REFUGEE UPDATE

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CANADA NEEDS A FORMAL MECHANISM TO IMPLEMENT HUMAN RIGHTS ACROSS THE COUNTRY

BY GLORIA NAFZIGER

Two current refugee issues go to the heart of Canada's biggest unaddressed structural human rights problem. There is no systematic implementation plan for Canada's international human rights obligations. So there are often inconsistency between Canada's commitments and the manner in which they are interpreted or respected by the federal government or provinces or territory.

June 30, 2012, the federal government cut its Interim Federal Health (IFH) Program, removing access to federally funded health care for certain groups of refugees, refugee claimants and certain other non-citizens. The new IFH rules created a complex series of categories of people who have access to health care, based on immigration status. The changes have also created differences in access to health care by province as some provinces have stepped in to cover some costs and others have not.

In the fall of 2012 Legal Aid Ontario, announced plans to reduce the money it spends on refugee and immigration certificates, raising serious concerns that refugees in Ontario will be denied access to justice in their attempt to find protection. However, not all provinces fund legal aid for refugees, and among those that do, there is no consistency in the programs.

A call for a response to the tension between the Federal government; provinces and Territory emerges from Amnesty International's recent wider report on and Canada and human rights "Agenda" for Canada.

In its 2013 Human Rights Agenda for Canada, Amnesty International noted that in 2012 serious human rights concerns were raised by three UN committees responsible for supervising Canada's compliance to

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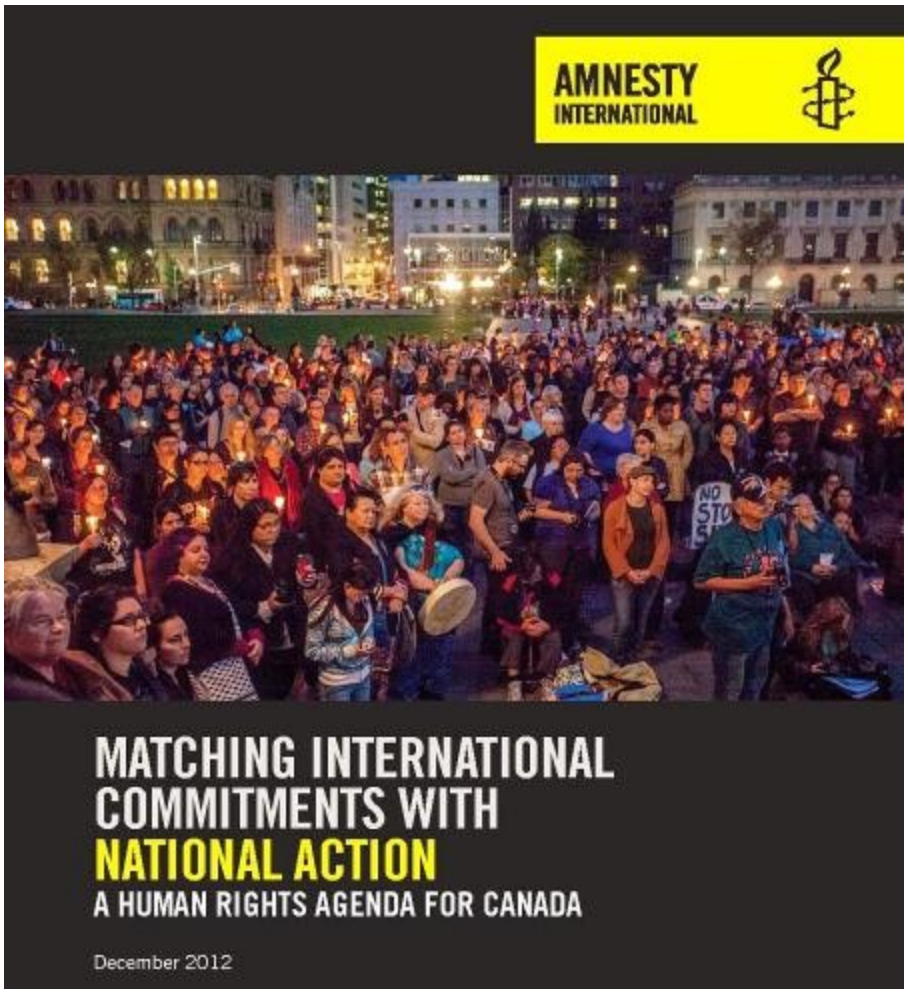
human rights treaties - one with respect to racial discrimination, another on the prevention of torture and a third on the rights of children. Amnesty noted that while Canada has ratified core human rights treaties, it has often fallen short when it comes to implementing its international obligations. (1)

The Canadian government often argues that the difficulty comes from the country's federal structure. However international law makes it very clear that



federalism is no excuse for a failure to implement international obligations.

In its 2013 Human Rights Agenda, Amnesty reviewed developments and concerns in eight areas of human rights issues in Canada, including that of refugees and migrants. Not only does Amnesty find shortfalls in Canada's international obligations to refugees and migrants, but Amnesty also examines the challenges of provinces in upholding and honouring these obligation.

