

# REFUGEE UPDATE

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## BEGGING THE QUESTIONS – A REVIEW OF STATISTICS FROM THE IRB - REFUGEE PROTECTION DIVISION AND REFUGEE APPEAL DIVISION

BY JACINTA GOVEAS

### PCISA (*Protecting Canada's Immigration System Act*) in Central Region

Central Region (P1)		Central Region (P2)	
Accepted	116 (63%)	Accepted	447 (53%)
Rejected	24 (13%)	Rejected	280 (33%)
Abandoned	24 (13%)	Abandoned	32 (4%)
Withdrawn	20 (11%)	Withdrawn	68 (8%)
Negative – no credible basis	1 (0%)	Negative – no credible basis	17 (2%)

(Source: Presentation by the Refugee Protection Division, Central Region, September 2013)

In September 2013, nine months after legislative changes had been implemented at the Immigrant and Refugee Board (IRB), staff of the IRB presented a 'statistical snapshot for the period from December 5, 2012 to July 31, 2013. While the statistics were a brief overview, there are some questions and concerns that may be raised when exploring the information.

The period under review was divided into two specific phases: Period 1 from December 15, 2012 to March 31, 2013 and Period 2 from April 1, 2013 to July 31, 2013.

Number of referrals to IRB reduced. 57% reduction implies that the numbers of refugee claimants coming to Canada have also reduced. This can also imply that though there are potential claimants living in Canada, they are not able to handle the system.

The current timeline for the process is too fast. Many claimants are not able to get everything they need together within the time frame allowed. The Central Region, which includes Toronto, still has the highest number of refugees and refugee claimants.

The top source designated countries for the Central region are all from Europe. The only difference

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between the first and second periods is that Portugal is not on the list in the second period and we see that appearance of Greece and Poland.

During the first period, the number of cases accepted is higher. The process was slower, which reduced the pressure on the claimants, allowing them more time to prepare. When the process changed however, the number of cases accepted was decreased and the number of people who withdrew their claims was higher, which could relate to the new process, which is too fast for many refugees.

In situations where the hearing was postponed or there was a change in the date and/or time of a hearing, the reasons given were generally systemic (lack of time, security check not done, interpreter issue, etc.) or due to the unavailability of the lawyer. It was never due to an issue on the part of the refugee. What is ironic is that the number of postponed cases was higher in the second period: 35% as opposed to 27% in the first period. Should this have been reversed as the system had more experience in dealing with the various issues that lead to postponement?

### *Minister's Intervention*

Main reasons for participation	In Person	In writing	Total
Credibility or Program Integrity	114	412	523
Exclusion 1E	11	15	26
Exclusion 1F(a)	10	0	10
Exclusion 1F(b)	27	4	31

**(Source: Presentation by the Refugee Protection Division, Central Region, September 2013).**

The Minister's intervention: when does the Minister intervene? This would usually happen when the procedure becomes adversarial and no conclusion has been reached. When this does happen, what does the Minister's intervention imply? Is the ruling generally in favour of the refugee? In most cases, the intervention is a form of critique of the narrative. What tools does the system have at its disposal to verify the stories? Can the experience of one refugee be a blueprint for others?

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### ***Highlights of the Refugee Appeal division***

The appeals discussed were filed as of January 22, 2013. From that time and until May 2013 (the time of the report), eighty three appeals had been filed, of which twenty two had been finalized. The majority of appeals come from people from non-designated countries of origin.

The number of appeals from the Central, eastern and western region are very low. According to the overview, there were forty seven (47) appeals from the Central Region (which includes Toronto), twenty seven (27) appeals from the Eastern Region and nine (9) appeals from the Western Region. The low number of appeals could be due to the fact that the possibilities for appeal are very limited. The appeals filed by the Minister generally oppose positive decisions. Appeals were filed for North Korea, Somalia and China.

16% of the claims were self-represented, so they not only lacked legal representation, they potentially did not have enough knowledge of the system to know how to deal with it. Almost 20% of the claims are not covered by legal aid.

Regarding decisions made by the IRB, the principles of natural justice require that the decisions should be published. However they are not available to the public but are instead reported to the Government, who can then use the information without any accountability to the public. In the absence for such transparency, the public in general and those who work with refugees and refugee claimants are left to draw their own conclusions. Whatever these may be, the end result is that too many people in need of asylum are hesitant to trust the system.

Three common law rules are referred to in relation to natural justice or procedural fairness.

The Hearing Rule requires that a person must be allowed an adequate opportunity to present their case where certain interests and rights may be adversely affected by a decision-maker. To ensure that these rights are respected, the deciding authority must give both the opportunity to prepare and present evidence and to respond to arguments presenting by the opposite side.

The Bias Rule states that no one ought to be judge in his or her case. This is the requirement that the deciding authority must be unbiased and must make a decision based on a balanced and considered assessment of the information and evidence before him or her without favouring one party over another. They should ensure that there is no conflict of interest which would make it inappropriate for them to conduct the investigation.

The Evidence Rule is that an administrative decision must be based upon logical proof or evidence material. Decision makers should not base their decisions on mere speculation or suspicion. Rather, they should be able to clearly point to the evidence on which the inference or determination is based. Evidence (arguments, allegations, documents, photos, etc..) presented by one party must be disclosed to the other party, who may then subject it to scrutiny.

