

# REFUGEE UPDATE

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# THE TRAUMA OF EXILE

BY EZAT MOSSALLANEJAD

“Weep not for the dead, neither bemoan him, but weep for him that goeth away, ... and shall be seen no more in his own country.” *Cynthia Stockley, The Claw, New York, 1911.*

Exile is probably a permanent feature of historical developments in every society and according to an author is “as old as humanity itself.”<sup>1</sup> The Old Testament is explicit about the trauma of exile which, according to the Scripture is connected with the first manifestation of Original Sin. When Cain murdered his brother Abel, God Yahweh considered exile as a possible punishment: “You shall be a fugitive and a wanderer over the earth.” While pleading guilty, Cain complained to God about the heaviness of this punishment:

“My punishment is greater than I can bear. See! Today you drive me from this ground. I must hide from you and be a fugitive and a wanderer over the earth. Why, whoever comes across me will kill me!”<sup>2</sup>  
Exile is one of the most bitter experiences in human life; it



is incurable separation between you and your native place; it is a cruel parting between human persons and their beloved ones; it is the paralyzing sadness of estrangement. Exile, “like death but without death’s ultimate mercy,” has “torn millions of people from nourishment of tradition, family and geography.”<sup>3</sup> The term “God makes you uprooted” is considered the most sinister curse among the villagers of South Iran. There is a saying that “if you dislocate a hen, it won’t lay eggs for forty days.” The achievements of exile, according to Edward W. Said, are “permanently undermined by the loss of something left behind for ever.”<sup>4</sup>

Unlike the older age when exile was a sort of deliberate punishment against undesirable elements by ruling authorities, in our modern time of economic globalization, tyranny, gross human rights violations, warfare and polarization, exile has taken the form of mass exodus of

**CONTINUED ON PAGE 2.**

isolated groups, it also comes from a social structure which, in Racism does not necessarily come through operations of guarding the "integrity of the system."

the racism in the pretext of serving national interests and safe- through the very functions of government organizations, academic institutions and immigration judges and officers who practice racism in a subtle manner. It is manifested in Canada, racism operates in a subtle manner. In a society like their outcry for "aliens" to return home. In a society like racism and embodies itself in the acts of extremist groups and considered a dirty insult, xenophobia takes the form of red-neck countries like Germany, where the term *düsslander* (foreigner) is and intimidated by different forms of racism and xenophobia. In Refugees and exiles have historically been hurt, frustrated

**RACISM AND XENOPHOBIA**

Refugees and exiles have historically been hurt, frustrated serving any cause or purpose. The condition of exile as such leads to a kind of self-denial with all its disastrous consequences. The problem does not disappear with the prolongation of life in exile. In old age, when you open your eyes you learn that all your life is wasted without

The condition of exile as such leads to a kind of self-denial the face of the globe. whom you love and for whom you have become a wanderer on the nectar of life: struggle for the emancipation of the people respectation. This daily stress and anxiety keeps you away from you in permanent stress with no time for introspection and reflection. You are underpaid and underprivileged at work. You have as an outsider, you are the last to be hired and the first to be fired. You are underpaid and underprivileged at work. You have

In this condition, if you are lucky enough to join the labour market, you have to be constantly vigilant not to lose your job: among the rank and file in the army of "nobodies". hostility, of your surroundings gives you the feeling of being exclusion and rejection: not being with others in a natural community habitat. This isolation combined with apathy, let alone

Then comes the "loneliness of exile" and the feeling of asylum-shopper, queue-jumper, abuser, etc. to these and scores of more humiliating terms: bogus refugee, when you start your new life in exile you have to get accustomed God protect you if you have a different colour of skin. Later on, Services (INS), an "alien" or worse an "illegal alien." And may that telling phrase of the U.S. Immigration and Naturalization before: a foreigner, a refugee, an asylum seeker, a migrant, or in border officials. They dub you with terms unfamiliar to you received as an unwanted guest by suspicious and even hostile daily basis. The problem starts right at the border. You are

**RETRAUMATIZATION**

In exile, the trauma of one's past life reproduces itself on a rest of my life. this trauma. The scar, however, I am sure, will remain for the exile, I have successfully developed my own tactics to overcome a nightmare, I have a sigh of relief. In the course of living in my dreams. When I wake up and learn that the episode was just jails, dungeons, cuffs, and gallows. I am always escaping in sleep, my dreams turn to nightmare and I see soldiers, running,

made Canada my new home, most of the nights when I go to 1977. Although 20 years of refugee life have passed and I have secret police of the Shah of Iran in a period between 1973 and oner, I went through torture and degrading treatment by the miraculously escaped the bullets of tyranny. As a political prisoner. Let me share my experience as a refugee who has beloved ones. Most of them suffer from Post Traumatic Stress

**POST TRAUMATIC STRESS DISORDER**

Exiles, especially refugees, have mostly experienced persecution, different levels of torture, death and execution of their In exile, you feel yourself a "wandering shadow" - a person who has lost everything for ever. The agony of homelessness never leaves you even if you establish yourself "successfully":

affection and according to Dryden "the sacred refuge of our yourself, regenerate your energy, enjoy the beauty of family life is the centre of domestic life and interests where you recreate is rather a series of human relationship and interactions. Home Home is not only a building or a place where one resides. It

**THE AGONY OF HOMELESSNESS**

There is no geographical boundary for exile. It is erroneous to approach exile as a simple geographical separation from one's native place. It is in time that exile begins: a moment when you realize that you are unable to return home. The whole world turns to a jail for you and the realm of freedom a small territory in a corner of the globe where you cannot go to - i.e. your home. To borrow from the Iranian poet and social thinker, Ismael Khoei, exile is nothing but the "globalization of one's jail."

are looking back home. tied in the soil of the country of their asylum, their anxious eyes ally people who do not want to be refugees. While their feet are the sinister hide-and-seek game of survival. Refugees are actually people who do not want to be refugees. While their feet are death. A desperate refugee clutches to any straw, just to escape between escaping home and staying is a choice between life and and other categories of migratory people. A refugee's choice their home, some distinctions should be made between refugees

ple are uprooted from Although all these people are uprooted from their native places due to reasons beyond their control. We live in the age of refugees, displaced persons, migrants, undocumented workers, repatriated people, "illegal aliens," etc. faceless, amorphous and innocent people (80% of them women and children). They are uprooted from their native places due to reasons beyond their control. We live in the age of refugees, displaced persons, migrants, undocumented workers, repatriated people, "illegal aliens," etc.



general, supports attitudes, practices, and systems of discrimination and inequality. Under these circumstances, exiles' "job skills and experiences are not recognized; cultural differences become an issue; and language barriers are over-estimated as insurmountable."<sup>5</sup>

In a society suffering from systemic racism and xenophobia, all sorts of stereotypes of communities of exiles and refugees proliferate. Attempts will be made to make a connection between crime and the ethnic origin of criminals. These connections have, more than anything else, marginalized refugees and exiles who have paid heavily for their struggles against tyranny.