One of the most active fronts for law and policy reform in Canada in recent years has been in the area of citizenship, immigration and refugee protection. In fact, the pace of reform has been so fast that reforms have often been enacted before earlier provisions, themselves reforms, had entered into force. The tension between fairness and compassion and enforcement and speed goes to the heart of the reforms. There has been a worrying tendency to play different groups of refugees against each other: those selected

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overseas against those who travel to Canada and make claims there; treating groups of refugee claimants differently according to their country of origin. Amnesty International is concerned that many of the recent reforms sacrifice fairness, violate rights and are punitive in nature.

Reforms to the Immigration and Refugee Protection Act enacted earlier in 2012 included the long-overdue establishing of a Refugee Appeal Division to hear appeals on the merits from decisions denying refugee status. However, alongside this welcome development, other reforms are discriminatory and have legislated arbitrary detention. Two groups of refugee claimants and migrants in particular, have been singled out: one on the basis of how they arrive in Canada; and the other on the basis of their national origin. The legislation allows groups of migrants, including refugee claimants, to be designated as "irregular arrivals" based on their mode or arrival. The legislation also provides for the designation of groups of refugee claimants who are nationals of countries that are considered to be "safe countries of origin."

The consequences of designation are significant. Those who are deemed to be irregular arrivals are subject to mandatory detention and are not given access to a detention review for two weeks and then only once every six months. "Irregular arrivals" who are later accepted as refugees are barred from travelling outside Canada for five years and are unable to apply to be reunited with spouses and minor children for that same period of time.

The detention provisions may lead to the detention of children with their parents. While the new laws state that designated foreign nationals who are under 16 will be excluded from mandatory detention; this does not mean that children will not be detained. Parents who are detained will be forced to choose between keeping a child with them or putting the child in the care of children welfare agencies.

In December 2012 the CBC reported that over the past year 289 migrant children were held in detention centres in Canada, many of whom were under the age of 10. (2) . The children were detained on average for 6.6 days and the longest stay was 70 days. Detention, even for short periods, is harmful to asylum seekers. After a median detention of only 18 days, over three-quarters of the refugees interviewed in a study were clinically depressed, about two-thirds clinically anxious, and about a third had clinical post-traumatic stress symptoms. Children may experience long-term detrimental effects after release from detention, including nightmares, sleep disturbance, severe separation anxiety, and decreased ability to study. (3)

The new law also lowers the age of a minor from 18 to 16 if the minor is part of a group designated as irregular arrivals by the minister. A 16-year -old boy, for example, could end up in the men's section of a provincial prison and be treated as an adult male prisoner.

In marked contrast, the detention of children for immigration purposes is prohibited under international law. Most recently in a new report the Committee on the Rights of the Child recommended that all States cease detaining children. The report contains 36 recommendations to States

AMNESTY'S 2013

HUMAN RIGHTS AGENDA

Canada has proudly pointed to its record of signing on to most of the international human rights treaties. Yet Canada's record of following the recommendations that come from the committees and commissions set up within the treaties has been too mostly too little and too late.

Read Amnesty International's 2013 Human Rights Agenda. It reviews developments and concerns in eight main areas, including:

-the rights of Indigenous peoples;
-women's human rights;
-the rights of refugees and migrants;
-economic, social and cultural right;
-engagement with the multilateral human rights system.

In each area a key recommendation is offered, reflective of a concern that has been repeatedly raised by UN experts and bodies but which remains unaddressed, often after years.

Find the report at: http://www.amnesty.ca/research/reports/matching-international-commitments-with-national-action

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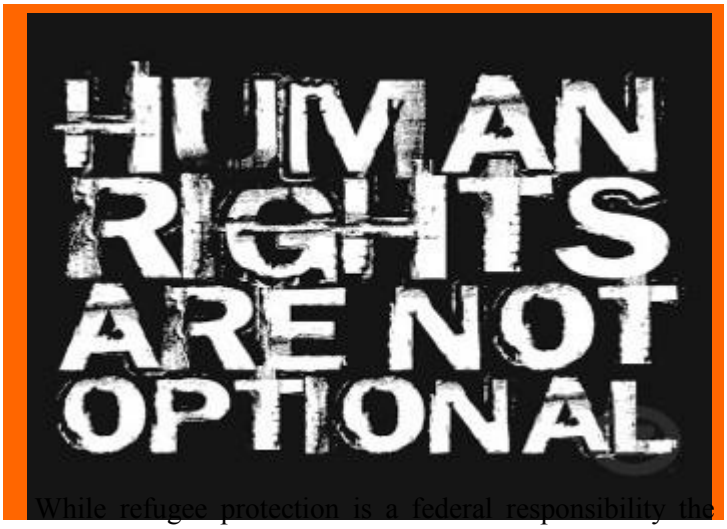
regarding the rights of children, regardless of their or their parents' migration status and affirms "The detention of a child because of their or their parents' migration status constitutes a child rights violation and always contravenes with the best interest of the child." (4)

Under the new law, individuals from so-called "safe countries," while not mandatorily detained, are subject to the tight timelines of a fast-tracked refugee claim process, and both "irregular arrivals" and those from so-called "safe countries of origin" are denied access to an appeal before the new Refugee Appeal Division. UN human rights committees specialized in racial discrimination and combating torture both expressed concern about these discriminatory and punitive provisions when reviewing Canada's human rights record earlier this year. (5)

Amnesty's 2013 Human Rights Agenda draws on the health cuts to make its call for a human rights implementation initiative. The cuts to the Interim Federal Health Program for refugee claimants were introduced at the beginning of this article. They introduce a dimension of discrimination with respect to accessing many crucial health services. Health coverage for many will be limited to what is termed "urgent or essential care" and will no longer extend to treatment considered preventative. Refugee claimants from countries designated "safe countries of origin" will not even be covered for urgent or essential care. Access to health care and prescription medication has been downloaded to the provinces, but in some provinces refugees must wait 4-6 weeks before they can access provincial social assistance benefits. This puts at risk the lives of refugees who require essential medicines and other health services.