<http://www.justice4you.org/natural%20justice.php>



# WELCOMING THE STRANGER: AFFIRMATIONS FOR FAITH LEADERS

BY EZAT MOSSALLANEJAD

A core value of my faith is to welcome the stranger, the refugee, the internally displaced, the other. I shall treat him or her as I would like to be treated. I will challenge others, even leaders in my faith community, to do the same. Together with faith leaders, faith-based organizations and communities of conscience around the world, I affirm:

## **I will welcome the stranger.**

My faith teaches that compassion, mercy, love and hospitality are for everyone: the native born and the foreign born, the member of my community and the newcomer.

I will remember and remind members of my community that we are all considered “strangers” somewhere, that we should treat the stranger to our community as we would like to be treated, and challenge intolerance.

I will remember and remind others in my community that no one leaves his or her homeland without a reason: some flee because of persecution, violence or exploitation; others due to natural disaster; yet others out of love to provide better lives for their families.

I recognize that all persons are entitled to dignity and respect as human beings. All those in my country, including the stranger, are subject to its laws, and none should be subject to hostility or discrimination.

I acknowledge that welcoming the stranger sometimes takes courage, but the joys and the hopes of doing so outweigh the risks and the challenges. I will support others who exercise courage in welcoming the stranger.

I will offer the stranger hospitality, for this brings blessings upon the community, upon my family, upon the stranger and upon me.

I will respect and honor the reality that the stranger may be of a different faith or hold beliefs different from mine or other members of my community.

I will respect the right of the stranger to practice his or her own faith freely. I will seek to create space where he or she can freely worship.

I will speak of my own faith without demeaning or ridiculing the faith of others.

I will build bridges between the stranger and myself. Through my example, I will encourage others to do the same.

I will make an effort not only to welcome the stranger, but also to listen to him or her deeply, and to promote understanding and welcome in my community.

I will speak out for social justice for the stranger, just as I do for other members of my community.

Where I see hostility towards the stranger in my community, whether through words or deeds, I will not ignore it, but will instead endeavor to establish a dialogue and facilitate peace.

I will not keep silent when I see others, even leaders in my faith community, speaking ill of strangers, judging them without coming to know them, or when I see them being excluded, wronged or oppressed.

I will encourage my faith community to work with other faith communities and faith-based organizations to find better ways to assist the stranger.

I will welcome the stranger.

## **Founding Principles**

The call to “welcome the stranger,” through protection and hospitality, and to honor the stranger or those of other faiths with respect and equality, is deeply rooted in all major religions.

In the *Upanishads*, the mantra *atithi devo bhava* or “the guest is as God” expresses the fundamental importance of hospitality in Hindu culture. Central to the Hindu *Dharma*, or Law, are the values of

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*karuna* or compassion, *ahimsa* or non-violence towards all, and *seva* or the willingness to serve the stranger and the unknown guest. Providing food and shelter to a needy stranger was a traditional duty of the householder and is practiced by many still.

More broadly, the concept of *Dharma* embodies the task to do one's duty, including an obligation to the community, which should be carried out respecting values such as non-violence and selfless service for the greater good.

The *Tripitaka* highlights the importance of cultivating four states of mind: *metta* (loving kindness), *muditha* (sympathetic joy), *upekkha* (equanimity), and *karuna* (compassion). There are many different traditions of Buddhism, but the concept of *karuna* is a fundamental tenet in all of them. It embodies the qualities of tolerance, non-discrimination, inclusion and empathy for the suffering of others, mirroring the central role which compassion plays in other religions.

The Torah makes thirty-six references to honoring the "stranger." The book of Leviticus contains one of the most prominent tenets of the Jewish faith: "The stranger who resides with you shall be to you as one of your citizens; you shall love him as yourself, for you were strangers in the land of Egypt." (Leviticus 19:33-34). Further, the Torah provides that "You shall not oppress the stranger, for you know the soul of the stranger, having yourselves been strangers in the land of Egypt." (Exodus 23:9)

In Matthew's Gospel (25:35) we hear the call: "I was hungry and you gave me food, I was thirsty and you gave me something to drink, I was a stranger and you welcomed me..." And in the Letter to the Hebrews (13:1-2) we read, "Let mutual love continue. Do not neglect to show hospitality to strangers, for by doing that some

have entertained angels without knowing it." When the Prophet Muhammad fled persecution in Mecca, he sought refuge in Medina, where he was hospitably welcomed. The Prophet's *hijrah*, or migration, symbolizes the movement from lands of oppression, and his hospitable treatment embodies the Islamic model of refugee protection.

The Holy Qur'an calls for the protection of the asylum seeker, or *al-mustamin*, whether Muslim or non-Muslim, whose safety is irrevocably guaranteed under the institution of *Aman* (the provision of security and protection). As noted in the Surat Al-Anfal: "Those who give asylum and aid are in very truth the believers: for them is the forgiveness of

sins and a provision most generous." (8:74)

There are tens of millions of refugees and internally displaced people in the world. Our faiths demand that we remember we are all migrants on this earth, journeying together in hope.

## Background

In December 2012, UN High Commissioner for Refugees António Guterres organized a Dialogue with faith leaders, faith-based humanitarian organizations, academics and government representatives from countries around the world on the theme of "Faith and Protection." As the High Commissioner noted in his opening remarks, "...all major religious value systems embrace humanity, caring and respect, and the tradition of granting protection to those in danger. The principles of modern refugee law have their oldest roots in these ancient texts and traditions." At the conclusion of this landmark event, the High Commissioner embraced a recommendation for the development of a Code of Conduct for faith leaders to welcome migrants, refugees and other forcibly displaced people, and stand together against xenophobia.





# ASYLUM, REFUGEE STATUS & SNOWDEN

BY TOM CLARK

Finally, at the end of July 2013, Russia offered Snowden asylum for a year. That was appropriate, and under international law should not be considered a hostile act.

