REFUGEE UPDATE

ISSUE NO. 61 A JOINT PROJECT OF THE FCJ REFUGEE CENTRE AND THE CANADIAN COUNCIL FOR REFUGEES SPRING 2008

INSIDE:

SCRAP BILL C 50! NO ONE IS ILLEGAL!

Recently the Conservative government introduced a series of amendments to the Immigration and Refugee Protection Act (IRPA), buried in Bill C-50, a 136-page "Budget Implementation Bill". This fundamentally undemocratic move sneaks in critical changes to Canada's immigration policy without proposing any of those changes before Parliament. By making it a matter of confidence, the government forces Opposition parties to either accept them or call an election.

This series of amendments places more arbitrary power in the hands of the Immigration Minister:

-- Under the existing s. 11 of the IRPA, anyone who meets the already stringent criteria to enter Canada as a worker, student, visitor, or permanent resident, shall be granted that status. However, under the proposed changes, despite meeting the criteria, the Minister will have the discretion to arbitrarily reject an application.

-- Sec. 25 currently says that the Minister "shall" examine a Humanitarian and Compassionate application – this is changed to "shall" examine the H&C application if the applicant is in Canada, but only "may" examine the application if the applicant is outside Canada. Although the government claims it will have no impact on family reunification, in practice it will have a serious impact on family reunification as H&C applications are one of the most frequent avenues for family reunification (for example separated refugee children).

-- Proposed s. 87.3 of the Act will allow the Minister to issue "instructions" setting quotas on the "category" of person that can enter Canada – including quotas based on country of origin.

This unprecedented modification of IRPA would risk putting in place implicit equivalents to the Chinese Exclusion Act of 1923, the Order in Council of 1911 prohibiting the landing of "any immigrant belonging to the Negro race", that of 1923 excluding "any immigrant of any Asiatic race", or the "None is too many" rule applied to fleeing Nazi-occupied Europe during the Second World War.

-- Ministerial power in deciding the order in which new applications are processed, regardless of when they were filed. This means prioritizing immigration applicants based on their ability to fulfill the needs of the Canadian job market, "whether it's people to wash dishes and make sandwiches, or whether it's the highly skilled engineers", as stated by Minister Diane Finley. This is a profoundly dehumanizing and racist conception of immigrants as disposable commodities.

-- New sections 87.3 (4) and (5) of the IRPA would allow the Minister to simply hold on to, return, or throw out a visa application and deny any opportunity to review that decision in Court. This precedent is truly alarming, especially in the context of a deeply flawed appeals process, including the existing lack of implementation of a Refugee Appeal Division, despite being provided for under IRPA.

"The Conservatives argue that these changes are necessary to "modernize" the immigration system and reduce the existing backlog. However, the true objective is clear from Finance Minister Jim Flaherty's comments that the government seeks a "competitive immigration system which will quickly process skilled immigrants who can make an immediate contribution to the economy."

The major lobby behind these changes comes from employers' organizations and business lobbies. Indeed, Bill C-50 is being praised primarily by business associations. Philip Hochstein, president of the Independent Contractors and Businesses Association of British Columbia, has stated that the government is moving in the right direction by focusing on Canada's economic needs, "We need strong, young, willing workers to come, much like the people who built this country."

Mr. Hochstein seems to forget the historical exploitation of immigrant workers, the most well-known example of which is the Chinese railway workers. The estimated 17,000 Chinese workers who came to Canada from 1881-1884 were met with dangerous working conditions and discrimination upon their arrival. Chinese workers earned $1 a day, and it is estimated that anywhere from 1500-2500 Chinese migrants died during the construction of the railway. As soon as this dangerous work was completed, the message was clear: Chinese people were no longer welcome.

These proposed legislative changes come in the context of a global capitalist and nationalist reinforcement of labour flexibility as the guiding principle of immigration policy, where migrants are only as valuable as their labour. It is clear that the priorities will be relatively wealthy people applying under the skilled worker program and investor classes, as well as increasingly vulnerable temporary migrant workers. Immigration policy will serve the needs of Canadian industry by regulating migration and providing a flexible labour pool rather than upholding the dignity of migrants.

These changes are directly in line with Canada's commitment to the Security and Prosperity Partnership, which lays out the need for a rapid expansion of both "low-skill" temporary guest worker programs and "high-skill" professionals. In Canada today, the number of people admitted each year on temporary worker visas is greater than the number admitted as permanent residents. We must reject temporary migrant worker programs of indentured servitude and call for the unconditional right of migrant workers to permanent residency and labour rights equal to those of citizens.