In such an atmosphere, refugees and exiles could easily be used as scapegoats for all socio-economic shortcomings of society. You feel yourself a pawn in daily political games. What the Greek warrior and playwright, Aeschylus, said in 463 B.C. finds it unfortunate reality even today after almost 25 centuries:

"everybody is quick to blame aliens. This awkward situation creates impassable barriers for exiles in their attempts to participate in the social life of their host countries.

Just imagine that suddenly in your middle age, you are forced to leave behind everybody and everything you have cherished for all through your life. You suddenly become like a grown-up baby, and are often treated as such, having to learn everything anew. Despite your terrible daily problems, you need to learn "how to behave, how to interact with people, what is polite and impolite in a new and foreign culture; go to school to learn a skill, find a job, accept any job, regardless of your education and skill. Whatever you've learned before, all your previous life achievements and experiences are worth nothing in the new country."<sup>6</sup>

Such an atmosphere creates tremendous hardship for refugees and exiles and stop them from participating in the social life of their host country. There is a continuous need for them to "prove themselves." According to Dr. Haideh Moghissi, "you have to prove and justify yourself at different levels, for different people and for different reasons." You have to prove to others that "you have a well-founded fear of persecution.... You have to prove to yourself that your life has not been a total waste and your self-denial and self-sacrifice are not lost.... You have also to prove to your friends...that you have not sold out to the easy life."<sup>7</sup>

### THE DILEMMA OF DOUBLE NOSTALGIA

It is wrong to deal with exile as a question of simple dislocation. More than that it is a complicated phenomenon related to a particular epoch. Exile is more an agony of time than of space. In our alienated epoch, even repatriation does not completely heal the trauma of exile. When you return home after a long period of separation, you may feel yourself an alien in your native place: you find most of your dears and nears dead or missing; you can never rebuild the beautiful relationships of the remote past; you face a new generation with different sets of values. Soon after return you feel nostalgic at home. A Hungarian Canadian who lives in Toronto is outspoken about this situation:

Budapest is my homeland  
Toronto is my home  
In Toronto I am nostalgic for Budapest  
In Budapest I am nostalgic for Toronto  
Everywhere else I am nostalgic for my nostalgia<sup>8</sup>

Novelist Osvaldo Soriano returned, in 1983, to Argentina of his past. He found "an Argentina I do not know, plundered, starving, humiliated."<sup>9</sup>

This is reminiscent of the story of Prometheus who offered fire to humankind and, as a result, was punished by the Zeus of Olympus with an unbearable perpetual agony.

### EXILE AS A COLLECTIVE PUNISHMENT

Let us not forget about the brain drain as a socio-economic and political consequence of exile. Today's forced migration is in practice the drain of the most needed human resources that tyrannical regimes impose on their own people. It extracts the nectar of life from the veins of the nation and makes local communities poorer and poorer. The ceaseless flow of exiles, according to Augusto Roa Bastos, points to a loss which "is more punitive cost demanded of the body politic by a repressive power."<sup>10</sup>



This bitter reality leaves the exiles with a sense of permanent remorse. A political refugee complained to the author with his following words: "Instead of contributing towards the socio-economic uplift of my country, I do dishwashing here just to keep body and soul together."

### ALIENATION

The trauma of exile, in its different manifestations, can easily lead to alienation. Alienation is defined as a condition in which human properties and capabilities turn into something independent of them and dominated over them. It is a kind of distortion in people's minds of their actual relationship in life. In an alienated condition, people feel that "the most beloved components of their lives - names, experiences, educations, accents, originalities, personalities - act against them."<sup>11</sup>

Alienation as such may lead to an identity crisis which is a peculiar mental and psychological disorder in which you not only find your personality split, but worse than that you could lose every shade of your personality. Eduardo Galeano illustrates this condition in his most recent work, *The Book of Embraces*:

"And there are days when I feel like a stranger .... On those days, days without sunshine, moonless nights, no place is my

CONTINUED ON PAGE 4.

his love on one spot in the world; the strong man has extended his love to all places; the perfect man has extinguished his."<sup>16</sup>

This is a process of attachment and detachment when you begin with loving your country, go beyond to love the whole world, and finally continue with your odyssey to leave behind national territorial, ethnic limits and transcend trivial values of the materialistic world. You walk through all religions and ideologies and come to a new understanding that after all the basic problems of all human beings are the same.

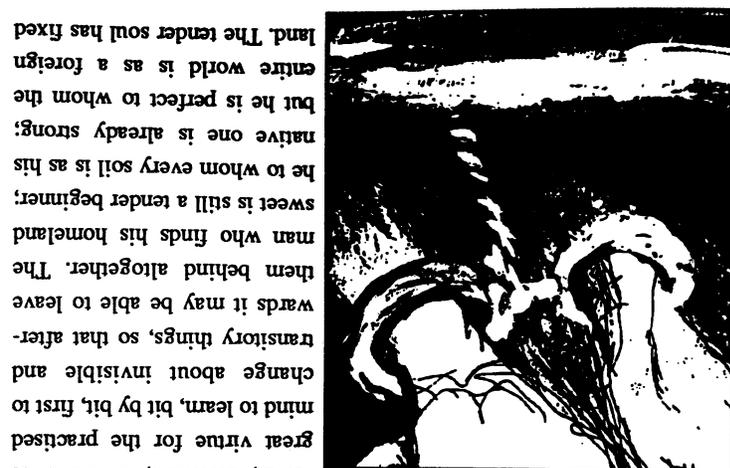
Exile is an ordeal which can purify the human soul and bring about "plurality of vision," internal richness and "simultaneous dimensions." Eduardo Galeano is explicit about this achievement of exile:

"I was beginning my exile in Spain. I had been travelling through the small towns of Pontevedra and Orense, and had discovered taverns and cafes bearing names like "Uruguay" or "Venezuela" and cantinas offering barbecue or *arepas*, and all of this was due to the Galicians who had returned from America and now experienced reverse nostalgia. They had left their villages, exiles like myself, although the economy had chased them out rather than the police, and many years later they were back in their homeland and they had never forgotten a thing. Not when they left, not when they were over there, nor when they returned: they had never forgotten a thing. And now they had two memories and two countries."<sup>17</sup>