Snowden had released US secret documentation about US internet information tapping which revealed a broad scope of snooping even on supposed European allies of the US. He fled to Hong Kong and then, when the US tried to have him extradited, he flew on to Russia but ended up trapped in the airport in Moscow when the US ended his passport.

The Snowden affair reminds us that there is a useful wider right to asylum as well as the more familiar refugee status which offers a form of asylum. In the Americas the wider right is part of the Inter-American human rights system. The “right to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international agreements” has been at issue in Canadian and other cases before the Inter-American Commission on Human Rights.

Buried in the July mailing of the International Civil Liberties Monitoring Group is an article by law Professor Robert Falk about international law and asylum. Falk makes the case that Snowden’s actions were politically motivated and not crimes for personal wealth. Political crimes are not covered by the international criminal accords which require States to hand over criminals under extradition treaties.

*“I had thought it was as clear as law can be that any person who has committed a political crime should be exempted from mandatory extradition even if a treaty existed imposed a duty on its parties to hand over individuals accused of serious criminal activity. To be sure, from the perspective of the United States government, Snowden's exposure of the PRISM surveillance program was a flagrant violation of the Espionage Act. But it was also as clearly a political crime as almost any undertaking can be. There was no violence involved or threatened, and no person can be harmed by the disclosures.”*

## IS SNOWDEN A REFUGEE?

**Refugee status is related to asylum but it is a distinctly defined UN status with a test requiring a well-founded fear of persecution.**

Falk believed Snowden would best be characterized as a whistle blower. International law would allow Snowden to remain or qualify for asylum under some nation’s laws – the US huffing and puffing notwithstanding.

The efforts of the US to bring Snowden to the US for the crime under US law included having US allies in Europe bring down a plane carrying the Bolivian president because Snowden might have been on board. He was not! This grounding of an international flight seems to have encouraged other countries in the Americas to offer asylum likely in part because the US actions revealed a possibility of at least some forms of “persecution” if Snowden were to be returned.

Underneath the talk of asylum is the secretive personal data collection which Snowden revealed by his political action. Most of the international case law on the right to privacy is from the European Court of Human Rights under article 8 of the European Convention on Human Rights and Fundamental Freedoms. The basic case law stems from an earlier time and covers prisoner correspondence, phone tapping and the like. The principles are clear but they may need an update for the internet era under the European Convention on Human Rights, under the Inter-American system and under the UN system.

In broad terms, there can be limits on the right to privacy permitting such things as wiretapping. But the limits must be set out in the law and must be clear. They must be necessary in a

democratic society and they must be proportionate. People must be able to know under what circumstances they may face phone tapping and the like. In the 1970s and 80s when the case law began with a backdrop of IRA bomb attacks in the UK, laws usually required a judge to authorise the wiretapping. The scope and covert nature of the data collection as revealed by Snowden could amount to a violation of international rights to privacy of the large number of individuals involved. So Snowden's activity might be construed as enabling the US to come to terms with its human rights treaty obligations. Promoting international human rights is not considered criminal activity.

In early August, almost as if in response to Snowden's leaked extent of the electronic snooping, the US and its allies closed diplomatic missions embassies in the Middle East pointing to electronic conversations overheard between Al-Qaeda leadership. Canada closed the embassy in Bangladesh. It seemed as if people were deemed to need dramatic measures to convince them that wiretapping might be appropriate in some circumstances. Little hard information about the terrorist threat was provided beyond the closing of diplomatic missions. Smoke and mirrors are not enough to justify the broad electronic spying which has been exposed.

Is Snowden a refugee? Refugee status is related to asylum but it is a distinctly defined UN status with a test requiring a well-founded fear of persecution. When death or torture would result from the return of a person, that qualifies. The US is known to have the death penalty and is known to commit torture in its Guantanamo site in Cuba, but one would need to show Snowden has a serious possibility of these. The US told Russia these would not be involved if Snowden was handed over and I suspect the evidence would indicate that the US would likely comply. However, in the present climate, Snowden is unlikely to face a trial in which the wider value of his actions and the questionable legality of the anti-privacy activities he exposed could be taken into account. Unfair trial with jail seems a



possibility from the few facts made public. Time in jail is deprivation of freedom. Also, discriminations like access to work which might add up to persecution seem probable.

Even if Snowden cannot match the refugee status definition, an offer of asylum under national law and international agreements seems appropriate. Under international law an offer of asylum is not to be considered as a hostile act and given a variety of offers of asylum, it would be difficult to construe any one of them as a particularly hostile gesture.

The US itself has agreed in principle to grant a right to seek asylum in other countries by signing the Inter-American human rights instruments. Since this right is at issue in the Snowden case, the US is acting so as to undermine Snowden's right. So the possible violation of this right of Snowden's by the US and the possible violation of the right to privacy of countless Americans and others by the US PRISM project as shown by Snowden's whistle blowing might in theory be raised

as human rights complaints before the Inter-American Commission on human rights by any government, person or NGO in the Americas.

# THE SYRIAN CRISIS

BY FAISAL ALAZEM

***"You have not satisfied me that you meet the requirements of Regulation 179; that you would leave Canada at the end of the temporary period if you were authorized to stay"***

**- A Canadian visa officer's response to a Syrian wishing to escape the violence and to reunite with his family in Canada.**

The Syrian crisis has had without a doubt a huge psychological impact on Syrian-Canadians who are watching on a daily basis, their homes, schools and neighborhoods, once an integral part of their lives, be completely destroyed. They often see the names of friends and relatives, who were once so close to them, on the list of those who are either killed or have vanished without a trace. In the majority of cases, their own families are caught in the middle of the most gruesome war and biggest humanitarian catastrophe of this century, where crimes against humanity are systematically committed.

