

Kenney defends IRB appointments

Conservatives naming people who 'are just instinctively less receptive to refugee claims,' critic says

BY DON BUTLER, OTTAWA CITIZEN NOVEMBER 30, 2011

Only two people appointed to the Immigration and Refugee Board on the recommendation of Immigration Minister Jason Kenney have links to the Conservative party, Kenney said Tuesday.

He was responding to questions in the House of Commons about allegations by a former IRB chair, Peter Showler, that the board was no longer fully independent of the government. The Citizen reported Showler's comments Tuesday.

Under questioning by Don Davies, the NDP immigration critic, Kenney said he has recommended the appointment or reappointment of more than 140 IRB members during his time as minister.

But unlike the Liberals, who used the IRB as a "partisan dumping ground," Kenney said the Conservatives "have respected its role as an independent quasi-judicial organization."

While the Liberals appointed "failed campaign managers" and the spouses of Liberals MPs and senators to the IRB, Kenney said he was aware of only two people he had recommended who "have any association" with the Conservative party.

In his interview with the Citizen, Showler - who headed the board from 1999 to 2002 - agreed that past Liberal governments used the IRB as a patronage reward, but he said the Conservatives had been appointing people who "are just instinctively less receptive to refugee claims being made in Canada."

Kenney said the Conservative government had put in place "the most rigorous preselection and screening process for appointees to the IRB by far in the history of our asylum system." Only 10 per cent of those who apply make it through this "independent and arm's-length" process, he said, adding: "I can attest to the quality of those individuals."

But Davies said more than half of current IRB members either failed the qualifying exam or were screened out for incompetence when they applied for positions on the IRB's new Refugee Appeal Division, which will come into existence next June when public servants take over the task of adjudicating refugee claims.

Tribunals like the IRB should be competent, fair and independent, Davies said. "What's been thrown into question in the past few days are all three of those things. What's even more alarming is that people's lives depend on this."

Kevin Lamoureux, the Liberal immigration critic, expressed alarm about the government's efforts to "demonize" refugees.

"The reality is the vast majority of refugees are outstanding individuals," he said. "They're here for good reason."

If the government wants to steer the IRB and the Federal Court in a different direction, "then change the laws, change the regulations," Lamoureux said. "That's the proper transparent course to be taking."

In a lengthy email to the Citizen, the Immigration and Refugee Board dismissed the idea that it's no longer acting in a fully independent way.

"There is no interference in decision-making," said IRB spokesperson Melissa Anderson. "Each case is decided by an independent decision-maker on its own merits and in accordance with the evidence and argumentation presented in the hearing room."

Though IRB chair Brian Goodman reports to Parliament through Kenney, he does not report to the minister, Anderson pointed out. "The minister cannot provide policy direction to the IRB, and has no power to direct or influence the outcome of cases."

Showler told the Citizen that the board and some of its members appear to be discreetly deferring to Kenney in the way they deal with refugee claimants from Mexico, whom Kenney has publicly accused of abusing Canada's refugee system.

But Anderson said the acceptance rate of refugee claims by Mexicans has historically been low, rarely creeping above 25 per cent.

The rate fell to eight per cent in 2009, the year after the board posted a "persuasive decision" by the Federal Court of Canada that was negative toward a Mexican asylum applicant. But it rebounded to 17 per cent in the first nine months of this year - the highest it has been since 2006. Since 2006, the IRB has granted protection to more than 3,900 claimants from Mexico, Anderson said.

Academic research has also documented wide discrepancies in the rate at which members of the IRB's Refugee Protection Division grant refugee claims. Some members approve fewer than 10 per cent of the claims they hear, while other approve 70 per cent or more.

But Anderson said those statistics "do not reflect many factors and provide an insufficient basis on which to draw conclusions concerning the quality and consistency of decisionmaking at the IRB."

Members are often assigned mostly claims from specific geographical regions or countries, she said. "Not surprisingly, this specialization has an impact on individual members' acceptance rates."