

REFUGEE UPDATE

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SAFE THIRD COUNTRY AGREEMENT FEDERAL COURT RULING OVERTURNED BY FEDERAL COURT OF APPEAL

BY EDWARD C. CORRIGAN

The Canadian Federal Court of Appeal, on June 27, 2008, reversed the Federal Court decision that had struck down the Safe Third Country Agreement with the United States¹. Implemented on December 29, 2004 the Agreement severely restricted refugee claimants' rights in seeking protection in Canada if they first entered the United States. Refugee claimants who first entered Canada were similarly restricted in the U.S.²

The "Safe Third Country Agreement" was designed to put an end to "asylum shopping" by individuals who had first entered the United States or were failed U.S. refugee claimants and wanted to seek the protection of Canada.³

This Federal Court of Appeal decision overturns the November 29, 2007 ruling by Mr. Justice Phelan of the Federal Court of Canada. He ruled that the Safe Third Country Agreement had violated Canada's *Charter of Rights and Freedoms*, the *1951 Geneva Convention on Refugees*, the *Convention Against Torture*.⁴

The Appellate Court rejected the argument that the United States was not a safe country for refugees. Justice John Evans held that the lower court exceeded its authority by

pronouncing on "wide swaths of U.S. policy and practice."⁵ The Federal Court of Appeal stated that the proper test was whether the federal cabinet acted in good faith when it negotiated the Safe Third Country Agreement and was satisfied that the US granted sufficient protection to refugee claimants at the time the Agreement was signed.



[79] Two weeks before the effective date of the promulgation, Mr. Asadi, the UNHCR representative in Canada, reiterated before the House of Commons Standing Committee on Citizenship and Immigration that "we consider the U.S. to be a safe country" (Appeal Book, Vol. 11, p. 3247). Given the position of the UNHCR, the main supervisory body in rela-

tion to refugee protection, it cannot be suggested that the GIC was not acting in good faith, when it designated the U.S. as a country that complies with its Convention obligations.⁶

The decision was a bitter defeat for the Canadian Council of Refugees, Amnesty International, the Canadian Council of Churches, and a Colombian national identified as John Doe. Mr. Doe was denied the right to make a refugee claim in the U.S. and faced deportation to Co-

lumbia where he had a fear of being persecuted and tortured.⁷

The Federal Court of Appeal also concluded that the refugee advocacy groups that launched the legal action did not have a direct stake in the case and therefore did not have legal standing.

[112] Counsel for the appellant did not pursue before us the question of standing. However, the fact that the respondent organizations are not affected by the outcome of the litigation cannot be altogether separated from the issues of prematurity and utility. The inclusion of John Doe as an applicant does not cure the latter difficulties, even though, having been denied asylum and a withholding of removal from the United States, he may wish to come to Canada to claim refugee protection....⁸

Justice Noel in a second set of Reasons for Decision ruled that a challenge to the designation of the United States as a safe third country could only be brought by a refugee who has been denied entry to Canada and returned to the U.S. and was facing a real risk of return to persecution and torture.

[103] There is, in this case, no factual basis upon which to assess the alleged Charter breaches. The respondent organizations' main contention is directed at a border officer's lack of discretion to forgo returning a claimant to the U.S. for reasons other than the enumerated exceptions set out in section 159.5 of the Regulations. This challenge, however, should be assessed in a proper factual context – that is, when advanced by a refugee who has been denied asylum in Canada pursuant to the Regulations and faces a real risk of *refoulement* in being sent back to the U.S. pursuant to the Safe Third Country Agreement.⁹

"It is "completely unrealistic" for a prospective refugee to launch a Canadian court challenge because they are turned away at the U.S.-Canada border within minutes or hours" said the Executive Director of the Canadian Council for Refugees, Janet Dench..¹⁰

In the majority reasons for the Federal Court of Appeal, Justice Noel ruled that the Federal Court's finding "that the US does not 'actually' comply is irrelevant." Noel concluded that so long as Cabinet had "considered" the human rights situation in the U.S. and was not acting in bad faith when signing the agreement, the circumstances facing the refugees affected by the agreement was not important.

[80] It follows that the fact that the respondents believe, and that the Applications judge agreed, that

the U.S. does not "actually" comply is irrelevant since this was not the issue that the Applications judge was called upon to decide (compare *Telecommunications Workers Union v. Canadian Radio-Television and Telecommunications Commission*, 2003 FCA 381, [2004] 2 F.C.R. 3 at paras. 39 to 43). What is relevant is that the GIC considered the subsection 102(2) factors and, acting in good faith, designated the U.S. as a country that complies with the relevant Articles of the Conventions and was respectful of human rights.

[81] I should add as an aside that even if "actual compliance" was a condition precedent, the conclusion reached by the Applications judge to the effect that the U.S. did not meet that requirement at the time of promulgation could not stand since it is largely based on evidence which postdates the time of the designation (see paras. 87 and 88 below).