### CONCLUSION

Exile is essentially a discontinuous condition of human existence. Exiles seems to be parachuted to life with no land, no root and no past. It is, therefore, imperative for exiles to wage an ongoing struggle to overcome this fragmentation and discontinuity. I strongly believe that as exiles we should make our best attempts, individually and collectively, to establish vital contacts with our new homes. We must break through the fortress erected by the governments and xenophobic groups of our host countries. It is essential for our spiritual survival as well as the continuation of our struggles to participate in the social life of the places of our residence. We need to consolidate our solidarity with other uprooted people on the one hand and make meaningful alliances with the marginalized and progressive groups on the other. It is highly dangerous for exiles to lose hope in the people of their host country. There are hundreds of decent and dignified people belonging to the mainstream culture who feel pain when others get a slap. Exiles can never raise their voices unless it becomes a melody of a united choir for social justice.

The most significant motive for political refugees and exiles lies in their aspiration of return, which is of great appeal even to second and third generation of exiles who have never seen the country of their root. Struggle for emancipation operates as a strong lever for maintaining this heritage. It is, therefore, of vital importance for exiles to focus, in the process of their struggle for freedom, on their Right to Return in dignity and integrity - the right denied to them by their oppressors. Attempts are needed for the recognition of this right as the most natural, unconditional and inalienable right of each and every human person.



"It is, therefore, a source of great virtue for the practised mind to learn, bit by bit, first to change about invisible and transitory things, so that afterwards it may be able to leave them behind altogether. The man who finds his homeland sweet is still a tender beginner; he to whom every soil is as his native one is already strong; but he is perfect to whom the entire world is as a foreign land. The tender soul has fixed

lowing charming and thought-provoking passage:

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 Exile, as Prof. Said suggests, crosses borders, breaks "barri-  
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 Beyond individual level, struggle for liberation has fre-  
 the position of an informer, a collaborator."<sup>13</sup>

### ACHIEVEMENTS OF EXILE

The most important aspect of exile, according to Dr. Haideh Moghissi, has to do with just being alive: "You have defeated the system that has been after you, trying to kill you, to imprison you or at least to crush your soul, your resistance and reduce you to the position of an informer, a collaborator."<sup>13</sup>

Beyond individual level, struggle for liberation has frequently been waged by people in exile. Movements for American and Palestinians, who preserved their very identity and consolidated their nationhood in exile. This is also true in the case of the African National Congress and the Southwest Africa People's Organization.

Augusto Roa Bastos, the Paraguayan novelist and poet, who lived in exile in Argentina, speaks about another achievement of the exile: "and slowly over time, exile enabled me to become the universal man we all aspire to become, whether we know it or not."<sup>14</sup>

Exile is a forced break for intellectual minds to create works of literary masterpiece. Modern Western culture is mainly the work of political refugees, émigrés and exiles. The critic George Steiner has even proposed the perspective thesis that "a whole genre of twentieth-century Western literature is 'extraterritorial', a literature by and about exiles, symbolizing the age of lowing charming and thought-provoking passage:

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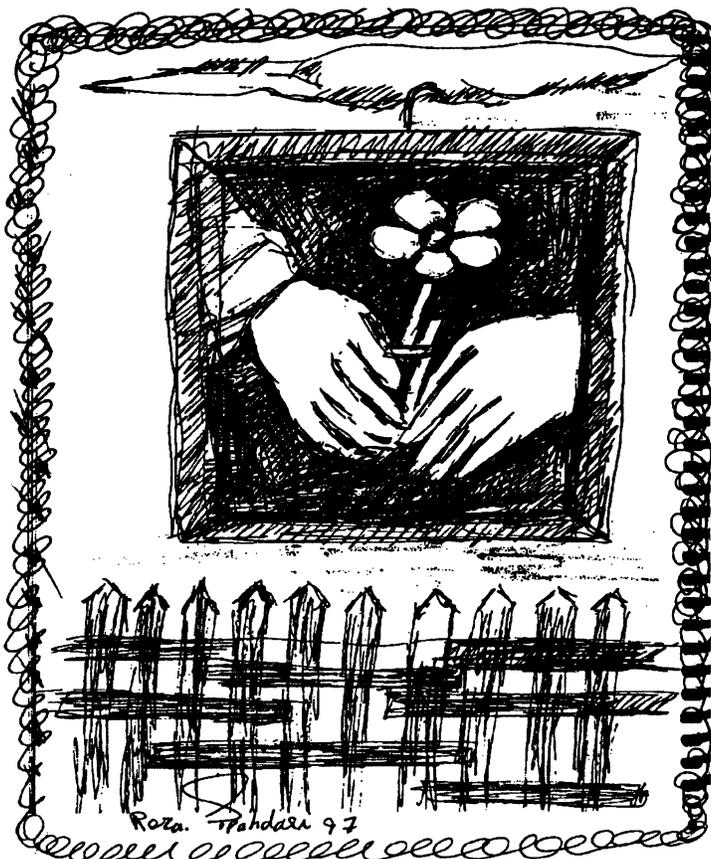
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Finally, it should be noted that the massive uprootedness of our modern time goes beyond a regional concern. It is rather a universal phenomenon interconnected with the unequal pattern of today's global socio-economic, political and cultural developments. It speaks to the urgent need for the recognition of the pathetic prospect of homelessness in an upside down world on the one hand and the need for addressing the root causes of the tragedy on the other. We live in a "spiritually orphaned" and alienated epoch - the age of estrangement, anxiety and universal stress. Alienation, which is the common tragedy of humankind today, becomes more agonizing for refugees and exiles. Non-exiles, who are in a relatively less alienated position, can realize their humanity through their struggle for the rights and protection of refugees and exiles. Their ongoing struggle against alienation of this most vulnerable section of the human family serves as a demand for the removal of the root causes of alienation as a common human misery.