The cuts violate Canada's obligations under the International Covenant on Economic, Social and Cultural Rights, to which Canada has been a party for more than 35 years, which guarantees protection of the right to the "highest attainable standard of physical and mental health" and requires rights such as health care to be upheld without discrimination. International law also requires and expects states to progressively improve and strengthen protection of rights such as health care. Cutting services for refugee claimants based on their nationality, regardless of their health care needs, does precisely the opposite.



While refugee protection is a federal responsibility the provision of legal aid to individuals who cannot afford to retain a lawyer is a provincial responsibility. Provincial legal aid policies with respect to funding legal representation for refugee claimants differ across the country. Refugees who cannot afford to pay for a lawyer should not be denied the right to effective representation by counsel of their choice because of their inability to pay legal fees. This is particularly critical given that matters of life and liberty are at stake in refugee hearings. The federal government must ensure that all provinces have the resources they need to provide effective legal representation and thus, access to justice, for refugees.

The complexities of federalism, lack of political will, and failure of leadership, have led to a growing gap between Canada's commitment to international norms, and action to live up to those norms.

Amnesty International has recommended that the Canadian government launch a process of law reform, working with provincial and territorial governments, Indigenous peoples and organizations, and civil society groups, to establish a formal mechanism for implementation of Canada's international human rights obligations across the country.
The more effective Canada's system for overseeing and implementing international obligations, and the stronger Canada's record of compliance, the more forceful and credible Canada's efforts will be to push other countries to comply with and implement their own obligations

Rights enshrined in the Universal Declaration of Human Rights and other international human rights treaties apply equally to all people. The integrity of the system depends on all countries, including Canada, living up to those obligations and being held accountable when they fail to do so.

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(1) *Amnesty International, Matching International Commitments with National Action, 19 December 2012. http://www.amnesty.ca/research/reports/matching-international-commitments-with-national-action*

(2) *Canadian Broadcasting Corporation, Detention centres no place for migrant children, critics argue, 13 December 2012. Available at: http://www.cbc.ca/news/canada/story/2012/12/13/detention-children-canada.html*

(3) *Cleveland, Rousseau, and Kronick, Bill C-4 : The impact of detention and temporary status on asylum seekers' mental health: Brief for submission to the House of Commons Committee on Bill C-4, the Preventing Human Smugglers from Abusing Canada's Immigration System Act. January 2012. Available at: Http://www.csssdelamontagne.qc.ca/fileadmin/csss_dlm/Publications/Publications_CRF/Impact_of_Bill_C4_on_asylum_seeker_mental_health_full.pdf*

(4) *Committee on the Rights of the Child, Report of the 2012 Day of General Discussion on the Rights of all the Children in the Context of International Migration. Available at: http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/ReportDGDChildrenAndMigration2012.pdf*

(5) *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada, CERD/C/CAN/CO/19-20, 9 March 2012, para. 15; Concluding Observations of the Committee against Torture: Canada, CAT/C/CAN/CO/6, 25 June 2012, para. 13.*

Gloria Nafziger, Refugee & Migrants Campaigner for Amnesty International, Canada, Anglophone Section.

INTERNATIONAL COMPLAINTS STOPPED SOME ILLEGAL DEPORTATIONS

BY TOM CLARK

Tip

Theoretically, the individual affected sends in a complaint. In the Americas an NGO can send in a complaint. But it is better to use a lawyer. The process is quasi-judicial and a lawyer understands rules of evidence and procedure.

We live in a world of powerful Nation States. Yet those working with refugees are not powerless. The international human rights treaties provide for individual complaints. If successful, the treaty complaint may prevent a government from deporting a person or family. As one treaty body representative put it: "our voice is a bit stronger than yours." There are helpful cases involving Canada and we have Canadian lawyers who have experience with these complaints.

Where to Complain

There are three main places to which individual complaints can be sent: the UN Committee against Torture (CAT); the UN Human Rights Committee (HRC); and the Inter-American Commission on Human Rights (IACHR). None was set up specifically with asylum seekers in mind. Each has its own treaty, procedures and potential usefulness. The complainant must show that the threatened deportation would violate one or more of the particular treaty rights. Each body has developed some specialization with respect to deportation. Each has its variation on "interim measures" – a procedure whereby the body will ask Canada not to deport pending its examination of the case. Of course,

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Tip

A good Federal Court submission is a basis for a submission to a treaty body. If the treaty body routine is familiar, the court submission can be easily converted into treaty complaint, likely at little or no cost. A Humanitarian and Compassionate (H & C) application allows an issue to go before the Federal Court – as in the Supreme Court case Mavis Baker v Canada. (If the H& C takes too long, it is possible to complain under the American

sufficient evidence must be provided up front to persuade the treaty body to request this. Canada can flaunt these requests and has unfortunately done so, particularly where the government believed there is a criminality or "security" issue involved.