[82] In short, it was not open to the Applications judge to hold on any of the alleged grounds that the designation of the U.S. as a safe third country and the related Regulations were outside the authority of the GIC or that the Safe Third Country Agreement between Canada and the U.S. was illegal. I would therefore answer the second certified question in the negative.¹¹

Andrew Brouwer, one of the lawyers representing the refugee advocacy organizations said, "This decision is deeply troubling." Brouwer also argued,

The Court of Appeal has not addressed the fundamental human rights issues at stake in this case, and has largely insulated the government from review by the Court. The Court's finding on public interest standing is likewise a step backwards. In effect, the Court of Appeal is demanding that before a court can hear a challenge to the legality of the agreement a refugee must put her life at risk by coming to the border, getting refused and handed over to US authorities for likely deportation to torture or persecution. This requirement is both impractical and dangerous.¹²

President of the Canadian Council for Refugees, Elizabeth McWeeny, said “We are deeply disappointed that the Court condones the Canadian government disregarding US practices that place refugee lives in danger.” McWeeny added, “This judgment fails to give life to the promise of protection in the Charter and in international human rights agreements which Canada has signed.”¹³

Gloria Nafziger, Refugee Coordinator for Amnesty International Canada, commented, “Sadly the court chose to focus on the scope of the review and questioned the right of the petitioners to bring forward such a challenge, rather than on the human rights issues at stake for refugees,” She also said that, “The evidence shows that United States falls short of its responsibilities to protect refugees under international law. It fell short of those responsibilities on the day the Agreement was signed, and has continued to fall short of these responsibilities to this day.”¹⁴

This ruling is going to be appealed to the Supreme Court of Canada.

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¹*Her Majesty the Queen and Canadian Council for Refugees et al* 2008 FCA 229.

²For an outline of the Agreement see “The Safe Third Country Agreement: Impact on Refugee Claimants,” by Edward C. Corrigan, 9 *Bender's Immigration Bulletin*, September 15, 2005, pp. 1406-1407.

³“Landmark refugee ruling overturned on appeal,” By Janice Tibbets, *The National Post*, July 9, 2008; see also, “Yes, America is a safe haven,” *Globe and Mail*, July 2, 2008.

⁴Canadian Council for Refugees et al v. Her Majesty the Queen (IMM 7818-05) FC

⁵*Her Majesty the Queen and Canadian Council for Refugees et al* 2008 FCA 229, para. 120

⁶*Ibid.*, para. 79

⁷“Rights Groups Express Dismay with Appeal Court Ruling in Safe Third Country,” Canadian Council for Refugees, Canadian Council of Churches and John Doe Media Release, 2 July 2008.

⁸*Her Majesty The Queen and Canadian Council for Refugees et al* 2008 FCA 229, para. 112

⁹*Ibid.*, para. 103.

¹⁰“Landmark refugee ruling overturned on appeal,” By Janice Tibbets, *The National Post*, July 9, 2008

¹¹*Her Majesty the Queen and Canadian Council for Refugees et al* 2008 FCA 229, paras 80-83.

¹²“Rights Groups Express Dismay with Appeal Court Ruling in Safe Third Country,” Canadian Council for Refugees, Canadian Council of Churches and John Doe Media Release, 2 July 2008

¹³*Ibid.*

¹⁴*Ibid.*

¹⁵“Advocates to appeal anti-refugee court ruling,” By Lesley Ciarula Taylor, *Toronto Star*, July 12, 2008 *TheStar.com* - GTA - Advocates to appeal anti-refugee court ruling

THORNCLIFFE NEIGHBOURHOOD OFFICE LAUNCHES A NEW CIVIC PARTICIPATION INITIATIVE: ONE RESIDENT ONE VOTE

In Toronto, at any given time there are more than 200,000 permanent residents living, paying taxes, and sending their children to school who can't vote. Newcomers have a keen interest in their neighbourhoods and communities. While 90 per cent will become citizens in 6-10 years (at a higher rate than ever before in Canada's history), their participation in city council and school board elections is alarmingly low.

Something has to be done to engage newcomers as early as possible in the civic life of Toronto, inviting them to be part of the solution, and signalling to them that they belong. One way to do this is to permit Toronto residents to vote in local elections, before they become citizens.

Voting in local elections for immigrants is a chance to learn about and participate in the political system on the road to citizenship. Immigrants

would be allowed to vote for council and school board, but they would still need to become citizens to vote in provincial and federal elections, and to be issued a Canadian passport.



Objective

- Engage immigrants and refugees in issues of civic participation.
- Create a public discussion about the merits of local voting rights for permanent residents as an idea that could enrich settlement and integration.
- Train immigrants and refugees to speak publicly about civic issues that are of interest to them.
- Build a culture of civic engagement and participation, starting from the local level, progressing toward citizenship.

Engage immigrants and refugees in municipal issues.
Engage immigrants and refugees in education issues and school boards.

To learn more about the policy issues, see:

http://maytree.com/PDF_Files/MaytreePolicyInFocusIssue1.pdf

CONSULTATIONS ON BILL C-50

BY FRANCISCO RICO-MARTINEZ

Bill C-50 is just another example of how deep is the disagreement of the civil society of Canada with the current government's immigration vision, discourse, policy-making and implementation. The CCR, OCASI, and their member organizations have criticized and opposed these recent amendments to IRPA.

On July 3rd 2008, the Minister of Immigration's office issued a news release announcing a series of meetings to be held across Canada between July 7th and August 15th, 2008: <http://www.cic.gc.ca/english/departement/media/releases/2008/2008-07-03.asp>.

These consultations will take place in order to implement the recently adopted amendments to IRPA (under Bill C-50), to define the ministerial instructions for:

- a) Categories of federal skilled workers that will be prioritised for rapid processing to respond to labour shortages in Canada.
- b) Categories of applications which will be returned with a refund and which applications will be put on hold.