#### FOOTNOTES

1. Augusto Roa Bastos, "Fragments from a Paraguayan autobiography," in Altaf Gauhar, *The Politics of Exile*, Third World Quarterly, Vol. 9, No. 1, January 1987, P. 210.
2. Old Testament, Genesis, Cain and Abel: 12-15.
3. Edward W. Said, *Reflections on Exile*, as reproduced in *Roozsi...Roozegari*, No. 3, Winter, 1987.
4. *Ibid.*
5. See my article on "Refugee participation: Problems and Prospects," in *Refugee Update*, No. 20, Winter 1994, PP. 6-7.
6. Haideh Moghissi, "Will Canada Recognize Our Experience?," *Refugee Update*, No. 18, Summer 1993, P. 8.
7. Haideh Moghissi, "In Exile," *Refugee Update*, No. 11, Summer 1991, P.10.
8. *From Beyond Tables*, by Robert Zend, Trans. With John Robert Colombo, Toronto, Hounslow Press, 1982, P. 136.
9. See William Rowe and Teresa Whitfield, "Threshold of Identity: Literature and Exile in Latin America," in Altaf Gauhar, *Op.cit.*
10. Augusto Roa Bastos, *Op.cit.*, P. 214.
11. Footnote No. 8, P. 7.
12. Eduardo Galeano, *The Book of Embraces*, P. 171.
13. Footnote No. 10.
14. Footnote No. 1, P. 212.
15. Edward W. Said, *Op.cit.*
16. *Ibid.*
17. Eduardo Galeano, *Op.Cit.*, P. 114.  
*Ezat Mossallanejad is a political refugee from Iran living in Canada for 12 years. He has served as the coordinator of Jesuit Refugee Service Canada.*



## THE IMMIGRATION ACT:

### REVIEWING THE REVIEW

BY JANET DENCH

Last November the Minister of Citizenship and Immigration announced that she was commissioning three people to review the Immigration Act. At the time she suggested the review was necessary to address the complexity and lack of coherence in the Act - an Act that was adopted 20 years ago and amended more than 30 times since.

The three members of the review committee seem to have been chosen with a view to having a range of experiences represented: Robert Trempe, the chair, was until recently a senior bureaucrat in the Quebec immigration department; Susan Davis has a background with the UNHCR and a refugee - and immigrant-serving NGO; Roslyn Kunin is an economist. They also bring varied regional perspectives, representing Quebec, Ontario and British Columbia.

If the composition of the committee looks, on the face of it, to be fairly well-balanced, the same cannot be said of the mandate. The committee's terms of reference, information bulletins and discussion papers show considerable confusion and a decided bias. Is the committee reviewing the Immigration legislation, as its name suggests, or is it looking at all issues of policy (regulations, operations memoranda, directives, etc) as well as issues of management? Many of questions posed by the committee certainly go far beyond the purview of the Act as such.

Judging by the written material they have made available, two themes pre-occupy the committee:

CONTINUED ON PAGE 13.

searched over a three month period. Over this three month period, he was arrested and detained three times. On each occasion, he was taken to the Islamic Committee and detained and interrogated about helping the Kurds and questioned on the whereabouts of his son. He was slapped about the face. He would feel dizzy and once or twice suffered a nose bleed. His interrogators threatened him, but he denied knowing anything about Misha's escape.

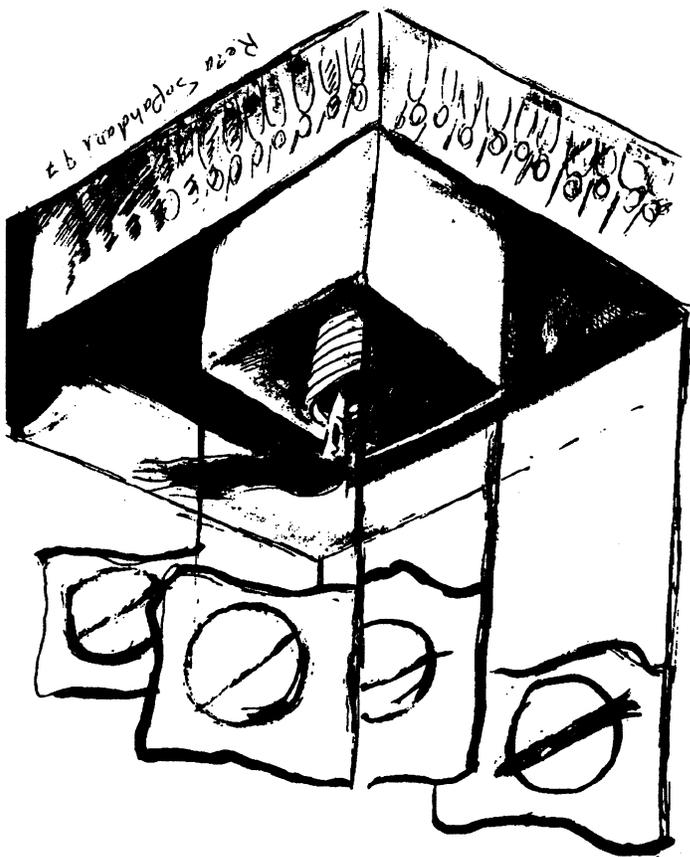
In the Spring of 1991, William gave shelter to a Kurdish leader by the name of Rashid Bay, who was later captured and killed. He hid him in his house for a week and later gave shelter to the said leader's family for a two week period. Three days after his family left, William was arrested. He was imprisoned for one month, again in a tiny cell, filthy with insects and vermin. He was taken out periodically for interrogation, where he was asked about Rashid Bay. William did not admit to having hidden him. He was slapped and was subjected to repeated interrogations. When he was taken out for interrogation, he witnessed other young men being led from another room, bent over in pain, their bodies dirty as if having been lying on the ground. He could hear shouts and groans and screams from behind the door. A friend secured his release and guaranteed that William would present himself to the Guard when necessary. After his release, his house was searched four times for flyers and documents, but nothing was found.

William and Anna wanted to come to Canada. Both their passports had expired. William paid the equivalent of \$6000 to someone in order to procure valid passports and to act as a guarantor on his behalf. He raised the money by selling one of his trucks. They told the Iranian authorities that they wanted to attend their son's wedding in Canada. At the time of their departure, they had two children; a son and a daughter, in Iran. Both these children were married and had children of their own. It is important to note that these children and their respective families have both subsequently left Iran. One family is in Austria and the other is in the USA.

Anna and William entered Canada legally with visitor's visas on 10th July, 1992. They at once felt safe. They felt happy

# HITTING THE WALL

BY MARION ABEL



For Anna and William more than a decade of hell. William married Anna 41 years ago in a small city in Iran, raised and educated four children and lived actively within their community. Instead of reaping the rewards of the loving home, they have fled the country of their birth and are suffering and barely surviving the fallout of fascism.