Whichever treaty body an individual applies to, there is a two-step process. The complaint must first pass the "admissibility" stage. This means providing sufficient evidence to show that the case is a serious one, and also demonstrating that one has "exhausted domestic remedies." That means having tried all reasonable legal procedures available in Canada. In deportation matters, this normally means applying to the Federal Court both for judicial review of the contested decision and for a stay (suspension) of the deportation order.

Note that the Inter-American Commission has a time limit on submitting a complaint: within 6 months of the final Canadian court decision.

Committee against Torture (CAT)

The CAT can apply Article 3 of the Convention against Torture which provides : "No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." There is a good body of case law, including several recent Canadian cases. Basic principles are well described in the Committee's General Comment on Article 3 of the Convention of 1996. The burden on the complainant is quite high. One has to provide written evidence showing a personal and serious at risk of torture in all parts of a country.

Human Rights Committee (HRC)

The HRC can apply the International Covenant on Civil and Political Rights (ICCPR) which also deals with protection from torture (Article 7) as well as the rights to life (Article 6), freedom (Article 9), freedom of movement (Article 12), family life (Article 17), family protection (Article 23) and rights of the child (Article 24). The circumstances in which a violation of some rights were found, like Article 12, were quite extreme. Yet if one has a combination of real risk of torture and a demonstrable threat to family rights this is the place to go. Likewise, if there is a detention issue involved. Adequate evidence is, of course, essential. The HRC looks to the European Court of Human Rights on matters like pre-deportation detention and protection of family rights in deportation.

Falcon Rios v Canada

In Falcon Rios v Canada 2004 (Lawyer Stewart Istvanffy, Montreal) the CAT ruled that expelling Mr. Falcon Rios to Mexico would violate his right to protection from a real risk of torture. Mr. Falcon Rios presented medical evidence consistent with past torture, as well as evidence of family links to the Zapatista movement. Alleged Zapatista sympathizers were at risk of harm across Mexico. The CAT found that the H & C did not amount to an effective remedy with respect to protection from torture. The CAT also commented on the limited scope of Federal Court review.

Singh Sogi v Canada

In Singh Sogi v Canada 2007 (Lawyer Johanne Doyon, Montreal), the CAT found that the deportation to India of a non-recognized refugee, (who was an alleged member of a Sikh militant organization and so deemed a risk to national security by the Canadian government), against the request of the CAT was a violation of his right to protection from real risk of torture. The CAT found that Canadian procedures had not provided a fair hearing to determine whether there was a risk of torture, thus violating Canada's obligations under the Convention.

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Hamida v Canada

In Hamida v Canada 2007 (Lawyer Stewart Istvanffy, Montreal) the HRC found that deportation of a non-recognized refugee to his native Tunisia would have violated his right to protection from torture.

Although his rights to family life were at issue, it was deemed there was no need to adjudicate these rights.

Dauphin v Canada

In Dauphin v Canada 2009 (Lawyer Alain Vallieres, Montreal) the HRC found that it would violate the right to family life to deport John Dauphin to Haiti (on account of a conviction of violent crime) away from his parents, brothers and sisters living in Canada.

He had no relatives in Haiti and had not lived there since age 2.

Warsame v Canada

In Warsame v Canada 2010 (Lawyer Carole Dahan, Toronto) the HRC found that to deport Warsame to Somalia on account of his serious criminal conviction would expose him to risk of irreparable harm, violate his rights to family life, and violate his right to return to his de-facto country - Canada. He had lived in Canada since age 4 and in Saudi Arabia before that. He had no formal Somali citizenship, was without relatives or tribe there and knew little of the language.

Inter-American Commission on Human Rights (IACHR)

The IACHR is a body drawing its authority from its role receiving complaints under the rather less specific rights of the American Declaration of Rights and Duties of Man. However, it draws additional authority from its own statutes and its wider role in the Organization of American States human rights system. The American Declaration recognizes the right to seek and receive asylum "in accordance with the laws of each country and with international agreements." The Refugee Convention is the relevant international agreement. So the IACHR is a particularly good forum in which to raise refugee rights. Also, the American Declaration and the OAS human rights system have stronger concerns about fair trial due process then the other treaty systems. It was the IACHR which called in its 2000 Report for an appeal on the merits in the Canadian refugee status determination procedures. In addition, the Commission's case law has called for access to a court hearing for adjudicating family rights in deportation. For a mix of substantive and procedural rights, this is the place to go.

The IACHR may be a good forum to complain about discrimination targetting specific groups of asylum seekers. Case law has established that the American Declaration's right to seek asylum engages the Refugee Convention. Article 3 of Refugee Convention calls for equal access to Refugee Convention rights, including article 1, which defines refugee status. The corresponding American Declaration Article II promises equal treatment in the enjoyment of the right to seek and receive asylum. Yet international case law has allowed some objective "distinctions."