At the same time, such changes come at the deliberate expense of refugees, non-status migrants, or those seeking family reunification- who are seen as increasingly 'undesirable' and potential security threats in light of repressive post 9/11 controls.

Decisions such as the $101 million arming of Canadian border guards; the establishment of Canadian Border Services Agency as an enforcement division in processing refugee claims that sends the message that refugee claimants are a threat to public safety; the ongoing unjust use of Security Certificates against non-citizens; the implementation of the Safe Third Country Agreement between the Canada and US which has drastically reduced the number of asylum seekers able to make a claim in Canada; and increasing rates of deportation to over 13,000 a year from Canada have all perpetuated a racist, anti-poor, and anti-migrant agenda.

This agenda is normalized due to the heightened racialized national identity of Canada that continuously places racialized immigrants (although not white immigrants) as 'Outsiders' to the Canadian nation. For example, much of the opposition to this Bill has challenged the secretive process behind the bill, while still accepting the norm that "Canada should be able to select its preferred immigrants", thus feeding into the commodification of migrants and the assertion of Canada's sovereign and racist right to select who it allows to remain, as reminiscent through the Chinese Exclusion Act, Japanese-Canadian internment, and Komagatamaru incident. Therefore although nothing new, in the post 9/11 climate, we are witnessing an escalation of attacks against 'immigrants'- the eternally hyphenated citizens- for example through the reasonable accommodation' hearings, the wearing of the hijab and turban, the phenomenon of "nippertipping" against Asian-Canadians, and many more. The constant questioning of immigrants (although most are long-time citizens) "ability to integrate", their "suspicious behaviours", their "overburdening of the system", and their "Third World traditions" reveals an incredibly shallow multiculturalism.

This mutual reinforcement of corporate and state interests - cheap labour and national identity, respectively – evident in the prioritization of labour market needs within the global War on Terror, is legitimized not only by recourse to colonial and racist discourse but also by the constant cultivation of fear in the hearts and minds of citizens. The production of migrants as disposable commodities goes in tandem with their construction as the dangerous "Other" or "The Enemy Within" as the threat they pose can be tamed through a process of commodification and the withholding of citizenship rights as a mechanism of social control. Fear of the "dangerous Other" thus underwrites the production of exclusivist nationalist identity (and therefore support for the state) while fear of the "commodifiable. Other" (as "stealing" employment and eroding the social system) produces fearful and disciplined citizens vulnerable to increasing corporate exploitation and state repression.

Therefore, the general message to poor and working people of colour and their families- the overwhelming majority of migrants from the Global South- is that they need not apply as permanent residents unless they are willing to come as temporary workers in exploitative jobs and whose status will be legally reinforced as 'non-Canadians'. This is particularly revolting in a context where the Canadian government and Canadian corporations actively participate in the creation and reinforcement of a system of global displacement of migrants and refugees who are fleeing poverty, persecution, war and corporate exploitation of their lands.

In light of this reality, we call for an end to deportation and detentions and a comprehensive, transparent, inclusive and ongoing regularization program that is equitable and accessible to all persons living without permanent residency in Canada to ensure free migration and full rights for all those who seek them. We also call for the abolition of agreements such as NAFTA and the SPP, which are making Canadian borders increasingly open to capital and those who represent capital, while at the same time restricting the movement of those who have been displaced by these very same neo-liberal policies.

At a most basic level, we must also challenge the notion that some migrants are more worthy than others; we believe that freedom of movement is a fundamental human right and we struggle for a world in which no one is forced to migrate against their will and where people can move freely in order to live and flourish in justice and dignity.

NO ONE IS ILLEGAL!

JOINT NO ONE IS ILLEGAL-TORONTO, NO ONE IS ILLEGAL-VANCOUVER, NO ONE IS ILLEGAL-MONTREAL, & SOLIDARITY ACROSS BORDERS-MONTREAL STATEMENT

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No One is Illegal-Vancouver
NEW: visit our updated site
http://noii-van.resist.ca

"PROUD TO AID AND ABET"

BY MITCHELL GOLDBERG AND CHIRAZ AGREBI*

On September 26th 2007, Janet Hinshaw-Thomas, the 65-year-old director & founder of a US church-based refugee-serving organization was arrested at the Lacolle border. She drove to the border to accompany twelve Haitians seeking protection in Canada. She was detained overnight and charged the next day in court under section 117 of the *Immigration and Refugee Protection Act*.

Section 117 states that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act."

Back when the current legislation was debated in Parliament, human rights advocates and even the UNHCR expressed concern that not just criminals but also people who helped refugees for purely humanitarian reasons could be vulnerable to conviction.