The CIC backgrounder <http://www.cic.gc.ca/english/departement/media/backgrounders/2008/2008-07-03a.asp>) for these consultations provide the following themes and questions to be addressed during the stakeholder meetings:

- a) The role of the immigration program in addressing specific labour market needs;
- b) Occupational pressures in each industry/sector/region (e.g. short term vs. medium term, what skill levels do these occupations require? What barriers to accreditation must be addressed?)
- c) Prioritization of those applications meeting labour market needs, return of others.

We are aware that these consultations are by invitation only. The Canadian Council for Refugees has been invited to participate at the national roundtable that will be held in Ottawa on August 15th. We've also heard that OCASI member agencies have been invited to the consultation sessions to be held in Toronto, Ontario, one July 21 and 22.

The immigrants' rights, as well as the issues of concern for the local communities and service providers, who will probably have to absorb increased numbers of newcomers, are set aside in the context of these consultations. These consultation are all related to employers' needs and expectations in the context of current labour shortages, which imply that migration to Canada is only about filling short-term labour shortages, rather than nation-building; that immigrants are economic units rather than future Canadians who will contribute to society in many different ways.

These consultations do not allow for stakeholders to offer input as to how the new processing mechanisms for skilled workers will fit in to or affect the larger scheme of Canada's immigration commitments, including the commitments to Family Reunification, Refugee Protection and immigration on Humanitarian and Compassionate considerations. A proper parliamentary discussion on all the aspects of IRPA that require a reform is needed even more than before.

Recommendations

Consultation must be transparent, not by invitation only and should include all relevant stakeholders and issues.

- a. The perspective of the Canadian Civil Society, particularly immigrants should be taken into consideration to define the immigration policy.
- b. To reject the notion that Canada's immigration should be reduced to a response to labour market shortages or other business concerns.
- c. To respond to increased needs in areas like housing, education for children, pressure on local infrastructure, programs and services.
- d. The commitment of the government of Canada to an adequate financial and other supports to the immigrant serving sector.
- e. Delays for processing applications under the skilled workers category are unacceptable, so are the excessively long delays for processing family reunification applications. Family Reunification should be given adequate priority and treatment.
- f. Humanitarian and Compassionate (H&C) applications should not suffer from the implementation of IRPA amendments. Minister's office should provide data on H&C applications processing times overseas in relation to the new IRPA dispositions.
- g. The responses to labour shortages should bring justice for those who are already in Canada. A regularization process to the people who are already living and working in Canada with less than full immigrat-

ion status.

- h. Public education programs in local communities where increased numbers of immigrants are expected to live. To ensure that francophone communities have an equitable say in the process.
- i. An anti-racist and gender-equity analysis. Differential impacts must be anticipated, addressed and averted in a proactive manner.
- j. The elimination of barriers in regards to the provincial health insurance coverage.
- k. Periodical reporting on implementation on the new selection process toward building trust and accountability.

Due to the narrowly designed on-line questionnaire, the Minister's office should provide the opportunity to send submissions on any relevant issue.



Francisco Rico-Martinez is Co-Director of FCJ Refugee Centre in Toronto and is on the editorial board of Refugee Update.

ALI AND MARIYAM'S STORY

BY CAROLYN VANDERLIP

Mariyam is alone in Syria. She hasn't seen her husband of four years, Ali, since last year. He lives in Canada now.

Mariyam hasn't been abandoned by her husband. He'll be back in Syria soon for a visit, and they will spend a few precious months together before he returns to his new home in Hamilton, Ontario. This young couple is a victim of Canada's immigration system, which calls Mariyam an "excluded family member" who has no right to be with her husband in Canada.

The story started off well enough. Ali and his parents were selected in Syria as Iraqi refugees in need of resettlement, and referred to Canada's Government Assisted Refugee Program. Before he left Syria, in November 2002, Ali made a verbal agreement to marry Mariyam. Ali did not declare her on his immigration forms, because a fiancée is not considered an immediate family member. When he arrived in Canada, though, he became confused when questioned at the local CIC office, and he explained that he had an oral marriage agreement with Mariyam. The local CIC office recorded Mariyam as Ali's spouse.

In October 2003, Mariyam, along with Ali's lawyer, registered the marriage in the Islamic court. The actual marriage ceremony took place in 2004, when Ali travelled back to Syria. He remained for three months, and the couple rented an apartment together and resided together for the first time. Ali then returned to Canada, full of hope that his wife would soon join him, and began the process under the Family Class Sponsorship Program.

This hope disintegrated when the sponsorship was refused, based on Ali not declaring Mariyam as his spouse on his immigration application. It seemed that no amount of reasoning or explanations could change Canada's decision, and an appeal was also refused.

Mariyam became more and more despondent. Ali travelled to Syria as often as he could to spend time with her, and he found himself torn between two worlds. It was very difficult to afford the travel costs, however he managed to return to Syria every year to see Mariyam. The stress of her situation caused her to have two miscarriages, and because Ali was spending so much time outside of Canada, it was difficult for him to find work and establish himself.