A complaint can only go before one of these treaty bodies. However, it is useful to copy other relevant human rights bodies like the UN Special Rapporteur on Torture or the UN Working Group on Arbitrary Detention whenever a formal complaint is submitted - even whenever a letter is written to a minister or official to bring to their attention situations in seeming breach of human rights undertakings. The international actors have to know what is going on and what problems there are if they are to push States towards fulfilling human rights obligations.

In the End We Need Each Other

A great comfort is experienced by refugees and their advocates when an international body confirms that the government had it wrong. It is strangely therapeutic. Pressure from an international body is additional leverage on a government. The views of these bodies reach beyond us. They speak to other governments and other NGOs. They may speak softly, but the cu-

Smith, Armendariz, et al v US 2010

The Commission found the US in violation of Smith and Armendariz's rights under Articles V, VI, and VII of the American Declaration by failing to provide a judicial hearing of their humanitarian defense and consider their right to family and the best interest of their children on an individualized basis in deportation proceedings. Failure to provide Mr. Smith and Mr. Armendariz with a judicial mechanism to preserve their fundamental rights constituted additional violations – of Articles XXVI and XVIII of the American Declaration.

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John Doe et al v Canada

In John Doe et al v Canada 2011 (Lawyers for Amnesty, CCR, Vermont Refugee Assistance, Freedom House and Harvard Clinic) the Inter-American Commission found that the border "direct back" of the John Does to the United States by Canada violated the John Does' right to seek asylum, as provided by Article XXVII of the American Declaration.

Canada also violated the John Does' right to protection from possible chain refoulement by failing to conduct individualized risk assessments prior to returning them to the United States. This was in contravention of Article XXVII of the American Declaration in light of developments in refugee law under the Refugee Convention, Refugee Protocol, and the U.N. Convention Against Torture. Further, Canada violated the John Does' right to resort to the courts before being returned to the United States- a right provided by Article XVIII of the American Declaration.

mulative impact is wide. They slowly push on the rules governing the lives of more refugees than we imagine.

Yet the International Human Rights treaty bodies need us and other NGOs as much as we need them. They draw strength and encouragement when they hear from us, see us, read what we say about their decisions in our media and to our government – even when we object to some of their views.

Human rights are no longer the strong currency among governments that they were around the end of the Cold War. It is in our interest and the interest of non-citizens that we, the people of the United Nations, keep the dream alive and help the treaty bodies make sure that the promises of the human rights are realized.

Let's not be afraid of knocking on the treaty bodies' doors!

Tom Clark lives in Toronto

JASON KENNEY'S PROPOSAL TO STRIP CITIZENSHIP FROM 'TERRORISTS' UNDERMINES CANADIAN VALUES

BY SEAN REHAAG

Move would establish two classes of citizens based on birthright privileges.

Jason Kenney, minister of citizenship and immigration, recently announced a proposal to allow the government to strip dual citizens of their Canadian citizenship for committing terrorism related offences.

This proposal is deeply problematic. It would establish two classes of citizens based on birthright privileges and it would expose Canadians to loss of citizenship on very broad grounds.

Take me as an example.

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I was born and raised in Canada. I have lived in Ottawa, Edmonton, Vancouver, Victoria, Montreal and Toronto. I speak French and English. I hold law degrees in English Canada's common law tradition and Quebec's civil law tradition. As a law professor, I contribute to debates on Canadian law and policy, and I teach the next generation of Canadian lawyers. I think of myself as an active citizen who participates in Canadian civic society.

However, I also happen to hold dual nationality. My father was born in Germany and immigrated to Canada as a child. Because he is a German citizen, I am also a German citizen by descent — despite not speaking German and not having ever lived in Germany.

If I committed a terrorism-related offence, should I be stripped of my Canadian citizenship and deported "back" to Germany?

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Don't be unreasonable, you might say. I won't lose my citizenship because I'll never commit a terrorism-related offence. Kenney's proposal is not meant for me, it's meant for those bad folks out there, the terrorists who abuse Canadian citizenship.

Unfortunately, terrorism-related offences cover much more than you might think. Courts have repeatedly said that terrorism must be given a "broad and unrestricted definition." Terrorism-related offences include not just acts of violence, but also various types of complicity with terrorist organizations. And, of course, what constitutes a terrorist organization is hotly contested. Should we think, for instance, of Nelson Mandela's African National Congress as a terrorist organization that used violence in a bid to overthrow a government or as a protagonist in the human rights struggle to end apartheid?

A few years ago, I joined hundreds of other Canadians in publicly providing small amounts of money to Abousfian Abdelrazik, a Canadian citizen who had been tortured abroad in Sudan, reportedly due to information provided to Sudanese officials by the Canadian government that he was associated with terrorist organizations.

After his release from Sudanese detention, Abdelrazik tried to return to Canada, but was blocked at every turn by the Canadian government on the grounds that his name was included on a UN anti-terrorism list. At one point, the Canadian government suggested that if he purchased a fully paid flight to Canada, he would be issued travel documents — but then added that anyone who provided him with funds to do so could face charges under Canada's anti-terrorism legislation. This was a clear violation of Abdelrazik's constitutional rights, which is why I and many others made public donations to pay for his flight home.