Although the charges against Ms. Hinshaw-Thomas were officially dropped in November 2007, they had the effect of intimidating thousands of humanitarian aid workers, religious groups, lawyers and even MPs. In a strongly worded letter to government ministers, the President of the Canadian Bar Association wrote:

Canada played a significant role in the creation of the *Declaration on Human Rights Defenders*, adopted by the United Nations General Assembly in 1998.The Declaration states that everyone has the right to provide relevant assistance in defending human rights and fundamental freedoms. Charging a person with an offence when the activity forming the basis of the charge is assisting refugees to make asylum claims flouts this principle. It is a deterrent for those who selflessly wish to provide humanitarian assistance to those fleeing persecution, no matter what the outcome of the charge. Prosecuting a human rights worker for this humanitarian work is indefensible. It cannot be justified on the basis that the accused will eventually be acquitted.

Janet Hinshaw-Thomas, director of Pennsylvania based PRIME - Ecumenical Commitment to Refugees, photo file.

The Canada Border Services Agency is not only responsible for enforcing the law but also entrusted with upholding the humanitarian objectives of *IRPA*, including ensuring that refugees are protected. Yet, the CBSA acted without regard to its latter responsibilities. Its spokesperson declared:

"There are no exceptions in the law for church-based or other human rights personnel".

Since the charges against Ms. Hinshaw-Thomas were dropped, another American humanitarian worker was threatened with charges by CBSA officials at the Maine-New Brunswick border crossing. We are also aware that refugee aid agencies were warned at another major border crossing not to drive asylum seekers to the border.

Fortunately, the CBSA did succumb to increasing political pressure led by the CCR. Together with Amnesty International, CCR launched the "Proud to Aid and Abet" campaign in November 2007 and issued a proposal for a legislative amendment to S.117. The proposal would add the words "**for material benefit**" **so that humanitarian workers would be clearly exempt from charges.**

Although political representatives from all four parties have made favourable sounds, as of this date, there have not yet been any legislative developments. However, public pressure did result in a memorandum that was issued by the Regional Management of the CBSA Investigations Division dated October 15, 2007 pertaining to "**Charges under s.117 *IRPA* for Human Smuggling".** The memo states:

…As identified in the Enforcement heading of Part 3 of the Act, Section 117 of *IRPA* is primarily directed at human smuggling and human trafficking activities. The elements of the offence are: no person shall, knowingly; organize, induce, aid or abet the coming into Canada, of persons not in possession of documents required under the Act (e.g. visa, passport).

"Discussions with Citizenship and Immigration Canada (CIC) officials involved with the drafting of s.117 of *IRPA*, and a review of the testimony before the Standing Committee on Citizenship and Immigration in 2001 regarding the (then proposed) *IRPA* legislation, help to distinguish the spirit from the letter of the law.

The S.117 provision was intended for human smuggling activities and not intended to be directed against bona fide humanitarian actions. Accordingly**,** an important consideration in these cases will be an assessment of the nature of the actions of the person organizing such entry, as situations involving the charging of fees for profit may fall outside the scope of true humanitarian actions.

The issue of profit however is not an element of the offence, per se, but rather an aggravating factor as identified in s.121(1) of *IRPA*, to be considered by the Court in determining appropriate penalties. The AG approval requirement in 117 (4) was intended to help ensure that, in deciding whether or not prosecution was in the public interest, the AG could consider *inter alia*, the motives of the people who assist others others to come illegally into Canada .

Although the Agency has initiated ten previous charges under s.117 in the past 17 months, they have all related to clandestine smuggling or fraudulent activities, consistent with the intended application of the human smuggling offence.

As a result, caution should be exercised when considering the application of s.117 in any non-clandestine or non-fraudulent situation. As with any potential prosecution, consideration should be given to the true intent and motivation behind the offence, gravity of the offence, and public interest when making the decision to recommend charges.

Enormous political pressure succeeded in pressuring the government to drop the charges and issue the above memorandum. However, advocates led by Amnesty International, the CCR and the Canadian Bar Association, are rightfully forceful and clear that a legislative amendment is required to ensure that the tools of criminal justice are never again turned against humanitarians.

Legislative change seems even more imperative given that the threat against the aid worker in Maine and other border crossings took place AFTER the memo was issued.

