventing the law and intruding on the independence of the immigration officers who are delegated to decide humanitarian applications based on the law and the evidence.

It is the immigration officer who has the discretion to decide whether a refused claimant, for example, someone who has married a Canadian and may now be the parent of Canadian children, whether that person should be permitted to remain in Canada for humanitarian reasons.

These are difficult decisions with complicated and often heart-rending facts that include the best interests of the children but may also include the violation of US military laws. Regardless of the relevant factors, responsibility for the decision lies within the discretion of the immigration officer.

Does any Canadian reasonably think that an immigration officer is making an independent decision when he or she is instructed, for US deserter cases, to "seek guidance" from the regional program adviser and to copy their communications to very senior levels of their department?

The clear implication is that any deserter from the US should be denied permanent residence in Canada no matter how sincere their motive for deserting or how compelling their reasons for staying in Canada.

Operational Bulletin 202 misstates the law and seeks to intrude on the independence of both IRB members and Immigration Officers. Out of respect for due process of law, I urge Immigration Minister Jason Kenney to withdraw the bulletin.

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Drug legalization is not the answer

As a retired RCMP staff sergeant with over 34 years of experience working with drug issues, and as a volunteer working with the poor, the addicted and homeless of the inner city of Ottawa for over 12 years, I have strong insight with regards to drug issues both from an enforcement and a health perspective. (RE: "Vienna declaration: Reducing HIV," Aug. 4)

I have not come across one drug addict who is happy and desires to remain that way. The only way to protect the addict when they are caught up in the downward spiral of addiction is through abstinence-based treatment.

Enforcement is a tool to ensure that the dealers and importers of drugs are dealt with severely through the justice system. Prevention and education are tools that, if properly financed and taught, can prevent a person from using drugs in the first place.

As a society, we have to learn to work together for the betterment of that society, ensuring everyone has the same opportunities to succeed. We need a paradigm shift in our thinking that should be looking at ways to end poverty and how to improve the life of single parent families, which in the long run would also help in minimizing drug use.

To eliminate the prohibition against drugs and to provide enabling policies such as drug injection sites and needle exchange programs, recommended by the controversial Vienna Declaration written by supporters of harm-reduction ideology, only condemns addicts to a deeper addition and to certain tragic and un-necessary deaths.

Legalizing drugs will not eliminate the health and enforcement cost. All we have to look at is alcohol and cigarettes.

It is far preferable and compassionate to help the addict return to a healthy lifestyle, rather than to condemn him/her to committing crimes to continue feeding his drug addiction, as well as to the inevitable violence on the streets.

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