Ultimately, Canadian courts found that the government had, in bad faith, repeatedly violated Abdelrazik's right as a citizen to return to Canada, and added that there was no evidence on the record that he posed any kind of security threat. The court ordered that he be allowed to return to Canada, and his name has since been removed from the UN anti-terrorism list.

Given the incredible breadth of Canada's anti-terrorism offences and the fact that my father happens to have been born in Germany, if Kenney has his way, I could be vulnerable to loss of citizenship and removal from Canada because of the small donation I made to pay for Abdelrazik's flight. Others — including, for example, Peter Showler, the former chair of Canada's Immigration and Refugee Board — who also made public donations to Abdelrazik, but whose parents were born in Canada, would not face this vulnerability.

In other words: because of where my father was born, I would be a second-class citizen, vulnerable to loss of citizenship due to an act of solidarity with a Canadian citizen who, as confirmed by Canada's courts, was being terribly mistreated by his own government.

Minister Kenney speaks regularly about the need to reinforce the value of Canadian citizenship. His proposal, however, undermines the most important value of Canadian citizenship: the basic equality of citizens, no matter where they — or their parents — were born.

(This article was published at the Toronto Star on February 26,2013)

Sean Rehaag is an associate professor at Osgoode Hall Law School, where he specializes in immigration and refugee law.

WHY ARE YOU ...

(URL: http://ccrweb.ca/files/images/proudtoprotect3.jpg)
Many Canadians arrived here as refugees fleeing persecution – they were able to thrive and enrich Canada because they were protected and welcomed. Recent changes in Canada have increased negative talk which may make it tougher for refugees and others to find protection and to feel welcome.
Let's change the conversation. Help promote a positive vision of what we want for refugees in Canada and of the important contributions refugees make to our communities. Make promoting respect for refugees and other seeking protection in Canada a part of your daily routine.

Join the Proud to Protect Refugees campaign. Here are some suggestions to get started:

- Ask organizations you are involved with (community groups, health clinics, faith communities, and others) to show why they are proud to protect refugees in their buildings and on their websites.
- Ask your city council to pass a motion recognizing the contributions of refugees and the importance of protecting and welcoming refugees in your community.
- Wear and share Proud to Protect Refugees buttons. These will be available to order from the Canadian Council for Refugee in time for World Refugee Day on 20 June 2013.
- Talk to others about why you are proud to protect refugees and about misconceptions about refugees that need to be set straight.
- Share stories of refugee contributions in your community.
- Use social media to show why supporting and welcoming refugees is important. Why are you #proudtoprotectrefugees ?

You'll find these suggestions and other Proud to Protect Refugees materials online at:
ccrweb.ca/en/proud-to-protect-refugees

UNE LOI QUI MORD, ET CE N'EST PAS UNE TOUTE PREMIÈRE

BY ALIETTE JEUNE

Le consentement mutuel des lois a toujours été un élément essentiel pour établir un état de droit. D`un côté les citoyens obéissent à la loi, et d'un autre le Gouvernement vise à protéger les citoyens à travers la loi. En aucun cas une loi ne peut pas chercher à protéger un système aux dépens des humains. L`idée même est répugnante et extrêmement ignoble, mais l`application et la sanction royale d`une loi qui marginalise les citoyens violent les principes fondamentaux des droits de la personne. Il serait légitime de se demander si les réfugiés et demandeurs d`asile bénéficient aussi des droits qui leur sont conférés par les Chartes Canadienne et Québécoise. Le but du questionnement vise à démontrer que l'approche du gouvernement fédéral contredit l'esprit de ces chartes. Peut-être que le problème ne se pose même pas parce que tout simplement le gouvernent fédéral ne considère pas les réfugiés et demandeurs d'asile comme des humains.

Le Gouvernement fédéral a déposé le projet-loi C-31 devant la chambre des communes et le sénat, et dans un temps record, a adopté une loi qui est présentement en vigueur depuis décembre 2012. Et ceci, malgré que les intervenants-es communautaires, des Canadiens-nes, des Québécois-ses, des avocats-es, des défenseurs-es, des personnes réfugiées s'opposent à cette loi. Y a-t-il un historique derrière l`application de cette loi?

Au fait la Loi C-31 a apporté des modifications importantes pour soit disant, rendre la loi équitable dans les procédures de traitement des dossiers. Maintenant, une personne cherchant l'asile peut se faire renvoyer cinq mois après son arrivée au pays, si sa demande est rejetée. Quant aux demandeurs qui proviennent des pays dits « désignés » l'échéance est d'autant plus réduite. Et comme le Conseil canadien pour les réfugiés l'indique sur site Internet, la loi C-31 a aussi entraîné des coupures dans les soins de santé par l'entremise du Programme fédéral de santé intérimaire (PFSI). À présent, l'accès aux soins de santé est plus limité pour les personnes demandant l'asile et les réfugiées. Et le gouvernant canadien compromet encore une fois le principe de l'universalité des services de santé que les Canadiens ont consenti d'en faire un droit. Pendant que le gouvernement canadien badine comme bon lui semble avec les lois et règlements qui touchent les

citoyens les plus vulnérables; certains organismes comme le Projet Refuge-Maison Haidar sont déterminés à fournir des services et promouvoir les droits des personnes réfugiées et demandeurs d'asile. Malgré le climat politique très hostile envers ces personnes, Projet Refuge reste ferme dans ses convictions depuis plus de 23 ans maintenant; et continue de fournir des services d'hébergement et d'accompagnement pour les hommes réfugiés et demandeurs d'asile.