**Mitchell Goldberg is a refugee lawyer in Montreal, a member of the legal affairs committee of the Canadian Counsel for Refugees, the Quebec Bar's Immigration Committee, as well as a member of the CBA-Quebec immigration executive. He served as counsel for Ms. Hinshaw-Thomas. Chiraz Agrebi is Mitchell Goldberg's legal assistant.*

MY ORDEAL IN CANADA

BY SHAHLA PEZESHKZAD

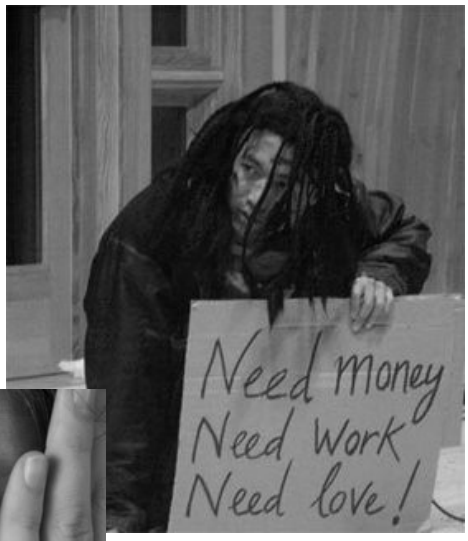
I am an uprooted woman from Iran and came here as a landed immigrant along with my husband and two children. Despite my successful life in Canada, I cannot live without a strong feeling that uprooted-ness is one of the bitterest experiences in human life. As an uprooted woman, I have suffered from the reproduction of the trauma of my past life on a daily basis. I have also experienced racism and xenophobia, the agony of permanent homelessness, alienation, identity crisis, loneliness and the feeling of exclusion and rejection.

Along with my family, I came to Canada in the year 2002. I have so far experienced tremendous hardship in Canada. I have simultaneously been provided with the holistic support of many individuals and agencies in Canada and consider myself as a woman of many talents. These have helped me release my potential to relying on my own and make Canada my new home.

Unfortunately, my family could not stay together and my husband left the family home. This, among other things, resulted in the mental breakdown of my young daughter. She became retraumatized to the extent that she has been in and out of mental health hospitals. This brought me into ongoing contact with the Centre for Addiction and Mental Health and other mental health facilities in Toronto and Whitby.

In most mental health hospitals, I observed my daughter being treated as an object. It is unfortunate that the mental health sections of our hospitals look like detention centers. Unlike some countries where mental health patients are accommodated in beautiful gardens, with the opportunity of becoming involved in sowing and planting flowers, they are kept here behind closed-doors and exclusion units. The common method of treatment is sedating them and gradually increasing the dosage. In maximum security or forensic units of some facilities, highly agitated patients are tied to beds or secluded in big cages.

My daughter's condition encouraged me to put aside my experience as a ten year laboratory expert back home and commence a new effort. I contacted George Brown College and registered as a student of Behavioral Science Technology. In an attempt to improve my language competence, I made friends with wonderful women of the mainstream Canadian culture. I made fruitful contacts with church groups as well. I benefited from unbelievable generosity from these grass-roots people.



My extreme hard work helped me finish the 3-year college program within two years. I graduated with high marks. Following graduation I extensively searched for jobs and send scores of resumes and cover letters to mental health facilities.

At present, I am working as a counselor in an agency assisting newcomers with mental health problems and have become highly respected amongst my colleagues. I am also very happy about my son who recently graduated as an engineer and found a prestigious job in a Toronto company.

I have found a desperate need in Toronto for an intermediate facility between home and hospital for uprooted people who suffer from severe mental health problems. I have therefore, initiated an extensive research in this area. My dream is to establish a Group Home – a facility between hospital and home – that can accommodate my sick daughter and other young newcomers who suffer from similar problems.

Your advice and assistance is cordially appreciated: bahar.baharan@yahoo.com

PERSPECTIVES ON SPONSORSHIP:

BY HEATHER MACDONALD

Resettlement of refugees is a moral response to the forced displacement of people; it is also a legal, self-serving process. Resettlement meets both our country's international obligations (responsibility sharing) and demographic needs by bringing refugees to live as permanent residents of Canada.

In 1978, Canada encouraged ordinary Canadians to partner in the resettlement of refugees through its establishment of the Private Sponsored Refugee (PSR) program. Religious and service organizations were invited to enter into Master Agreements (legal contracts) with the government to facilitate private sponsorship of refugees. Members of these organizations responded to the challenge wholeheartedly and some 30,000 additional "Boat People" (refugees displaced by the Vietnam War) were admitted to Canada. These first sponsors did not agonize over precise refugee or designated class definitions but prided themselves on their willingness to help their 'global family'. The impetus behind the government initiative – a volunteer driven program- was to allow Canada to resettle more refugees and as such, it resonated with the Canadian public.

Over the years, sponsors continued to submit applications, responding to real and perceived needs and not in the least appreciative of the department's growing desire/ need to manage the program. The program and partnership (a unique blend of pragmatist and activist) suffered the inevitable clash of values and perspectives.