When Ali came to see me in early 2008, he didn't know where to turn. The local CIC had explained to him that his only remaining hope would be to find a private sponsor for Mariyam. On hearing his story, the Diocese

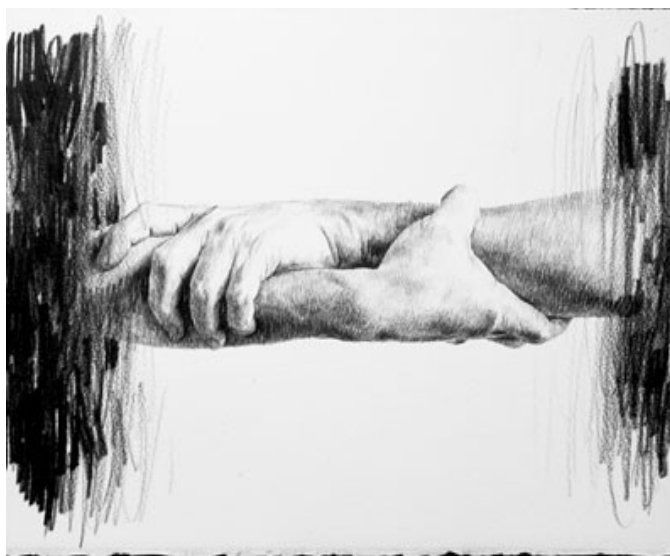
of Niagara immediately agreed to submit a private sponsorship under the Anglican Diocese's sponsorship agreement. Along with the application, we requested Humanitarian and Compassionate (H&C) consideration of her case, which CIC has advised is the appropriate remedy for "excluded family members".

However, under Bill C-50, Canadian visa officers will no longer be required to examine overseas H&C applications.

For now, Ali and Mariyam can only wait. Mariyam, pregnant again, hopes to deliver her baby in Canada. Unfortunately, the processing times for private sponsorship applications are unlikely to allow this to happen.

I pray for a happy ending for this couple. I worry about the impact of the stress of the past four years on Ali and Mariyam and their relationship, which started off so hopefully. And I dread the day when I may have to deliver the news to Ali that our application was not successful, and that he will be permanently separated from his wife and new child.

Carolyn Vanderlip is part of the Refugee Network of the PWRDF, in the Anglican Diocese of Niagara



THE FORGOTTEN IRANIAN

BY MONIREH MOHAMMADI

In January 2007, I travelled to the eastern part of Turkey to observe and document the living conditions of the Iranian asylum seekers and refugees living in the Turkish border towns. During my stay, I met with a large group of Iranian asylum seekers and refugees, the majority of whom are Kurds that were members of the Kurdish Democratic Party of Iran, Komala, or the Kurdish branch of the Communist Party of Iran. Living with and interviewing these individuals at their homes provided me with the opportunity to witness how destitute their living conditions were. More often than not, migrants live in unheated and scorpion-infested mud-houses. With no right to employment, they suffer socially, economically, and psychologically. Often the children of asylum seekers and refugees are denied appropriate schooling and, along with their parents, medical attention for even the most dire illnesses.

Iranian migration westward is inextricably linked to a number of ailments that have been afflicting Iran since the 1979 revolution. Shortly after the establishment of the Islamic Republic in Iran, branches of government united in the oppression of activists, academics, writers, journalists, students, workers, and all of those who opposed the new Islamic regime. A systematic utilisation of violence and imprisonment, for example, in the treatment of the press and the various student, labour, and women's rights movements have placed Iran in the ranks of countries with blatantly abysmal human rights records. Though Iran's treatment of all its citizens is heinous, its ethnic population bear a disproportionate amount of the regime's malice because they are that much farther from the religious and nationalistic homogeneity sought by those with power in Qom and Tehran.

According to the International Organization for Migration, since the late 1970s it is estimated that over one and a half million Iranians have entered Turkey.¹ This is despite the fact that Turkey does not grant refugee status to asylum seekers of non-European origins.²

Since the late 1970s it is estimated that over one and a half million Iranians have entered Turkey.

Considering Turkey's close proximity to Iran, these **escapes** are often immediate solutions to imminent dangers posed by the regime in Iran. However, despite their desperate attempts not all succeed with their **escapes**. In 2002, the Guardian newspaper reported that every year Turkish guards, while patrolling the snow covered mountains of south-eastern Turkey, discover frozen bodies of Iranians illegally crossing the two countries' mountainous border.³ In fact, my first night in Van was in a local hotel that was also sheltering a mother who had lost her teenage son in the mountain blizzards of January 2007 while attempting to cross into Turkey. She spent her days and nights waiting with her two other children hoping that the missing son would make it through to her. Undeniably, she was wracked with the worst sort of anxiety.

Even those who survive the dangerous mountains of eastern Turkey find themselves in an insecure position because what usually awaits them is arrest, deportation, or becoming subjects to the abuses of the Turkish authorities and their neglect of their obligations under international law. In their homeland, most – though not all – of these individuals endeavoured in the name of liberty, democracy, civil rights, and equality. In Turkey, these same Iranians are denied almost every right they are entitled to under the 1951 Geneva Convention Relating to the Status of Refugees, to which Turkey is a signatory.

Although Turkey is a signatory to the 1951 Convention, it enforces a geographical qualifier that stipulates that only European refugees and asylum seekers fleeing events occurring in their home country can seek refugee status in Turkey. Until 1994, non-European asylum seekers could directly apply for refugee status and resettlement to a third country through the offices of the United Nation High Commissioner for Refugees (UNHCR) in Turkey. However, after Turkey established the Refugee Regulation in 1994, the UNHCR is obliged to consider only those who are registered with the Turkish police and Ministry of Interior. According to the Article 7 of Refugee Regulation of 1994, non-European asylum-seekers could refer to UNHCR only after being recognised as such beforehand by the Ministry of Interior.