Plusieurs personnes ont changé de camp parce qu'il n'était plus politiquement correct de s'allier avec ceux que le gouvernement est en train de mordre. Mais je lève mon chapeau à tous ceux qui tiennent encore. Je suis fière du chemin parcouru avec vous de près ou de loin durant mon passage comme stagiaire au Projet Refuge. Sachez que vous avez semé un grain supplémentaire de justice dans mon cœur qui repoussera parce qu'il est profondément planté dans la bonne terre.

Pour revenir à nos moutons, la loi C-31, est une continuité des lois discriminatoires qui font partie maintenant du patrimoine canadien. En outre, on peut citer la loi de 1885 qui imposait une taxe de $50.00 sur chaque tête chinoise. En 1904, cette taxe est passée à $500.00 par personne. Il est impossible de ne pas souligner que les juifs n'étaient guère admis au

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Canada. La formule ou le slogan de l'époque diffusait « un réfugié juif, c'est déjà un de trop ».

Dans l'histoire Canadienne, l'année 1628 marque la visite de la première personne de race noire sur le sol canadien. De cette date et jusqu' en 1953 les Canadiens-nes de race noire étaient interdit de poursuivre des études- post secondaires, de jouir de leurs droits fondamentaux et humanitaires, d'accéder à l'emploi ainsi qu'au service du bien-être social. Quant à l'histoire des peuples autochtones avec le gouvernement du Canada, nous ne voulons même pas l'aborder, parce qu'elle révèle une sauvagerie indigne des humains. Cette nouvelle loi assassine nous rappelle que le gouvernement canadien continue de mordre avec de nouvelles lois afin de perpétuer les traditions discriminatoires envers les réfugiés. Selon moi ces lois sanctionnent également l`existence d` un rapport de force entre tous les citoyens et le gouvernement.

Dans notre limitation et tendance humaine, nous sommes plus aptes à accepter la perpétuation ou longévité des structures, des institutions, du statu quo, des lois et de nous- mêmes. Mon argument c`est que le gouvernement canadien n`a pas réussi à éradiquer les fantômes des lois discriminatoires qui sont toujours présentes dans le système social de ce pays, ni à protéger tous les citoyens vivants sur le territoire canadien. Comme il faut une fin à toutes choses, je souhaite que toutes les discriminations, les inégalités, les injustices, incluant sans nul doute la loi C- 31 se fassent emporter. En attendant, Prenons notre bâton de pèlerin pour les réfugiés et les demandeurs d'asile.

Aliette Jeune, stagiaire en travail social au Projet Refuge

"JUSTICE THROUGH SANCTUARY"

BY AMIR KAZEMIAN

I am Amir Kazemian and I am writing this article to express my feelings about my sanctuary experience in Vancouver (2004 – 2007).
I am a Christian convert, political dissident, and torture survivor from Iran. Because of my trauma, a brain injury, and experiences of torture in Iran, it was very difficult for me to explain my case to Canadian decision makers and CBSA authorities. My mental and cognitive issues significantly diminished my ability to concentrate, focus, process information, and respond to the demands of the system.

This led to a series of misunderstandings and gaps in the presentation of my case and, ultimately, wrong conclusions about my credibility. When the Refugee Board told me that they did not believe me, I went on my own to try and meet the Board Members and explain my circumstances, but my request was turned down. I later received negative decisions on my Federal Court, Pre-Removal Risk Assessment (PRRA), and humanitarian and compassionate grounds (H & C) applications.

It was on my birthday—14th June, 2004--that I experienced the first acts of humanity and kindness. First, a church granted sanctuary to me and, second, a police officer visited me in the church to see if I was okay and assure me that he would not be arresting me. In the police officer's words, "a place of God is not the business of the police". Throughout my nearly three years in sanctuary, I had good relations

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with the police who used to check in with me from time to time to see if I was okay. Initially, there was division within the congregation on whether they should be sheltering me but, slowly, opposing church members began to understand my circumstances, the complexities of my case, and the real danger that I faced in Iran.

In sanctuary, I was no longer a paper file. I was a human being in flesh and blood, with feelings, emotions, and fears that people understood. I received unconditional care and love from ordinary people who listened to me, believed me, and supported me wholeheartedly. Finally, my voice was being heard.

While I was in sanctuary, three federal governments and several Ministers of Immigration came and went. After unsuccessful church attempts to negotiate a resolution with the government, the church hired a lawyer to help me. My lawyer is an angel, a gift from God, a person with a sincere commitment to humanity. We worked on my case day and night, providing explanations for the misunderstandings and filling in the gaps.

My lawyer also arranged medical and psychological support which helped me overcome the fears I had of talking about some of my experiences such as the torture. The medical and psychological experts were also able to confirm my injuries and explain my limitations in presenting my case--in addition to the trauma, I had suffered a brain injury from an assault by an Iranian official.