They are 69 and 70 years old respectively and they came to Canada in 1992 to visit their two sons, one of whom is a landed immigrant, the other, Misha, a refugee. Misha had been imprisoned for six years in Iran, where he had been severely tortured. William was instrumental in helping his son escape from Iran. Misha eventually arrived in Canada where he is married and has one daughter, who is a Canadian citizen. Unfortunately, Misha has been psychologically traumatized by his imprisonment and has been unable to hold full employment. Misha was hospitalized many times since his arrival and his wife Shahrzad, a remarkable woman, had to be a strong emotional support to him and their little baby, who is now six. When Anna and William arrived in Canada, they enabled Shahrzad to visit and spend time with her husband, while they looked after their grandchild. With the help of Anna and William, the family became more secure, Misha started improving and in general, they have become more active in the society.

William and Anna are of the Christian faith belonging to the Chaldean Catholic Church. William was a truck driver in Iran and when he could, he used to deliver cement, oil, rice, sugar and flour to the Kurds hiding from the government in the mountains. As a result of these activities he was held in suspicion by the Revolutionary Guard in Iran and he was interrogated many times. At one point, he was detained for a week in solitary confinement in a small, dark cell, too narrow to lie down in. The floor was wet and filthy, he was given bread and water and rotten cheese. He was questioned intermittently. At this point, he was not beaten but was psychologically terrorized. After his release, he was put under police surveillance. It was at this time that William helped his son, Misha, escape to Turkey.

Approximately two months after Misha's escape, William was harassed by the Revolutionary Guard. His house was

to be with their family. They lived with their son, Misha, daughter in law, Shahrzad, and grandchild, Anet, in an apartment in Scarborough. Immediately the extended family started to normalize. Anna and William were relieved that they could help their son, who was very fragile at that time and very happy that they could look after their granddaughter. Shahrzad felt that she had support and extended family on whom she could rely. At that time Misha was in the middle of his first hospitalization. When he was discharged, he and Shahrzad were put in touch with the Canadian Centre for Victims Of Torture ( C.C.V.T.) in Toronto, an organization with which they are still in contact.

One month after their arrival, Anna and William tried to apply for Refugee Status. The C.C.V.T helped them to acquire the services of a lawyer and the process of filing for refugee status began. The C.C.V.T. provided them with a full range of services. They received counseling, art therapy, psychiatric and medical care and started learning English at the special ESL classes.

Their Refugee Hearing was held on the 15th October, 1993, approximately 15 months after their arrival.

Their English was poor and they were very nervous. They had difficulty understanding the implications of the questions relating to their visas. The refugee claims officer inferred that seeing that they had indeed received passports and that they had been able to leave Iran through the regular channels, i.e. the airport, without any difficulty, they were not viewed as citizens under high risk or suspicion in Iran. The fact that they had been out of Iran illegally for all this time was not addressed. The C.R.D.D. official felt that their religion was not a threat to them. He stated too that neither of them had significantly high enough political profiles to endanger them if returned to their country. Their hearing lasted for eight hours.

The decision was made on the 9th of March, 1994, that Anna and William were not considered to be Convention refugees. The outcome of the C.R.D.D. decision was appealed, but to no avail, no change was made.

Vigil Toronto picked up their case and has been working on it to the present time. It is strongly felt that Anna and William are victims of torture and are at great risk if returned to Iran. With this in mind, Vigil prepared a submission for Post-Determination Refugee Claimant in Canada Class (PDRCC), which is a process by which refugees whose claims have been rejected by the Immigration and Refugee Board, have their cases heard to consider the risk of return. Full medical and psychiatric reports were given to substantiate the physical, psychological and emotional risk that would be incurred by Anna and William if they returned to Iran. Psychiatric reports were submitted on their son, Misha's illness to impress upon the P.C.D.O. the importance that Misha's recovery was dependent on the knowledge that his parents were safe in Canada and that he really needed them in Canada to help him get well. Therefore, these medical reports outlined both the risk to Misha as well as to his parents if they were to return to Iran. However, the case was rejected again. The same reasons were given as were given in the refugee hearing. The P.C.D.O dismissed the risk of endangering

Anna and William to psychological retraumatization on return to the country, where trauma had taken place. Suggestions were made by the Officer that the claimants could obtain tranquilizers to deal with their pain. The psychiatric evidence was minimized. The P.C.D.O. did not feel that they would be at risk if they returned and that they would not be victimized for their religious beliefs or political affiliations.

Vigil maintained that the P.C.D.O. had underestimated the significance of the medical evidence that explained both the psychological condition of Anna and William and that of Misha. They felt that there was indeed a high risk of psychological retraumatization if they were to return. Vigil maintained that they would be held under extreme suspicion for being out of the country for so long when they had been given visas that had granted them permission to be away for only one month. They were also at risk because their repatriation, as Christians with Kurdish accents, would further endanger them as a minority ethnic group. Anna and William had indeed gone through their own "torture" and in accordance with the international "Convention Against Torture" they should be recognized as such, and should be granted refugee status.

Vigil then proceeded with a Humanitarian and Compassionate Review. Vigil presented the case with evidence on how the entire family had become more functional since they had been together. They again submitted letters from doctors describing Misha's long road to rehabilitation and emphasized the importance of his parents' emotional and physical presence in this process.

At this stage, they were making progress with their language acquisition and were slowly becoming literate in English. I was their teacher, at the C.C.V.T., where I made their acquaintance. I have taught them for two years and have tremendous admiration for their ability to learn. They made good friends with the tenants in their building and made friends with other clients at the C.C.V.T. They were becoming independent in their new home and felt very thankful for being in Canada. As they were building a new life for themselves, they were offering continued support to their son, daughter-in-law and grandchild. They were positive about the outcome of their case, albeit apprehensive.

Anna and William went to an interview when their case was being reviewed for Humanitarian and Compassionate Status. They felt dejected after the interview, and very worried that their case was not going to be accepted. And so it was, once more Immigration had decided that this couple could not stay in Canada. Would it have been a different scenario if their son was able bodied and holding a full-time job?

Eventually, on June 3 ,1996, the couple was summoned to the airport immigration office. It was there that they received a deportation notice to be on a Swissair flight to Iran on the 26th June, 1996. Vigil tried to get a Judicial review of the case. Anna and William spent two days trying to get support from Legal Aid, but to no avail. Vigil could not get a lawyer due to a lack of funds and time was running out.

Once again Vigil and the community rallied to their support.

**CONTINUED ON PAGE 11.**



prise an incredibly vulnerable and, hence, cheap labour force in Canada.