For those displaced in Syria, they are part of the 4.5 million internally displaced Syrians who are the most vulnerable of refugees, living in camps and areas under constant bombardment and siege, where clean water, basic medical services and education are luxuries. For those who fled to Syria's bordering countries, they are part of the 2.5 million externally displaced Syrian refugees spread across Lebanon, Jordan, Iraq, Turkey and Egypt. Given the political instability and economic crises of these countries, Syrian refugees have found themselves in a very vulnerable state, subject to violence, humiliation, xenophobic attacks and opportunistic behaviour, especially towards woman and children.

Given the magnitude of the Syrian humanitarian crisis, where one third of the population is displaced (half are children), and more than half of Syrian homes are destroyed, one would expect Canada to play a leading role, as it has proudly

done in the past in helping alleviate the largest refugee crisis since the creation of the United Nations. In November of 2012, the Parliamentary Foreign Affairs Committee raised the subject of Syria and a motion was subsequently agreed on by all political parties to expedite family reunification in Canada and support Syrian refugees. Although the motion is non-binding, Syrian-Canadians ask themselves, why the displacement of 7 million people, the murder of more than 150,000 civilians and the use of chemical weapons still have not made this motion ethically and morally binding?

Unfortunately, since the beginning of the crisis in March 2011, Canada has received 53 Syrian refugees, 9 of them in 2013, out of the 2.5 million externally displaced refugees registered at the UNHCR. Interestingly, the majority of Syrian-Canadians have also reported that visa applications to reunite with and protect their families in Canada have been systematically rejected because visa officers doubt that their family members would leave Canada at the end of the temporary stay authorised to them. The same excuse is also used against Syrian students who meet all the entry requirements to Canada (i.e. university acceptance letters and financial requirements).

On the 3<sup>rd</sup> July 2013, the Canadian Government finally announced its commitment to resettle 1300 Syrian refugees to Canada, 200 of them through government resettlement and 1100 through private sponsorship. Although these numbers are small, Syrian-Canadians were very enthusiastic about this opportunity until they discovered the many obstacles in the private sponsorship process, mainly extremely long processing times and frequently tens of thousands of dollars as a deposit until the sponsored refugees arrive in Canada. For instance, privately sponsoring a Syrian family of four members who took refuge in Egypt, will take an average of 40 months from the day the application is submitted until the acceptance letter is received, as well as a \$26,000 deposit for the entire length of the processing period. This deposit will only be returned to the sponsor when the

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family finally arrives in Canada. Such a burden would be heavy for any family that must set aside many months of their earnings for years, not knowing when it will be available to them. In addition, this program is only applicable to refugees who are outside of Syria, except for Turkey. In other words, the program is not applicable to the 4.5 million internally displaced refugees and the 500,000 Syrian refugees in Turkey.

How does Canada compare to the rest of the world?

Brazil has recently announced that it will issue special humanitarian visas for Syrians who wish to seek refuge in Brazil. Germany has committed to accept 5000 Syrian refugees from Lebanon and to offer them 2-year residence permits. Sweden announced that it would grant permanent residence to all Syrians seeking asylum in the country.

Most Syrian-Canadians are asking themselves, what happened to the Canada they proudly immigrated to and the Canada that created special measures and programs to cope with man-made and natural humanitarian disasters, time after time?

Examples include humanitarian measures adopted for Haitians following the 2010 earthquake, as well as for Iraqis in 2007 following the war and the evacuation of Lebanese-Canadians from Beirut in 2006 following the Lebanon-Israeli war. Canada was actively involved in these and many other crises by providing great humanitarian aid and the possibility to take refuge in Canada within short time frames.

How can Canada help?

1) The fastest way is by allowing family members of Canadian citizens and residents of Syrian origin to reunite with their families in Canada, at least on a temporary basis. This family reunification program can be implemented by issuing temporary visas that are much faster to process and would be applicable to Syrians both inside and outside Syria.



Syrian refugees crossing into Turkey, with which it shares an 850km border. Photograph: Osman Orsal/Reuters

2) By addressing the barriers of the private sponsorship program, especially the long processing delays and the ban on sponsoring refugees residing in Turkey.

3) By increasing the number of Government Assisted Refugee spots as requested by the UNHCR. On October 1st 2013, the UNHCR called upon the international community to offer enhanced resettlement, humanitarian admission and family reunification opportunities for Syrian refugees. Only 9 Syrian refugees have been resettled to Canada in 2013 out of the 2.5 million externally displaced Syrian refugees.

4) By Introducing special immigration measures for Syrians who are currently in Canada, such as allowing them to extend their stay, to apply for a work permit and to benefit from health coverage (as for Haitians following the 2010 earthquake).

5) By allowing Syrians who meet all conditions for a temporary visa (i.e. students, parents and grandparents for super visas) to come to Canada and not be refused because the visa officer questions their willingness to return to Syria.

Until then, Syrian-Canadians will continue to live in a state of panic and anxiety concerning the fate of their families and will continue to speculate on why the Canadian Government has let them down.

**Faisal Alazem- Syrian Canadian Council-  
Montreal Chapter Director**

# PARTICIPATION AT THE UNHCR-NGOS CONSULTATION MEETING

BY EZAT MOSSALLANEJAD

## Annual Consultations with NGOs



UNHCR has been holding annual consultations with its NGO (non-governmental organization) partners for more than a quarter-of-a-century. The gathering in Geneva has evolved from a one-day meeting where NGOs prepared for their interventions at the annual meeting of UNHCR's governing Executive Committee to three days of dialogue on a wide variety of subjects of interest to NGOs and UNHCR.