In addition, the regulation requires asylum-seekers to first register with the police within ten days of entry to Turkish territory. In other words, UNHCR does not accept applications from those who have not reported and registered with the Turkish police.⁴

The parallel collaboration between the Turkish government and UNHCR exposes asylum-seeking Iranians to a range of hardships and injustices. According to Human Rights Watch, “local police officers record the substances of claim with the assistance of interpreters who are often incompetent and case decisions are made by officials of Interior and Foreign Affairs’ Ministries who lack expertise and independence”.⁵ Moreover, it is often the case that the same Turkish authorities that interview the asylum-seekers cooperate with Iranian agents to identify individuals who are particularly sensitive for the Tehran regime. ‘Marked’ individuals are often illegally deported back to Iran.⁶

Almost all the asylum-seekers I interviewed complained about the weekly routine attendances that all asylum seekers and refugees are required to do on Tuesdays and Thursdays. They unanimously complained that these attendances are often accompanied with peculiar interrogations and questionings by the police about the nature of their troubles back in Iran and their associations and interactions in Turkey. My interviewees also expressed their grave concerns about the possibility of unwarranted arrest on the spot following illegal deportation back to Iran.

The continuous involvement and interference of the Turkish police with the refugee determination process has made Turkey an extremely unsafe country for Iranian asylum seekers. Among these asylum seekers, there are widows, divorced, or single women who have no protection, and they often find themselves being taken sexually advantage of by the Turkish authorities. In return for the abuses they endure, they are given nominal financial or legal security by the authorities.

My interviews with male Iranian asylum seekers revealed that many of them had either themselves been abducted or knew others who had been abducted by the intelligence services and taken to the outskirts of Van where they were beaten, tortured, and threatened with deportation until they divulged sensitive information about themselves and others.

It became apparent that it is regular policy for Turkish authorities to coercively collect sensitive information

about the political activities of the region’s ethnic minorities.

Moreover, the UNHCR of Van is entirely complicit in the crimes and human rights violations of the Turkish authorities. As morally concerned human beings, if not as agents of an organisation that concerns itself with the ethical treatment of vulnerable migrants, UNHCR’s staffs are obligated to exert the weight of their official capacities to provide these asylum seekers with adequate protection from the criminal behaviour of the authorities. Even refugees, who are entitled to more legal rights and privileges than asylum seekers, are routinely violated by the police and others. No Iranian, refugee or asylum seeker, in Van is secure from illegal deportation and all the human rights that ensue from being handed back to Iran’s agents.

Doubtlessly, the abysmal conditions of migrants in Turkey must change. As the United States and the Islamic Republic continue their belligerent gesticulations towards one another, the threat of another disastrous regional conflict becomes ever more palpable. In the event of a war, Turkey will certainly experience an influx of Iranians. It is critical, then, that Turkey begins to respect its legal obligations under 1951 Convention on the Status of Refugees, otherwise, many more hundreds, indeed thousands of Iranians may become subject to the same heinous abuses being endured by today’s asylum seekers and refugees in Van.

¹ International Organization for Migration, 1995

² http://www.hyd.org.tr/staticfiles/files/hca_refugee_brochure_-_english.pdf

³ The Guardian(London) May 31, 2002 “Asylum debate: Children die in snow on route to the west”

⁴ <http://www.unhcr.org.au/pdfs/Turkey.pdf>

⁵ Human Rights Watch, 2001

⁶ <http://www.statewatch.org/news/2007/aug/turkey-joint-statement-ai-hca.pdf>

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CCR SPRING CONSULTATION, MAY 2008, WINNIPEG

OUR PART, OUR FUTURE, OUR CHILDREN

BY JANIS NICKEL

Those of you who did not come to Winnipeg in May missed a really good Consultation. The complete absence of the dreaded snow and freezing weather allowed attendees to enjoy, not only the Consultation, but also the city with blue skies and balmy weather.

The opening plenary included a welcome by Mr Abraham, the new UNHCR Representative in Canada. The consultation theme was effectively introduced by a film, by and about immigrant youth, produced by Muuxi and Mohammad and by CCR president Liz McWeeny who reflected on the past thirty years – from Vietnam to the current issues of Bill C-50 and family reunification.

The workshops, as usual, included a variety of topics with opportunities for participation and education. In “Dialogue with government”, Claudette Deschenes, Assistant Deputy Minister, Operations (CIC) fielded questions from a concerned audience. Her responses to questions around Bill C-50, although straightforward, did not appear to leave much room for optimism. Some participants seriously questioned the use of the term “dialogue” when “monologue” would be a much more apt description. Youth centred workshops received very positive reviews and it was encouraging to see the enthusiasm of those who will, hopefully, go on to replace us ‘old-timers’. The workshop which provided training as well as information (on “Best Interest of the Child”) and the one dealing with temporary workers received favourable comments. In the workshops I attended the problems around family reunification remained a major concern. Resolutions coming out of the workshops addressed issues around foreign workers, children and ID, immigration loans, parental consent for sponsored children and extradition.

The local organizing committee did a great job. My informal survey resulted in the following observations: Great downtown location; the hotel staff seemed



genuinely hospitable. Muffins with coffee – Yes! The “What to do in Winnipeg” handout, complete with map, was really helpful. The option of attending an organized lunch was well utilized and much appreciated. It allowed conference goers to visit and learn about local organization (Manitoba Interfaith Immigration Council, International Centre, Needs, IRCOM, Ka Na Kanichick) provided a free lunch and ensured that no one was left on their own for lunch. Thursday evening provided free food and entertainment and was a great time to reconnect and enjoy each other’s company. Friday evening’s guided outings offered a variety of food, fun and frolic. A big thank-you to Wanda and company.