Contrary to conventional wisdom, the overwhelming majority of people admitted under the temporary employment authorization program are not business people, artists, sports figures or visiting professors. Instead, most people come to work in substandard conditions in a variety of occupations in the service, manufacturing and agricultural sectors. Throughout the existence of this program, most migrant workers have been employed in the service and manufacturing sectors. We, thus, see migrant workers employed in the retail industry, in restaurants, in the hospitality industry, in assembly and repair jobs, in nursing and other care giving jobs, in live-in domestic service and on farms.

In order to properly situate the introduction of the migrant workers program as a state-sanctioned form of discrimination against one group of workers, we need to examine the social and political milieu of the 1970s. During this time, as the rules governing capital investment were freed up, corporations became increasingly mobile and were able to move across the globe in search of ways to maximize their profits. This vastly increased international competition for capital investment within individual nation-states. Governments around the world found that they needed to dramatically re-shape the labour supply available in their territories in order to attract (or retain) capital investment.

Since the early 1970s, the Canadian government has lowered the working and living conditions of people in Canada in order to make the Canadian labour force 'competitive' with those forced to live and work in 'Third World' conditions. The introduction of a migrant workers program has played a crucial role in the re-organization of the supply of labour available in Canada. Through such a program, the government has been able to simultaneously ensure employers of a more or less captive work force that has even less rights and entitlements than workers with permanent resident or citizenship status. At the same time, the government has been able to appease those advancing anti-immigrant policies by making those who might have come as permanent residents into migrant workers who are then used as a temporary, rotating work force. Indeed, the expression of anti-immigrant sentiments has not served to actually reduce the number of people coming to Canada (this has actually increased) but it has served to seriously reduce the rights and entitlements of a grow-

ing number of immigrants and refugees.

Importantly, the Canadian government has recently made some changes that make it likely that we will see an increase in the number of people filtered through the migrant workers program. Beginning on May 1, the government grants less 'points' to a person's education and training credentials. These regulatory changes to the 'points system' make it seem likely that less and less people will be able to enter Canada as permanent residents to work and may, instead, be made into migrant workers. In other words, while the number of workers admitted will not be reduced (they may, in fact, be increased), the rights of workers will be severely restricted since they will be, in essence, indentured to their employers.

Another move that could potentially signal a plan to increase the use of a migrant workers program in Canada is the 1996 announcement by Lucienne Robillard, Minister of Citizenship and Immigration, that the government is 'considering' removing the automatic right of citizenship to children born in Canada of parents without permanent status. This could lead Canada towards a German-style 'guest worker' program where the children of migrant workers are also denied the rights associated with citizenship status. This could create a whole group of people who for generations are maintained as an incredibly vulnerable work force.

In a blatant example of 'double-speak', however, the Canadian government tells us that migrant workers are "privileged" to be able to work in Canada. Yet, to describe the situation of migrant workers in Canada as "privileged" is perverse, for they are often made to work and live in the type of conditions that people in Canada with more alternatives have found to be unacceptable. By calling migrant workers 'privileged' the government leaves us with the dangerous notion that people from abroad can (and should) be made to work and live in substandard conditions and should consider themselves 'lucky' to do so. Such a notion ignores the fact that the reason a migrant,

indentured labour force is created in the first place is so the government can ensure employers cheap and weakened labour force.

The existence of a migrant workers program poses a threat to the working conditions of all of us, since the legalization of discriminatory treatment against migrant worker ensures that they represent a model for the employment conditions that other workers can be made to fit. However, we must be vigilant in not

**I**N 1973,  
57 PERCENT OF ALL PEOPLE  
RECRUITED TO WORK IN THE  
CANADIAN LABOUR MARKET  
WERE GIVEN PERMANENT  
RESIDENCE STATUS.  
BY 1993,  
ONLY 30 PERCENT WERE GIVEN  
THE RIGHTS  
ASSOCIATED WITH  
THIS STATUS. 70 PERCENT  
ENTERED AS MIGRANT  
WORKERS.  
WHY, THEN,  
DO SO FEW PEOPLE KNOW  
ABOUT THIS MIGRANT  
WORKERS PROGRAM?  
PART OF THE ANSWER LIES IN  
THE FACT THAT THE CANADIAN  
GOVERNMENT WOULD RATHER  
NOT  
RECOGNIZE THE USE OF A  
MIGRANT WORKERS PROGRAM  
AS A PART, A SIGNIFICANT PART,  
OF ITS IMMIGRATION POLICY.

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# CARRIER SANCTIONS

BY DAVID MATAS

Carrier sanctions are either unnecessary or inappropriate. They are unnecessary if other procedures, such as efficient claims procedures, can have the same deterrent effect carrier sanctions are designed to create. They are inappropriate if they prevent or deter real refugees from seeking protection.

Admittedly, not every asylum-seeker is a real refugee, or a person with a plausible claim to refugee status under even the broadest refugee definition. Historically, we have seen numbers of abusive asylum-seekers, people with no colour of claim to refugee status, who seek to invoke refugee procedures for the time it will buy them in the country processing their claims.

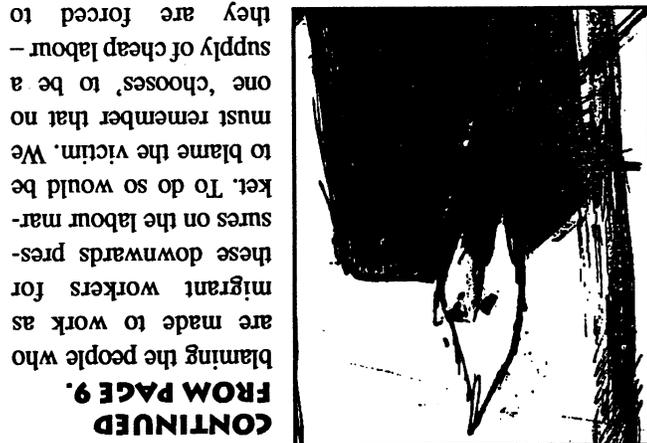
Where refugee determination procedures are easy of access, where they are labyrinthine and slow, where claimants can work and go to school pending the determination of their claims, the experience has been that such procedures are backlogged by claimants whose primary, and indeed, sole motivation is to work and/or study pending the determination of the claims, rather than to make the claims themselves.

In such a situation, carrier sanctions deter the abusive claimants from arriving. The problem with carrier sanctions in such a context is that they do too little, and too much. They do too little because they may relieve the burden on inefficient claims procedures. But they do not make the procedures efficient. Where there are no carrier sanctions and an inefficient procedure becomes backlogged, the problem is not so much the absence of carrier sanctions as the inefficient procedure. Carrier sanctions are a palliative. The cure is efficient procedures. Carrier sanctions do too much, because they deter the abusive and the legitimate refugee claimant alike.