In the past the UNHCR-NGOs Annual Consultation Meeting was held just before the annual meeting of the Executive Committee of the United Nations High Commissioner for Refugees (EXCOM). EXCOM is currently made up of 87 member States. EXCOM meets in Geneva every year to review and approve the UNHCR's programs and budget, and offer advice on international protection. The UNHCR has changed its previous practice, holding the NGO consultation separate from the EXCOM meeting. NGOs can no longer attend EXCOM meeting as observers. This speaks to a new trend at the UNHCR of acting as an inter-governmental agency through strengthening its governmental ties.

This year's annual consultations took place in Geneva from June 11th to 13th 2013. As a representative of the Canadian Centre for Victims of Torture (CCVT), I attended meetings and raised the CCVT's concerns about the issue of global protection of survivors of torture, war, genocide and crimes against humanity. The consultation meeting was attended by 410 humanitarians, representing some 220 international and national NGOs from a broad range of operations around the globe.

### Internally Displaced Persons

In 2012 the Internal Displacement Monitoring Centre (IDMC) recorded that there were 28.8 million Internally Displaced Persons (IDP)

worldwide, with 6.5 million newly displaced. In many regions the number of IDPs is difficult to monitor and so statistics pertaining to IDPs may be varied or underestimated. On a global scale, Colombia is host to the highest number of IDPs. 20 percent of global IDPs reside in Northern Africa and the Middle East, accounting for the largest region of IDPs. The causes of such displacement are varied and complex.

In 2012 the number of IDPs was almost double that of the global refugee population. This is due to the fact that most governments, specifically Western ones, want to keep refugees within their national borders. National and global assistance of IDPs is increasingly complex. When national policies and aid are not available to assist IDPs, international governing bodies may have to intervene in national politics. The IDMC monitors global IDPs and over 90 percent of those who are internally displaced are in a state of protracted displacement.

There is another category of displacement that occurs as a result of natural disasters such as floods, earthquakes and wildfires. 32.4 million people were displaced due to natural disasters in 2012, almost double that of 2011. In recent years, the largest event to cause displacement occurred in China in 2010 from monsoons that displaced an estimated 15.2 million people. In 2012, 776 000 people were displaced in the United States as a result of hurricanes.

It is a well-known fact that conflict and displacement increases vulnerability to gender-based violence (GBV), especially for women, girls and LGBTQ populations. There is an utmost need for specialized GBV programs at the very beginning of an emergency situation of displacement. The focus should be on the concrete, practical steps that must be taken with collective responsibilities of UNHCR and NGOs to alleviate the plight of affected populations. There is a long way to go in this area and failure to address this important need will have a disastrous impact. There is a need for a multi-sectorial approach.

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As stated by the Office of the United Nations High Commissioner for Refugees (UNHCR) in their 2012 publication, *The State of the World's Refugees*, “Global trends suggest that displacement will not only continue in the future but will take different forms.” It becomes increasingly important to create policies and practices to address the causes and effects of displacement.

In many cases national governments are not capable of providing protection or assistance to their IDPs. This warrants international humanitarian action and intervention to alleviate the plight of displaced populations. Unfortunately, such intervention is not always possible due to the lack of resources and support from national governments.

The challenges that we see for 2013 are funding, lack of legal framework, security concerns, regional stability, and lack of coordination with development process. Durable solutions for internally displaced people is impossible without consistent involvement of “a wide array of actors,” governments, civil society, and development actors. Some governments have just recently taken steps to include IDP protection and durable solutions in development and social protection programs. This should be supplemented by civil society organizations.

### Statelessness

Statelessness results from policies that define and/or deny citizenship based on birthplace, discrimination, ethnicity, (inter)national conflict, etc. Being stateless has varied and detrimental effects on the individual. People may be caught in a state of limbo, living ‘illegally,’ being denied access to education, healthcare, employment and denied basic human rights, leaving them vulnerable and without rights

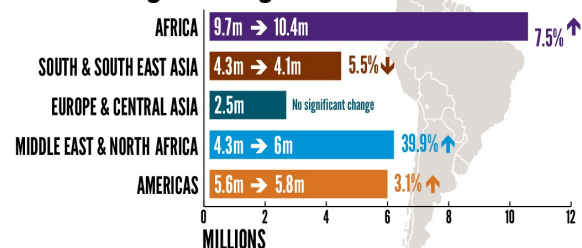
There is a protracted situation in cases such as the Rohingya in Myanmar and former Soviet citizens in Europe and Central Asia. The UNHCR acknowledges the need to develop strong, working partnerships and to increase the number of NGOs working on statelessness worldwide. To this end, the upcoming commemorations of the 60th anniversary of the 1954 Convention relating to the

## 28.8 million IDPs reported in 2012

New displacements: **6.5 million** total

**Middle East and North Africa** 2.5 million | 2.4 of which occurred in **Syria**  
**Africa** 2.4 million | DR Congo 1 million; Sudan 500,000; Mali 227,000; South Sudan 190,000; Somalia 185,000  
**South and South East Asia** 1.4 million | India 500,000; Pakistan 412,000; Myanmar 166,000  
**Americas** 230,000 newly displaced in Colombia

### How the figures changed between 2011 and 2012



Global Overview 2012  
Internal Displacement Monitoring Centre

Status of Stateless Persons (1954 Convention) provides an excellent opportunity through which to strengthen existing and develop new advocacy partnerships and networks. In this context there is a need for joint efforts to persuade states towards:

- 1) Implementation of commitments to address statelessness and;
- 2) Resolving protracted situations of statelessness.