In the church environment of support, love, and care, my lawyer and I were able to prepare and present a second H & C application which was approved-- but not before facing another challenge.

On 17th February, 2007, I called the police to report an incident. A rookie officer was sent to the church and, not understanding the meaning of sanctuary nor being briefed about my case, she saw the outstanding warrant for me and arrested and detained me. Paradoxically, I felt incredible calm. After a decade of struggles, this time I was not alone and a force higher than the system of justice was on my side. I was confident that the decision-makers would finally believe me, and they did.

Amir Kazemian is now a Canadian citizen who resides in Vancouver, close to his mother who was granted Convention refugee status.

THE UNIVERSITY OF OTTAWA REFUGEE ASSISTANCE PROJECT (UORAP)

The University of Ottawa Refugee Assistance Project (UORAP) is happy to announce the launch of our written materials and training sessions this month! We encourage all those who work in the refugee support community to check out our written materials and see if a UORAP training workshop is right for them. Please visit www.uorap.ca for more information.

About UORAP

UORAP is primarily funded by the Law Foundation of Ontario's Access to Justice Fund to address barriers to justice following the recent changes to Canada's refugee system. Project partners include the Canadian Council for Refugees, Community Legal Education Ontario, the Human Rights Research and Education Centre, the READY Group, and the University of Ottawa Faculty of Law. UORAP has produced written materials – The Hearing Preparation Form, the Hearing Preparation Kit, and the To Do List – to support community workers who assist claimants to prepare for the refugee hearing. We also provide training sessions to equip community workers to use the written materials.

Our Written Resources

UORAP has produced three resources to help community workers assist claimants to gather evidence for their hearing: the Hearing Preparation Form (HPF), the Hearing Preparation Kit, and the To Do List.

The purpose of the HPF and Hearing Preparation Kit is to help community workers to prepare unrepresented claimants for their refugee hearing, after their Basis of Claim (BOC) form has been completed. The HPF is a customizable checklist meant to guide unrepresented claimants and the community workers who assist them to gather evidence for the refugee hearing. It provides a framework to highlight the important issues in a claim and indicate what evidence is needed. The Hearing Preparation Kit explains how to use the HPF, and contains other practical guidance on gathering, preparing, and submitting evidence, and on what happens in the refugee hearing. In addition to these resources, UORAP has produced a To Do List template as a tool to guide evidence gathering.

Our Training Workshops
UORAP has developed a full-day training curriculum to prepare community workers to use our written materials. Our training workshops will run during the spring of 2013 and the fall of 2014 in Montreal, Ottawa, Toronto, and Vancouver. We strongly encourage community workers who are considering using UORAP materials to attend one of the training sessions.

Our first training workshops are taking place in all four cities starting in mid-April, and we will hold a second round of workshops in May. Be sure to check our website for the latest information.

History

UORAP was established by four professors at the University of Ottawa's Faculty of Common Law: Jennifer Bond, Adam Dodek, Peter Showler and David Wiseman. The purpose of the project was originally to address access to justice concerns arising from the Disclosure Interview that was part of the Balanced Refu-

UORAP TRAINING WORKSHOP ANNOUNCEMENT

The University of Ottawa Refugee Assistance Project (UORAP) invites you to register for our upcoming training workshop on Tuesday, May 14th, 2013. This workshop will be held at Falconer Hall, University of Toronto Law School (on Queen's Park Crescent, right next to the Museum subway station: map).

This workshop is a repeat of a training we held on April 18th; you do not need to attend more than one training workshop.

The purpose of this training is to assist you as a community worker to help refugee claimants prepare for their refugee hearing. UORAP's materials and training can help you to understand a refugee's claim and what evidence is needed to prove it; to help claimants gather evidence and submit it to the Immigration and Refugee Board; and to give claimants information about their refugee hearing.

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gee Reform Act (BRRA) of 2011. The passage of Bill C-31, the Protecting Canada's Immigration System Act (PCISA) in June 2012, eliminated the Disclosure Interview, but introduced other measures that limited claimant access to a full and fair refugee claim process.

Following the passage of the PCISA, UORAP carried out an analysis of the new system to identify any areas that might pose access to justice problems for refugee claimants. Once this list was compiled, UORAP did an Environmental Scan, asking the refugee support community what activities or resources they were planning as a response to these new access to justice problems. Using the feedback from that scan, we produced a report outlining these planned responses, and used this report as the basis for the final step in the revision process – our stakeholder meeting. At this meeting, more than 20 key stakeholders in the refugee support community gathered to discuss the most pressing access to justice gaps in the system, and their potential solutions.

Coming out of this consultation process, UORAP decided to focus on unrepresented claimants who had no assistance to prepare for their hearing before the Refugee Protection Division. We identified this as a critical part of the claim process where community workers were well-situated to provide critical and effective assistance.

If you have questions about UORAP, please contact UORAP Director Emily Bates at:
emily.bates@uottawa.ca

World Refugee Day
June 20, 2013

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United Nations International Day in Support of Victims of Torture

26 June 2013
Right to Rehabilitation

REFUGEE UPDATE

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