Carrier sanctions can even have a perverse effect. Putting a premium on having the proper documents in order to get access to refugee determination procedures creates an incentive to forge documents. Carrier sanctions have led to a proliferation of high quality fraudulent documents. Even a claimant who gets by airline personnel may suffer nonetheless. Claimants are victims of forgers and middlemen who supply the fraudulent documents. Sophisticated frauds, which used to be the hallmark of international criminals, have now become the stock in trade of people fleeing persecution. Carrier sanctions have led to an increase in criminality in the underworld of document counterfeiting.

The Canadian situation is instructive. Canada before 1989 had an inefficient refugee claims procedure, backlogged with abusive claimants, and this even in a regime where carrier sanctions were in place. As of January 1, 1989 Canada introduced a system considerably more streamlined. The character of the refugee claims intake changed dramatically. Acceptance rates went from 8.6% to 89.4%. At the first stage, credible basis, the rate of success for the first year was 95.5%. The law on carrier sanctions was, itself, admittedly strengthened. But it was the streamlining of procedures, more than the strengthened law of carrier sanctions, that all but ended the abuse.

Dividing asylum-seekers into abusive and non-abusive claimants is



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FROM PAGE 9.

blaming the people who are made to work as migrant workers for these downwards pressures on the labour market. To do so would be to blame the victim. We must remember that no one 'chooses' to be a supply of cheap labour - they are forced to become so. It is the existence of a global system characterized by uneven development and massive inequalities which ensures that some people can be forced to work in substandard conditions for less wages.

The only sure way to make sure that all of us can enjoy decent working and living conditions is to make sure that governments do not create legislated differences between various people and do not deny one group the same rights and entitlements available to others. We must ensure that no one in Canada (and, of course, throughout the world) is made cheaper or weaker than ourselves. This is our only protection against corporations which prowl the globe in search of 'cheap labour'.

We should, therefore, struggle to make sure that everyone entering Canada to work is given landed (or permanent residence) status and has access to becoming a Canadian citizen. Everyone in Canada should be protected from working as indentured (or other forms of forced) labour. Everyone should be protected from employers' threats and violence. Everyone should be guaranteed the right to organize into associations or unions. Everyone should be paid decent and equal wages. Everyone should enjoy the internationally recognized right of family reunification. And everyone should have the right to health care, education and other social services. These protections and entitlements will ensure that we are not made to compete with one another in a vicious race to the bottom.

An action we can participate in right now is to have Canada become a signatory of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Currently, the Liberal government has said outright that they will not sign. We must insist that they do. We must hold our government accountable for its state-sanctioned discrimination against those it has categorized as migrant workers.

*Nandita Sharma is a Ph.D. student at Ontario Institute for Studies on Education at the University of Toronto. This article is a part of research for her doctoral dissertation.*

an oversimplification. There is a third category. And it is this third category against which carrier sanctions are directed as much as against abusive claimants. This category is real refugees not in need of protection, because they have received protection elsewhere. Then governments talk of irregular movements, what they find irregular is not so much flight from persecution as movement from a first country of protection to another country.

However, judgments about protection elsewhere invariably are flippant. Refugee determination procedures, in every country, lack some element or other of procedural protection they should have. When it comes to safe third country determinations, all semblance of due process disappears.

Canada, for instance, has a safe third country provision in its law, which is not now operational. According to the system, a country can be designated as safe either for everyone, or for designated groups or classes. Once a country or a group in a country is designated as safe by the government, there is no possibility of rebutting that designation in an individual case. Individual circumstances are irrelevant.

Denmark, to take another example, has an operational safe third country system, for which determinations are done neither individually, nor within the refugee determination scheme. A

person is denied entry by the Directorate of Aliens on the basis that he/she can be returned to a safe third country. No access to legal assistance either from a private lawyer or from the Danish

Refugee council is allowed. An appeal is to the Minister of Justice, not to the Refugee appeals Board. An appeal does not have a suspensive effect. The claimant is removed pending the appeal.

Carrier sanctions are as much an intruder into this problem as they are into the problem of refugee determination. Safe third country determinations, like refugee determinations, should be made by independent decision makers, respecting standards of fairness and due process, on an individual, case by case basis. Those deciding must consider both whether the refugee would be safe on return to the third country and whether there are humanitarian or compassionate reasons to justify allowing the person to stay in the country of destination.

Insofar as carrier sanctions do serve a useful purpose of deterring abusive claims of "irregular" movements, they are carrying a weight on their shoulders they are ill designed to bear. The proper place to rest the burden is on refugee and individualized safe third country determination procedures. These procedures should be both efficient, to deter abuse, and fair, to produce accurate results.

*David Matas is a Winnipeg lawyer. He is past president of the Canadian Council for Refugees.*



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Letters were immediately written to the Minister of Immigration asking for intervention on this couple's behalf and to grant a Stay in the deportation order. Members of parliament were visited and presented with the case. Faxes were sent. Letters were personally delivered to Ottawa. An article was written in the Toronto Star. However, there was absolutely no response from government.

The 26th of June, 1996 came. The Swissair flight arrived and left for Teheran without Anna and William on board. They went into hiding.

Bishops of the Assyrian Catholic Faith were notified of this couple's plight. They responded with letters to the Minister of Immigration, asking to grant refugee status to Anna and William. A press conference was held and another article was written, this time in the Globe and Mail, telling the public that this couple had gone into hiding. One thousand petitions were signed and sent to the Minister's office.

It is now exactly one year since the order of deportation was sent. Anna and William are now 70 years old, without a

home, without status, without legal access to a society that offers support systems.

The Ministry never ever really reviewed the case. The Ministry was like a wall.

Anna and William, too, have hit the Wall. The Wall of Bureaucracy, the Wall of Protectionism, the Wall of Silence, the Wall of Disillusionment and the Wall of Isolation.

As I walked to the poles on the eve of the Federal election, I asked, who will uphold the tenants of holding human life more dearly than balancing the deficit?