### LGBTQ

This year's UNHCR-NGOs meeting recognized the specific problems of lesbian, gay, transgender and Queer (LGBTQ) refugees. It should be noted that many people face discrimination and persecution as a result of their sexual orientation or gender identity. Freedom of sexual orientation has not been legally accepted as a fundamental human right. As of 2012, same-sex relations were criminalized in eighty-six countries. As a result of such pronounced social and legal discrimination many people who were identified as LGBTQ were forced into exile. Such displacement often leads to a variety of mental and physical health issues. The application of the UNHCR's refugee policies dealing with LGBTQ claims has not been consistent on a national or international scale. Ministerial

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discretion and heteronormative understandings of sexuality have led to inconsistencies in the acceptance and denial of refugee claims made on the basis of one's sexual orientation.

### **Faith and protection**

A new move by the UNHCR was sensitizing religious communities for the support of tradition of asylum and the protection of refugees. There was a special panel by scholars from various faith groups. They all mentioned about common values in all the religions and the need for using their authority to change public opinion about refugees and uprooted people.

### **Racism and xenophobia**

Racism and xenophobia continue to threaten the protection of and space available to refugees in many parts of the world. The UNHCR raised concern that these are not just the preoccupations of extremists; similar sentiments are expressed by populist politicians and some irresponsible elements of the media. Unfortunately, mainstream political and social movements do not always oppose such sentiments with sufficient energy and courage.

### **Detention**

Detention continues to leave its negative impact on thousands of refugees and uprooted people. Detention centers normally fall below international standards and detainees suffer from lack of due process and safeguards. They languish in detention for prolonged periods. In 2012, UNHCR released new Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers and Alternatives to Detention (2012), which were launched at the 63rd session of the Executive Committee. They set out the international legal framework governing detention. The guidelines have categorically advised that international human rights and refugee laws and standards require that detention of asylum-seekers should be used only as a last resort, in exceptional cases and after all other options have been shown to be inadequate in the individual case.

### **Middle East and North Africa (MENA)**

On June 11th 2013, I attended a session on Syria, Yemen, and Mauritania. The panelists spoke about three characteristics of the regions:

1. Traditional hospitality to foreigners and helping weak and vulnerable persons.
2. Lack of any legal framework for protection and the absence of a national asylum system in any country. In this situation the UNHCR has to fill up the gaps.
3. Existence of a mixed flow of migratory people. Yemen for example received 107,000 people last year from Africa escaping poverty and lack of opportunity.

The number of refugees in the Middle East and North Africa region has considerably increased over the last year, mainly due to the Syrian refugee crisis as well as the conflict in Mali. Far from being stable, the region continues to experience dramatic developments which have resulted in more refugee outflows, more internal displacement, and sadly, more loss of life. As of 2013, there were over one million Syrian refugees, 75 percent of them are women and children. This refugee population is primarily located in Lebanon, Jordan, Iran and Egypt. One of the greatest risks for these refugee populations is their registration. In Jordan, 75 percent of Syrian refugees are not in camps and there is a growing discontent in urban areas. Sex and gender crimes in refugee camps are a further issue of concern that must be addressed.

Last year marked a turning point in the crisis in Syria. By the end of April 2013, over 1.4 million Syrian refugees had already been registered or received registration appointments, mainly in the neighboring countries and beyond. Equally so, the crisis had its catastrophic impact inside Syria with more than 4 million persons are internally displaced and over 6 million persons affected.

An often forgotten place is Mauritania. As a nation that hosts mixed migration, Mauritania received 75,000 asylum seekers within one year. As a result of the conflict in Mali, many people fled to the Mbera refugee camp in Mauritania where they were hosted and received assistance. With the projected number of refugees expected to double, this raises concerns and questions over how the nation will deal with such a large influx. Altogether, there are 1.6 million refugees in Mauritania.

Egypt is another country of importance to refugees. Egypt is party to the refugee convention and



protocol. The nation is host to 100,000 refugees, mostly living in urban areas. The country is in the early stage of creating national asylum legislation. The main challenges in terms of refugee protection are to care for their livelihood, access to justice, stopping arbitrary arrests and detention, and access to public health and the labour market.

Refugees in the MENA region reside largely in urban settings not camps.

### **ASIA and the PACIFIC**

Similar to Africa, the main challenge in this area is protection of urban refugees. Of the 3.6 million refugees in Asia, fewer than 1.3 million live in refugee camps. The overwhelming majority are located in urban environments. While urban refugees may enjoy advantages such as freedom of movement and livelihood opportunities, they face risks such as lack of legal status. This may lead to second movement in search of asylum.

### **High Commissioner's Remarks**

In the afternoon of June 13th, 2013, the UN High Commissioner for Refugees, Mr. Antonio Gotheirs, gave a detailed lecture on global problems of uprooted people. The following is a very brief summary of his presentation:

The international community has lost its capacity to prevent conflict and to find solutions. Afghanistan, Somalia, and Syria are in a state of total helplessness. Conflicts are multiplying and the nature of our work is changing. There are more attacks against humanitarian work. Also, food insecurity, water scarcity and natural disasters are interlinked. They are becoming more dramatic and more frequent with humanitarian consequences, multiplication of conflict and unpredictability. We are witnessing an explosion of population and bigger and bigger humanitarian need. Can we get resources?