At this point in time, the principals seem somewhat reconciled. Sponsorship Agreement Holders (SAHs) have integrated "eligibility concerns" and many have moderated their application numbers - because when you are committed to helping refugees, you really do not want to submit applications that derail the process. The department's recent emphasis on relationship-rebuilding and common purpose approach is also much appreciated. Last fall's Private Sponsorship Consultation was well received. However, a new working relationship requires ongoing conversation and commitment as each partner tries hard to understand the other's perspective. There really is a gulf in understandings that will not be easy to bridge.

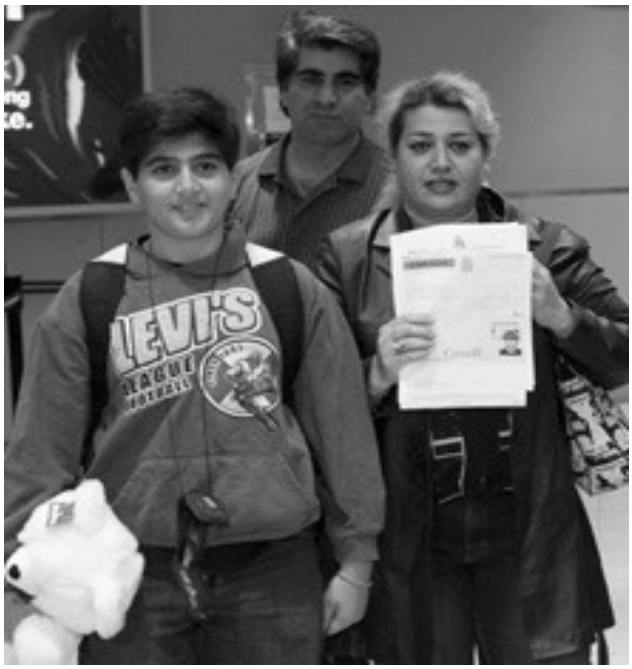
SAHs are waiting to see how the good-will translates into meaningful action. 'Ad hoc committees", agreed to at the PSR Consultation, will meet by conference call to map the private sponsorship process and consider ways to improve application forms, training, monitoring & evaluation, communications. The Nairobi Pilot and the Quality Assurance project also offer much encouragement. Recently, another committee was struck to look at the Visa Office Referred program. Yet concern remains that our working in isolation, from each other could hurt the program. Consultation across our community, before any agreements are reached, is vital and the easiest way is through our elected SAH representatives. The suspicion, borne of past experience, is that these committees could be used as a testing ground for what has already been decided. But ...the potential; if 'real' participation is being sought, could this result in a better program?

Against this more positive scenario, the PSR backlog looms. What initiatives will be taken to resolve the four-year-log jam? Hopefully, this can be addressed as a temporary anomaly and cleared with dedicated staffing. We do not want any 'discretionary' dismissal of cases (people) whose rights and lives are on the line.

And the latest shock to our psyches: ten years ago, we rejoiced when the Refugee Sponsorship Training Program received Ontario Immigration funding. Finally the SAH community was being recognized! But our years of relying on government funding took a hard toll. Our cherished concept of a 'by the SAHs for the

SAHs' program was recast as just another fee-for-service contract. The funders, understandably, identified this as their program and put it up for tender (standard practice). The contract was awarded to another bidder. So what now?

I am confident that the successful bidder can do an excellent job in delivering the contracted services. I know that change is healthy for a community; I know too that I will miss 'our program', the community ownership of which we unfortunately took too much for granted. I also worry that our continued inertia or worse, dissension, will only make it more difficult for any contract holder to run this as a SAH program.



Masomeh Alibegi holds up immigration papers as she walks with nine-year-old son Kevin Yourdkhani and his father Majid after arriving at a Toronto Airport (Canadian Press).

If we had a collective presence, an association of some sort, I feel we would be better positioned to realize a partnership with Immigration, which could better serve our needs as SAH and allow operation of our own programs. A collective identity also implies collective responsibilities. We need to find ways to support each other not just at Forums, but when we are scattered across the country and busy at other jobs. One such responsibility is to support our elected SAH representatives - i.e. share our concerns with them, hold them accountable, etc. But it could also mean not letting them be operationally stranded and able to meet only at the discretion (funding) of the government. It might take community-resources- i.e. putting our money where our mouths are.