The Consultation was also the beginning of CCR’s thirty year anniversary celebration. Participants were provided with information about the CCR and encouraged to host local events to celebrate CCR’s past accomplishments and future goals. We look forward to further celebrations and inspiration at the November Consultation in Toronto. (Nov.27-29, 2008)

Again, the consultation was a great opportunity to learn, to share ideas and strategies and to keep all the refugee workers and advocates energized. I was almost sorry to have retired from my job – but I’ll get over it.

Janis Nickel, former In-land Protection Advocate, MIIC; now smelling the flowers and walking the dog in Ridgeville.

THE REGIONAL CONFERENCE ON MIGRATION

BY LOLY RICO

In May 2008, I attended the Thirteen Meeting of the Regional Conference on Migration in Tela, Honduras, where the Vice-Ministers of the Governments of North America, Central America and Dominican Republic gathered to discuss immigration policies and guidelines and also the effects of migration from the South to the North. A network of non-government organizations met in parallel to make presentations before these governments regarding immigration issues.



The Conference divided into two liaison tables: the Consulate Network and the Trafficking Network.

The Canadian Council for Refugees (CCR) actively participated at the Conference, which took place at a resort. This was an interesting place to hold the conference since previously it was the residence of the managers and supervisors of the biggest banana plantation where a lot of migrants from Central America were going to work.

NGOs participating were from Central America, Mexico and Canada, but none from the United States. At the meetings we had the opportunity to share information about country conditions in relation to Immigration and different and common issues between the countries in order to prepare a presentation before the governments.

In Central America the main issue is about children. There is the smuggling of children to reunite with their parents in United States, or teenagers, given that the economical situation in their respective countries is so bad, prefer to go to the United

States looking for the American Dream. Most of the time they are detained in Mexico either at the border with Guatemala or throughout Mexico. There is a Memorandum of Agreement between Mexico and governments of Honduras, El Salvador and Guatemala in relationship to the procedure of repatriation of minors from these countries, so that they are transported in a separate bus to the respective borders or are sent by plane, to guarantee the well being of the children. The NGO's from Mexico and the Central American coun-

tries monitor this agreement and procedures and they made a presentation with the different anomalies, as well as the anomalies in relationship to the different consulates on the migrant pathway in Mexico.



The other main discussion was on Trafficking issues in which all the countries presented their policies to stop trafficking, both from the view of enforcement and of protection of the victims. The focus of the discussion with the governments was to have procedures of communication among themselves with the objective to combat trafficking, by organizing workshops of awareness and looking for best practices from the different countries so as to have guidelines at the regional level. There was not much discussion about the protection of the victims, only to have safe houses as well as rehabilitation to help them to reintegrate in their country of origin. As a conclusion, they organized a training workshop lead by the United States and the International Organization of Migration where they will look for minimum standards and guidelines to combat trafficking as well as to protect the victims.

(Continued on page 11)

As NGO's we did a presentation in which we focussed on the protection of the victims as well as special protection for trafficked children. We requested that governments have National work plans to stop trafficking and not to focus only on enforcement but also to have programs of protection and services for the victims, as well as to gather statistics and research the theme in the region. In the end it was seen that to work on trafficking issues the governments must work with the civil society to elaborate national plans to protect victims and combat trafficking.

In conclusion it was an excellent experience from the NGO's side because we did networking among the NGO's as well as gaining some understanding of what is the reality of the region especially south of Mexico.

Loly Rico is the Co-Director of FCJ Refugee Centre in Toronto and represented the Canadian Council of Refugees (CCR) at the Conference.

Canadian Centre for International Justice (CCIJ)

The Canadian Centre for International Justice (CCJI) works to ensure that those living in Canada who are accused of committing war crimes, crimes against humanity, genocide and torture, are brought to justice. Equally, they support the survivors of these acts and seek compensation for them.

The CCIJ was launched in 2000 and works as an independent, charitable organization. The CCIJ provides:

- Advice, direction and referrals to survivors of atrocities and their families.

- A liaison between affected communities, Canadian officials and international justice mechanisms.

- Research and resources to support law reform, policy development and casework.

- Education and training for service providers, legal and health professionals, and students.

Amnesty International Canada and the Canadian Centre for Victims of Torture provide considerable in-kind support, in addition to maintaining representation on the Board. Many more Canadian leaders in international justice, and more than 100 students, are involved in the CCIJ Working Groups across Canada.

For more information see: www.ccij.ca

FACT-FINDING TRIP TO EL SALVADOR

BY FRANCISCO RICO-MARTINEZ

In April 2008, I travelled to El Salvador for a week to do a fact-finding visit on the cause for the increase in the number of persons from El Salvador arriving in Canada to claim refugee status. I volunteered my time to travel to El Salvador to conduct the fact-finding visit and prepared the transcription and translations of several interviews done during this visit.

The cost of the trip to El Salvador was covered by FCJ Refugee Centre through donations directly received for that purpose. In terms of the time used by the undersigned, it was part of the Community Leadership in Justice Fellowship of the Ontario Law Foundation for 2007/08.

The host in El Salvador of the fact-finding visit was Ms. Gilma Perez, director of the Migrants Program of the Human Rights Institute of the Jesuit University of El Salvador (IDHUCA). Ms Perez confirmed and coordinated the interviews that I am presenting in this report, which are:

Dr. Salvador Menendez Leal, Deputy Human Rights Ombudsman of El Salvador.

Ing. Yanira Argueta, Director of the Association for Self-determination of Salvadoran women (AMS).

Commissioner Augusto Coto Castaneda, head of the National Civil Police, delegation La Libertad North (La Libertad Norte).