Human rights agendas are losing grounds in many parts of the world. There is a role for civil society. There is a need for autonomy of humanitarian space. We are losing. We must work together. We need an alarm system to help us go ahead with utmost precaution. The focus of our work is protection in delivering and in working together.

The role of faith organizations is also important. We made a major advance in addressing the problem of statelessness. Can we sustain this? We should aim at eradication of statelessness. Other key priorities are child protection and empowerment of women and reducing international displacement. Displacement has the ability to increase vulnerability. I have decided that the next dialogue be in the realm of displacement. Displaced people should be protected. We can do a lot together. It is and should be central to the topic.

### **Shortcomings**

The meeting unfortunately failed to deal with the following key issues that face refugees and other categories of uprooted people.

### **The right to asylum.**

As is well known Article 14 of the UN Declaration of Human Rights has categorically mentioned that every human being has the right to seek asylum. An effective asylum system answers refugees' access to territory and protects them from refoulement. It contributes towards their humane and dignified treatment, including protection against arbitrary detention, fair and efficient enjoyment of their status and will lead to durable solutions of their condition.

It is unfortunate that following the destruction of the Berlin Wall, Western countries have erected new walls preventing refugees to seek asylum in their countries. There are concerted efforts by Western governments to limit this fundamental right of every person through introduction of new legislation, policies and practices. This was not a part of the agenda and UNHCR authorities rarely spoke about the institution of asylum.

The only place that I could find some remarks about institution of asylum was in the High Commissioners written statement to the meeting: "In anxious times such as these, messages of 'otherness' and exclusion play on common fears of the new and unfamiliar, and undermine the universal values of tolerance and respect for human dignity. Governments need to address the legitimate security, social and economic concerns of their citizens. But if there is a message for us to get

across it is surely that human rights are for all, including the forcibly displaced.” As he has correctly mentioned, there is vicious circle here that is detrimental to refugee protection across the globe.

### **Torture, Impunity and Mental Health of Refugees**

Based on experience at the Canadian Centre for Victims of Torture, around 31 percent of refugees have experienced torture or other cruel, inhumane or degrading treatment or punishment. Most of them suffer from the after-effects of torture, what is known as Post-Traumatic Stress Disorder. Refugees, especially in refugee camps, are subject to retraumatization due to their hard life, abuses, and lack of protection. I raised this question to the Deputy High Commission for Refugees. He acknowledged the problem and mentioned about the long path for the UNHCR to go in this direction. He promised to pay special attention to this utmost important problem. In my opinion, it is important for the UNHCR to work closely with the UN Human Rights bodies to address the impunity of those who are responsible for torturing and abusing refugees in violation of international human rights standards.

## **MARK PERSAUD, ONCE REFUGEE, NOW QUEEN'S MEDAL WINNING LAWYER AND ACTIVIST**

BY TOM CLARK

Refugee Update wanted stories of refugees and I remembered Mark Persaud. I knew little about Mark when I started. Mark's path crossed mine in the mid-1980s when the then head of refugee affairs for the United Church introduced Mark who was working out of one of the “missionary” houses associated with the old United Church national building on St Clair Avenue East. Mark was doing an amazing job as a volunteer heading up a transition house offering counselling and settlement services. Back then refugees were not allowed to work, but that is another story about a 5 to 10 year advocacy project! So I was a bit embarrassed by the enthusiastic young Mark whom we were not paying. Refugee claimants were new back then when Canada still regarded itself as a resettlement country.

I next ran into Mark much later in the North York centre area with a wife and children and we exchanged a few words in passing. He seemed like the old cheerful Mark. He was then a seemingly successful young lawyer working for the Justice Department and living in a nice part of Toronto. That was the limit of my knowledge until I began to look for more of the story.

Mark was a student activist opposing the government of the day. After the assassination of the leader of the political party he supported when

the government began targeting political opponents in general, he fled the unrest and came to Canada. His family were waiting for visas to go to the US, but he needed to get out faster.

I found more about Mark Persaud from an October 2008 report on the internet: *Mark Persaud rocked Justice Canada with his allegations of systemic racism* at Canada.com, where Mark tells more about his life in Canada and in particular about his years with Justice. It seems Mark became the hero of a challenge to the Justice Department which he had accused of discrimination:

“Mark Persaud arrived in 1983 as a young activist fleeing political turmoil in his homeland. He spent his first winter living on the streets of Toronto before his “second mom,” Eileen Brown, who worked at the Scott Mission, befriended him, fronted him some money and found him a place to live. Before long, he'd set up a transition home that provided emergency relief to refugees. In 1986, just three years after his arrival in Canada, the Toronto Star nominated him as the city's man of the year.”

It seems Mark Persaud's sense of justice was tweaked when he and other visible minority people applied for an internal job. The fact that the job

went to a white colleague wasn't the issue because he agrees this had to be one of the best applicants. It was the process. Other applicants learned that the department hadn't called the references of even one strong visible-minority candidate. This bypassing of alternatives tainted the whole process. Mark levelled his allegations of racism at a Senate committee in February 2008 with some results.

There is more in the October 2008 report:

"Persaud says he watched in frustration as less qualified white lawyers were given 'juicy trials and appeals' that he and other visible minority lawyers were denied. Another lawyer who works at Justice, but is afraid to be named, agrees the department marginalizes visible minority lawyers by assigning them low-profile files. When it comes to working on high-priority bills, 'it's all white.' The department also tends to ghettoize visible minority lawyers by assigning them work in areas such as immigration or human rights, which are seen as visible minority subjects, the lawyer says."