Another responsibility we owe to each other is to dream about making the program better. My dream has been to forge a common identity out of our diverse organizations. Our standing together in an association would go a long way to addressing the power inequities in our partnership with Immigration. We are Sponsorship Agreement Holders because we have signed contracts with the government of Canada. We should take full responsibility for deciding what we (individually and collectively) will do, how we will do it, when, where and for what purpose. Forging a self-governing organization, a common collective identity, would make our work easier: it does not weaken any individual member, but does make us all stronger together. Collective self-governance does not bind us to one voice nor does it threaten our individual accountability. Accountability to the religious institutions, humanitarian organizations or ethno-cultural communities would be enhanced by our adhering to the 'best practices' of self-governance. From my perspective, we owe this much to each other and to the refugees in need of resettlement whom we serve.

There have been many changes in recent months; more will come. But, after 30yrs, our one constant is Canada (we) needs the PSR program. The inequitable partnership (CIC-SAH) must be made to work. Necessary systemic change starts with one person who wants to make a difference. In the face of another massive displacement – 4.5 million Iraqis-and other compelling protracted refugee situations and crises, we can again be agents of change.

Heather Macdonald, former SAH, now Sponsorship Coordinator for the Anglican United Refugee Alliance (AURA)

THE SPECIAL ADVOCATE

BY GLORIA NAFZIGER

In its February 23, 2007 Charkaoui, Almrei, and Harkat judgment, the Supreme Court of Canada struck down the Canadian immigration security certificate system for failing to meet the standards of fundamental justice under the Canadian Charter of Rights.

The security certificate is part of an immigration process which finds a permanent resident or foreign national to be inadmissible to Canada, as an alleged threat to national security, and leads to their detention and possible removal from Canada. This process does not apply to Canadian citizens. In some cases the process may lead to a person being removed to a country where they would be at risk of torture.

The Supreme Court found that the secretive process, which denied full access to evidence for individuals who are named in the certificates, and their lawyers, did not adequately ensure the named individual an opportunity to effectively know and meet the case against them. The Court gave the government one year to create a new law. As a result, in February 2008, the government changed the Immigration and Refugee Protection Act with a new procedure known as a "Special Advocate"

The role of the Special Advocate is to protect the rights and interests of the "named person" during the security certificate process. Once appointed, the Special Advocate will be provided with a copy of all the secret evidence; can challenge its relevance, reliability and weight; make oral and written submissions with respect to the secret evidence; and may cross-examine witnesses during any part of the proceeding held in the absence of the public, the person, and their counsel.

The new model continues to fall short of guarantees of a fair trail, including the right to full disclosure. It will almost certainly make the bill subject to another constitutional challenge.

Key Elements of the new process include:

Neither the person named in the security certificate or his/her lawyer have the right to see the secret evidence which provides the reasons as to why the certificate was issued. This means the named person does not fully know the case they have to meet. The judge has to provide the person with a summary of the case against him or her, although this summary can not disclose material that might compromise national security.

- Not knowing the case against you is a violation of fundamental justice found in Section 7 of the Canadian Charter of Rights and Freedoms.
- The Special Advocate can see the secret evidence but cannot communicate directly with the named person after they have seen the secret evidence.
- The government does not have to share information with the Special Advocate which clears or tends to clear the named person of guilt. The provisions of the security certificate allow for the indefinite detention without charge or trial of the named person.
- Evidence presented in the security certificate process should not include information that is believed to have been obtained as a result of the use of torture.
- A new right of appeal has been introduced through the bill, but only if the judge confirms that a serious question of general importance is involved, and states that question.
- Those named in security certificates will be able to choose their special advocates from a roster of approved security-cleared lawyers. Solicitor-client-type communications between the named person, their counsel, and the special advocate are confidential and the special advocate cannot be forced to be a witness against the named person.

Selection Process for Special Advocates

The Special Advocates were chosen after the Department of Justice issued a request for expressions of interest for the program. Fifty applications were vetted by an independent committee of three people from which the Minister of Justice ultimately chose 13 Special Advocates. The exact qualifications for special advocates are to be specified by future regulation. Bill C-3 requires that special advocates "not be employed in the federal public administration, and not otherwise be associated with the federal public administration in such a way as to impair their ability to protect the interests of the permanent resident or foreign national."

Some of these new appointments are controversial. There is concern about the perceived independence of two high profile former Justice Department lawyers; Ivan Whitehall, the former chief general counsel for the Department of Justice, and Barbara McIsaac, a former senior DOJ litigator. McIsaac also acted as senior counsel for the federal government at the Arar Commission of Inquiry. Generally, lawyers are conflicted about participating in the controversial system. While there is the duty to ensure people have the best legal defence possible, many consider the law an affront to civil liberties and don't want to lend it legitimacy by taking part.