Dr. Oscar Humberto Luna, Human Rights Ombudsman of El Salvador.

The FCJ Refugee Centre is making this report available free of charge on our website www.fcjsisters.ca/refugeecentre. I use this opportunity as well, to open the possibility to act as an expert witness in a refugee hearing involving a refugee claimant from El Salvador.

If you need more information or any kind of clarification on the fact-finding report, as well as to discuss the possibility of being used as an expert witness, please do not hesitate to contact us at:

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Francisco Rico-Martinez is the Co-Director of the FCJ Refugee Centre in Toronto and is on the Editorial Board of Refugee Update.



Human Rights Institute of the Jesuit University of El Salvador (IDHUCA) and the Association of Journalists from El Salvador in a press conference regarding human rights violations.

BOOK ANNOUNCEMENT

NOT BORN A REFUGEE WOMAN CONTESTING IDENTITIES, RETHINKING PRACTICES

EDITED BY MAROUSSIA HAJDUKOWSKI-AHMED,
NAZILLA KHANLOU & HELENE MOUSSA

Summary

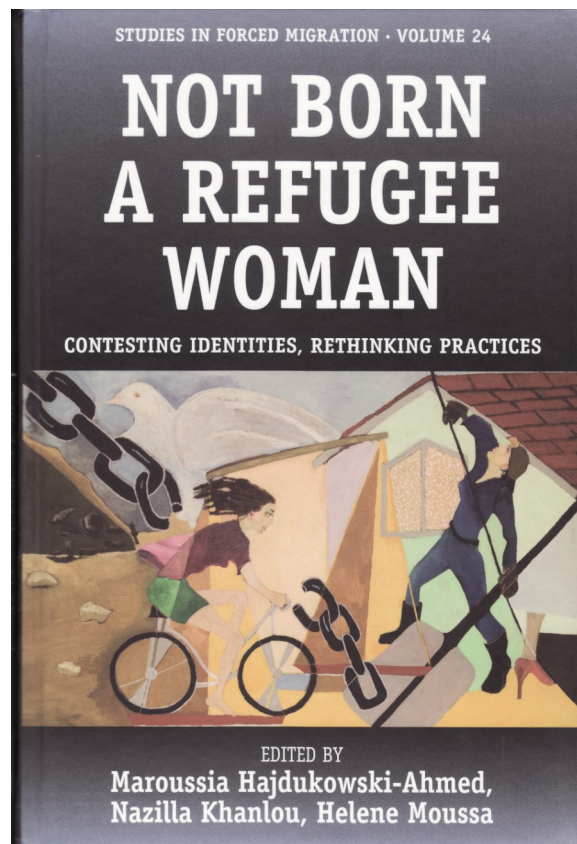
Not Born a Refugee Woman is an in-depth inquiry into the identity construction of refugee women. It challenges and rethinks current identity concepts, policies, and practices in the context of a globalizing environment, and in the increasingly racialized post-September 11th context, from the perspective of refugee women. This collection brings together scholar-practitioners from across a wide range of disciplines.

The authors emphasize refugee women's agency, resilience, and creativity, in the continuum of domestic, civil, and transnational violence and conflicts, whether in flight or in resettlement, during their uprooted journey and beyond. Through the analysis of local examples and international case studies, the authors critically examine gendered and interrelated factors such as location, humanitarian aid, race, cultural norms, and current psycho-social research that affect the identity and well being of refugee women. This volume is destined to a wide audience of scholars, students, policy makers, advocates, and service providers interested in new developments and critical practices in domains related to gender and forced migrations.

About the Editors

Maroussia Hajdukowski-Ahmed was Principal Investigator and Co-chair of McMaster Research

Centre for the Promotion of Women's Health (1993-1999). She is also Professor and Chair of French at McMaster University, and teaches in the Women's Studies Program, and at the Institute on Globalization and the Human condition.



Nazilla Khanlou is Associate Professor at the LSB Faculty of Nursing and Department of Psychiatry, University of Toronto, and is the upcoming inaugural Ontario Women's Health Council Chair in Women's Mental Health Research at York University.

Helene Moussa has had extensive experience as an educator, researcher, and administrator, as well as in policy and organizational development, networking, and advocacy. Her last position before her retirement was with the World Council of Churches, Geneva, Switzerland as executive secretary for uprooted people with regional responsibilities with partners in the Middle East, Asia and the Pacific. She has

published numerous books, articles and book reviews on uprooted people and women refugees in particular, as well as on development, education and social & community services and is currently working as an independent consultant on forced migration.

This book is published by Berghahn Books.

WORLD REFUGEE DAY, JUNE 20TH, METRO HALL SQUARE, TORONTO

BY TOM CLARK

Many countries hold their own refugee day or week. In Canada we celebrate Refugee Rights Day, April 4th, the date in 1985 of the Supreme Court of Canada *Singh et al* decision which required that refugees have a fair hearing of their claim to refugee status. Such local days are important for recalling needs of refugees in relevant ways and renewing non-governmental energies. At the same time, it is important to recall that work with refugees is a globalized activity. What anyone does with refugees anywhere

around the globe affects someone in some other part of the globe. World Refugee Day expresses that global connectedness but it captures a solidarity of work with refugees as well. For several years, June 20th was celebrated as Refugee Day across the continent of Africa. Then, late 2000, the UN General Assembly decided that from 2001, 20 June

would be celebrated as World Refugee Day. The General Assembly resolution said it was “an expression of solidarity with Africa, which hosts the most refugees, and which traditionally has shown them great generosity.” There were celebrations of World Refugee Day in a variety of cities across Canada this June 20, 2008. I only got to one of them – in Toronto, Ontario.