I learned that along his way Mark Persaud had studied at York University and Harvard University before getting his LL.B and LL.M from Osgoode Hall Law School. He is now Senior Counsel for Persaud Law Group, a law firm in Toronto. He is also an adjunct professor of law. Among his several awards: The Queen's Diamond Jubilee Medal in 2012 for contributions to Canada; The Osgoode Hall Law School Alumni Gold Key Award in 2007 for Public Sector Law; 2006 Seoul Peace Prize; The Queen's Golden Jubilee Medal in 2002 for leadership and community service; City of Toronto – Community Partnerships Black History Month Award, 2003, for extensive community service; Jaffery International Business Association 2002 Outreach Award for contribution to the community. In a "South Asia: Generation Next" on-line article dated October 2012 Mark confessed about his work with Justice Canada, the cost to his health and marriage and of his need to challenge the Justice Canada experience which in the end was therapeutic:

"I paid a heavy personal and professional

## Mark Persaud rocked Justice Canada with his allegations of systemic racism

Two weeks after rattling Justice Canada's cage with an incendiary allegation of "overt racism," Mark Persaud is talking about his decade working at Justice Canada.

MARCH 8, 2008

Two weeks after rattling Justice Canada's cage with an incendiary allegation of "overt racism," Mark Persaud is talking about his decade working at Justice Canada.

"Justice did me in," he moans. "It sucked the soul out of me. It eviscerated me."

Persaud arrived in Canada in 1986 as a young activist fleeing political turmoil in his homeland. He spent his first winter living on the streets of Toronto before his "second mom," Eileen Brown, who worked at the Scott Mission, befriended him, fronted him some money and found him a place to live.

Before long, he'd set up a transition home that provided emergency relief to refugees. In 1986, just three years after his arrival in Canada, the Toronto Star nominated him as the city's man of the year.

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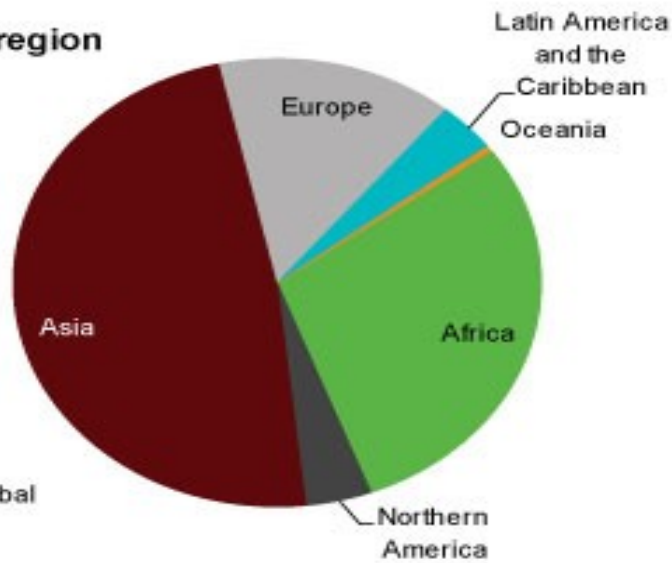
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price. Standing up for the right things could be costly as I found out. It took a great toll on my personal and family life and affected my health. But it was the right thing to do and on reflection I am happy I did the right thing. After my testimony a few years ago before a Senate Committee, the Department of Justice undertook to get over 600 of its senior lawyers to take mandatory anti-racism education. That's a good start."

From the same article we find that Mark has been generous with his time in creating, in advising and in volunteering with many organizations and diverse communities. He talks also of an international bridge building project involving Jewish and Muslim communities and others in Canada to work on a novel project in Afghanistan. Mark has also been active in politics including on two occasions being elected to serve on the executive of a national political party. In 2007 he was named an advisor to Minister Jason Kenny. However, in the 2012 article he is also reported being disillusioned with today's crop of political leaders. I understand – but it is important to choose the lesser of evils! Whatever Mark Persaud's political party now, I learned a long time ago that it matters enormously to have people who understand justice and fairness in every political party. Big changes require people of goodwill in more than one party. So I hope Mark Persaud stays out there amongst today's crop of political leaders.

## NEWS YOU CAN USE: FACTS AND MYTH BUSTERS ON REFUGEES IN CANADA

Refugees by region



Source: UNHCR Global Trends 2012

What's the difference between a refugee and an immigrant?  
How does Canada measure up internationally when it comes to assisting refugees?  
Who decides which refugees come to Canada?

If you care about refugee rights and you speak to others about why they should be too, chances are that you've heard one or more of these questions. How do you respond?

Make your search easy: the Canadian Council for Refugees has posted new information on refugee protection – internationally and in Canada.

About Refugees in Canada and Canada's response ([ccrweb.ca/en/refugee-facts](http://ccrweb.ca/en/refugee-facts)) has up-to-date graphs, charts and links to complementary handouts, online videos, news articles and more. It's a great first stop for anyone wanting to learn 'the basics' or if you're looking for facts and tips to give a presentation on issues affecting refugees and others seeking protection in Canada.



And what do you say when these questions come up in conversation?:

I hear that refugees receive more in government assistance than pensioners in Canada. Is that true?

Can't refugees find protection in a place closer to where they're from?

Canada does it's fair share to help refugees already, doesn't it?

Say 'NO!' and find reasons for these and other commonly-heard myths about refugees at Did you know...? Facts about refugees and refugee claimants in Canada ([ccrweb.ca/en/myths-facts](http://ccrweb.ca/en/myths-facts)) You'll even find links to sample emails and texts to share in social media like Twitter and Facebook.

## REFUGEE UPDATE

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