The Security Certificate/Special Advocate process also fails to remedy provisions in Canadian law which allows individuals who are alleged to be security threats to be deported to countries where they face a serious risk of being tortured. Deporting anyone to a situation of likely torture clearly contravenes Canada's international human rights obligations. UN level expert human rights bodies have repeatedly called on Canada to amend these provisions.

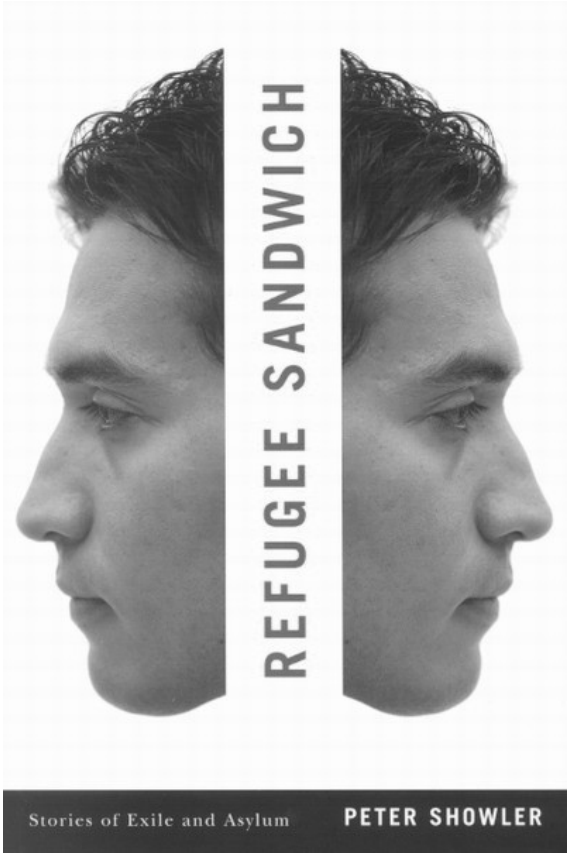
Gloria Nafziger is refugee coordinator for Amnesty International in Toronto.

BOOK REVIEW

REFUGEE SANDWICH – STORIES OF EXILE AND ASYLUM (2006) BY PETER SHOWLER, MCGILL UNIVERSITY PRESS.

REVIEWED BY JOHN FAUSTMANN

It would be hard to imagine a better introduction to Canada's refugee system than *Refugee Sandwich* - a recent book by Canadian lawyer and former member of the Immigration and Refugee Board, Peter Showler. He writes short stories based on his years of experience with the IRB. In order to protect the confidentiality of IRB hearings, he blends real-life cases to draw accurate composite portraits of the people involved. The result is an intimate look at an often misrepresented and misunderstood process, told directly from the point of view not only of the refugees, but from the lawyers, translators, Refugee Claims Officers and the IRB Members whose job it is to decide their fates.



Thirty thousand refugee claims are settled each year in Canada, and although this figure is somewhere in the middle of developed nations, Canada can be justly proud of its refugee determination system. According to Showler: "Many of the Canadian interpretations (of the UN Convention Relating to the Status of Refugees) that were seen as ground-breaking in the 1990's have become standard for the industrialized countries".

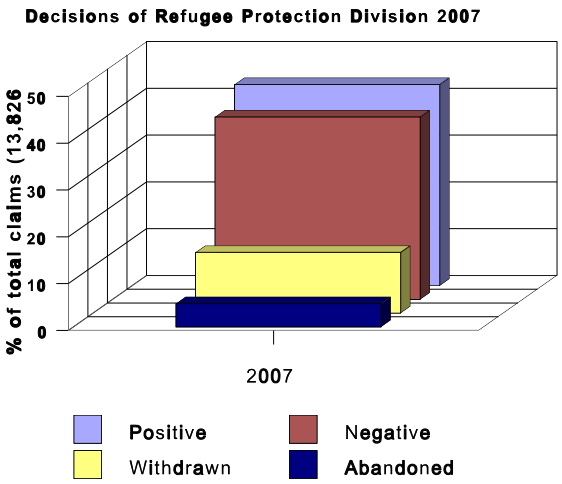
That said, *Refugee Sandwich* also demonstrates how often the system fails. On the one side you have genuine refugees, who have miraculously escaped their home countries and landed in Canada. At the same time, the world has more than its share of undeveloped places, that produce uncounted millions of people for whom Canada represents a chance for a better life. It is the job of the IRB to admit people whose lives would be in danger if they were returned to their countries of origin, and to keep out economic exiles and outright impostors.