As I walked around the colourful display tables set out under sun shelter tents and umbrellas around the walkways and lawns outside Toronto’s Metro Hall in the cool bright noon sunshine, it felt like a happy celebration. Agency people chatted to each other. I met old friends in Amnesty, Salvation Army and Centre for Victims of Torture tents and renewed an acquaintance from the early days of the Quaker Refugee Program. I was helped to remember the role played by the City of Toronto’s shelters and housing programs and was reminded of the referral program of the Red Cross and its special family finding work. There was a happy sense of solidarity among those working with refugees in this sunshine – far from the efforts to get release from de-

tention, to prevent inappropriate deportation and the general anger about injustices that occupy much of the year. Part of me wished that Refugee Rights Day had not been in the cold which blankets much of Canada in early April, forcing activities to be planned for grey skies and inside buildings.

There is a natural flow for this kind of event. As for Refugee Rights Day, there was a formal part between

noon and 2pm. This was on a stage under a large open tent erected in the square with seating in front for those of us with sandwiches. There was a short welcome and opening speech by UNHCR’s Rana Khan and a Proclamation by councillor Joe Mihevc for the City of Toronto. These were surrounded by some fine music presented by individuals and groups spanning Africa, Latin Amer-

ica and Iraq. There were also presentations by Pedro Valdez of Human Rights Press and Adeena Niazi of the Afghan Women’s Organization. The Day ended with a citizenship ceremony and reception. A reminder that most Western States allow most persons granted asylum to proceed to citizenship – if with delays.

Perhaps it’s not such a bad thing that April 4th Refugee Rights Day falls at a harsher time in the calendar. It helps us to remember the injustices still to be addressed. But it’s also good to remember in the warmer time of World Refugee Day that there are agencies seeking to protect refugees around the globe and that some refugees do get to rebuild lives in safety and dignity with a new citizenship. We need both. The glass is part full and part empty.

Tom Clark lives and writes in Toronto, and is chair of the Refugee Update Editorial Board.

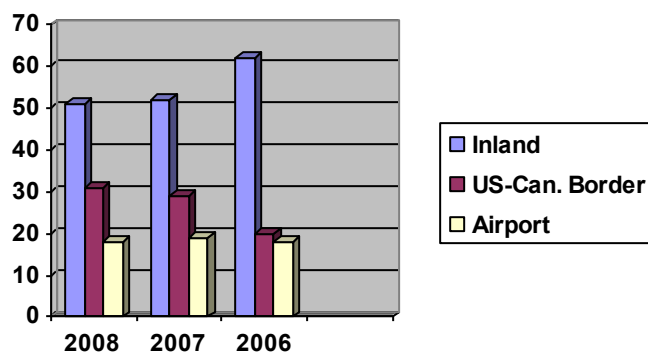


REFUGEE CLAIM STATISTICS

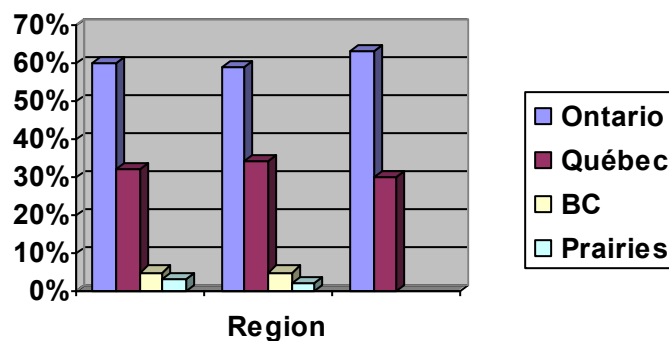
JANUARY-JUNE 2008

Total number of claims: 16,690 (if the same rate continues for the rest of 2008, we can expect 33,380 at year end, compared to 28,179 in 2007).

The percentage of claims made at the land border continued to rise slightly:



Distribution by Region



The distribution between regions remained similar to 2007:

Top offices where claims made:

Office	Percent of all claims
Etobicoke	27
Fort Erie Peace Bridge	14
Montreal inland	10
Trudeau Airport	10
Lacolle	8
Toronto airport	7
Windsor Ambassador Bridge	3
Vancouver inland	3

(Claims continued)

73% (285) of claims were ineligible based on safe third country. For those exempted from safe third country, 62% were exempt based on moratorium countries. This represents a constantly expanding proportion, as word gets out in the affected communities (currently the Haitian community predominantly). In 2006, 48% of safe third exemptions were moratorium countries.

The top country of origin of claimants continued to be:

Mexico: 22% of all claims (down from 25% in 2007, 21% in 2006)

Haiti 13% (11% in 2007)

Colombia 9% (also 9% in 2007)

In the case of Haitians, the numbers went up dramatically in the second half of 2007 and have come down only slightly in the first half of 2008:

The statistics continue to show the impact of safe third country on Colombians. In 2004, before safe third, 97% of claims by Colombians were made at the land border. From January to June 2008, 53% (782) of claims by Colombians were made inland (45% at the land border). It is reasonable to assume that many of these Colombians were forced to cross the border irregularly because they would have been turned away if they presented themselves at a border point of entry.



Fall Consultation of the Canadian Council for Refugees

*Celebrating 30 years of
building a home of
justice for refugees and
immigrants*

**Toronto, Nov. 27-29,
2008**

REFUGEE UPDATE

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