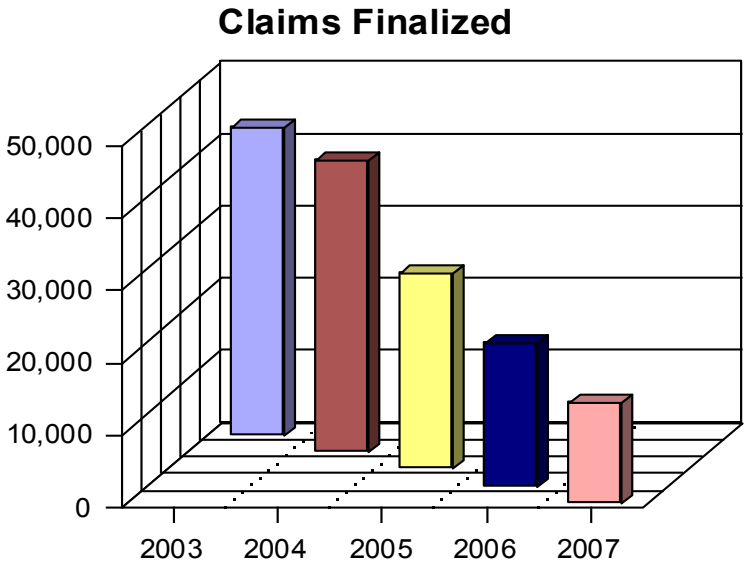
That we do this in a faintly haphazard way -employing a cast of often unprepared, overworked, at times woefully unqualified people who are expected to render life-or-death decisions in a short time frame- will come as no surprise to anyone familiar with Canadian federal government bureaucracy. Throughout *Refugee Sandwich* there is a manic, cynical, theatre-of-the-absurd tone to the IRB hearings. Refugee Claims Officers, on the basis of three weeks' training, prepare cases for the Board. Poorly-paid, at times not-entirely-fluent translators stumble over their words, and throughout the average three hours it takes to hear a refugee claimant's case, the presiding IRB member, may well decide a claimant's fate based on little more than their own flimsy, preconceived prejudices.

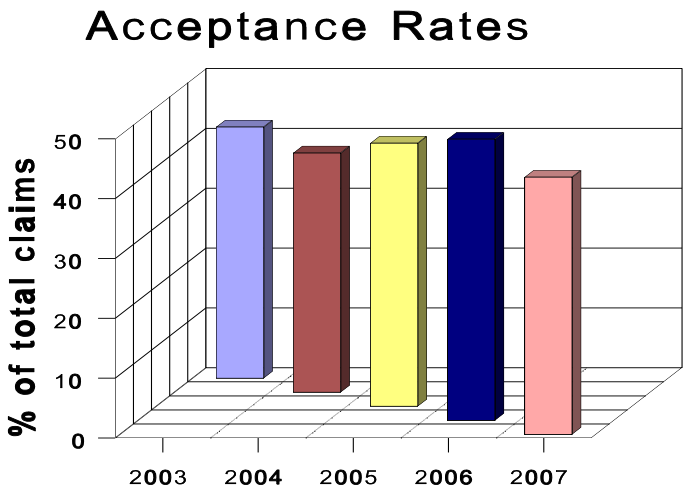
Showler attempts to be fair and even-handed in this: *Refugee Sandwich* has more than its share of competent translators, well-prepared lawyers, and informed, intelligent, compassionate IRB Members. Clearly, though, he has seen the system at its worst, and he is determined to mend it. To that end, the Afterword section of his book suggests four much-needed reforms.

According to the UNHCR, the UN Refugee Agency presently has 6,000 staff in more than 110 countries helping 30 million refugees. This makes *Refugee Sandwich* a small book about a big problem. A nicely written uncommonly useful book.

IMMIGRATION AND REFUGEE BOARD STATISTICS FOR 2007







2007	27,865	37,513
2006	22,873	23,476
2005	20,786	20,552
2004	25,750	27,290

STATISTICS CONTINUED

The percentage of withdrawn claims has gone up dramatically - from 7% in 2006 to 13% in 2007.

Regional acceptance rates (as a percentage of total claims finalized) for 2007 were as follows:
Eastern region: 35% (48% in 2006);
Central region: 48% (47% in 2006);
Western region: 35% (41% in 2006)

Given the concerns about IRB scheduling priorities which seemed to favour some countries over others, it might be interesting to compare rates of finalization by country. To do this, we can look at the numbers by country finalized in 2007 as a percentage of the pending claims from that country at the end of 2006. Among the top 10 countries, we see a wide variation, from 75% for Mexico and Sri Lanka at the top end, to 37% at the bottom end for Haiti.

This means that, by the end of 2007, most Mexicans and Sri Lankans with claims pending at the end of 2006 had had their claims finalized, while most Haitians in that situation were still waiting for finalization.

THANK YOU

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