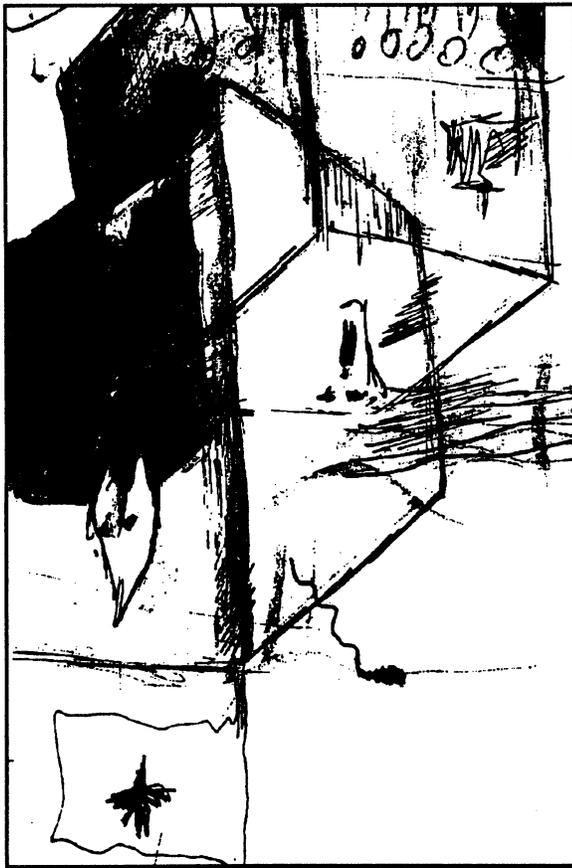
It is reprehensible that this couple, who suffered stress and trauma in Iran, a country that neither guarantees human rights, nor tolerates religious freedom, are now again living in fear, but this time, in Canada.

In the early dawn of a new electoral term, I know that I and many others will continue to work for change and I can only hope that there will be a better time, when we can offer Anna and William a life with freedom to walk without fear.

*Marion Abel is working with Vigil Toronto. She is also a teacher at the Canadian Centre for Victims of Torturer.*

# "WAKE UP CANADA - OPEN YOUR COMPASSIONATE EYES"

BY ALI GHOLIPOUR



This is a call to a compassionate nation to open its eyes to the crying need of refugee families and children who need protection from growing unfairness, petty politics and name calling.

Canada speaks in favour of fair refugee policies, of family reunion and of human rights in the world. Yet an yawning gap is growing between the compassion Canada claims to have and the reality facing refugee families.

True, Canada developed an Immigration and Refugee Board (IRB) to determine the credibility of refugee claimants. But then Canada does not allow a meaningful right of appeal from a misdecision if the Board makes a mistake - a right available almost everywhere else in Canadian law. So some refugees are threatened with deportation.

Canada allows most refugees arriving at a border to claim refugee status before the IRB. But Canada expects them to arrive with a valid passport like a tourist. If they don't have one, they can be imprisoned - and in some cases for over a year. If they are released, they have to report back in person frequently like a criminal on parole.

True Canada grants refugee status to a respectable number of refugees each year. But then Canada only lets them get rights and benefits like reunion with a spouse and child when they pay a huge fee for landed immigrant (permanent resident) status. And they must produce the required identification document. If they can't pay the fee or get the required document - and remember some refugees come from war torn countries like Somalia - they can remain separated from a spouse or child for over five years. Moreover, Canada may require them to produce evidence from DNA testing that they are related before family reunion will be allowed. And then even DNA evidence has been questioned! All this means painful delays for some refugees before seeing loved ones and before trying to start up a new joint life together in Canada.

If refugees or any member of their family make a mistake, Canada may punish them severely according to the different set

of laws and regulations governing refugees and immigrants. For minor crimes, they can first be jailed like Canadians. But when the sentence is finished, Canada still keeps them in jail under immigration procedures. Some may be called a "public danger". These people can be detained indefinitely or deported. Legal aid programs will not or cannot finance legal representation and the provincial courts which normally deal with release of criminals will never hear from these people. If Canada departs them, it is in effect a double sentence for a crime as compared with what a Canadian pays. If they resist deportation, they will be escorted ignominiously in shackles into aircraft with accompanying immigration officials. They may be drugged to subdue them.

When deporting refugee claimants, Canada appears indifferent to whether their home government will torture them. 1997 is the second year in a row when the UN Special Rapporteur against Torture reports his intervention in a proposed deportation by Canada. Canada also seems indifferent to whether they came as children - children who know only Canada's culture and education system and children who do not know the language or culture of the country to which they are being deported.

Children can be deported along with parents even though it is not their fault. The children are made to pay for what their parents did or did not do. Parents are in effect punished for the mistakes made by their adolescent children when these young people are deported away from their parents to a distant country. The Canadian courts appeal indifferent to the disproportionate penalty that deportation represents for the long term resident family. At the same time, some persons who are not refugees are allowed to live on in Canada for years without deportation. And foreign criminals continue to roam the streets while single parent moms are being deported.

Canada has closed its compassionate eyes to these evil and unfair goings on. Instead Canada has been pre-occupied with its deficit, with protecting citizens from criminals and about controlling borders. Wake up Canada. Open your compassionate eyes. It's time to give foreigners a new deal.

Ali Gholipour is Executive Director of VIGIL Toronto. He also works with the Centre for Treatment of Victims of Torture.

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- economics (How can we do things more cheaply? How can we ensure that immigrants cost us as little as possible?)
- enforcement (How can we prevent people from abusing the system? How can we effectively protect ourselves from criminals, terrorists and security risks who may come as immigrants?)

The committee starts from the assumption that Canada's immigration and refugee systems are very generous. They are however seen to be overly complex and incoherent, and as a result, cumbersome, long-drawn out and vulnerable to abuse. The committee's mandate directs it to ensure "the integrity and efficiency of our refugee determination process", without even hinting that there might be anything fundamentally unjust about the way refugees are currently treated. The committee is also supposed to deny "access to Canada by those who would abuse our generous system". Refugee advocates' concern that the current Canadian system in fact excludes people who need our protection is not reflected in the mandate.

The committee is currently in the consultation phase. Considerable time has of course been devoted to consultation with the Immigration Department. The committee has also gone abroad to learn about what is being done in other countries (they have been to Europe and to the United States). The provinces and even the territories have been keen to meet with the committee. Roundtable sessions have been held in a number of cities across Canada: these are carefully orchestrated so as to have a cross-section with representation from police, municipalities, business, refugee advocates, immigrant community groups, school boards, etc. This can produce the most predictable kind of exchange of conflicting points of view, leaving the committee free to take what it chooses from the debate. Non-governmental opinions have been solicited through invitations to make written submissions. The Canadian Bar Association has had a face-to-face meeting with the committee, and the Canadian Council for Refugees has been promised the same.

It is clear from their plan of consultation that the committee has little interest in hearing the opinions of the non-governmental sector and the refugee and immigrant communities. This is hardly surprising when we consider the questions they are asking: we are more likely to tell them bluntly that they are asking completely the wrong questions than to help them with answers.

Over the summer the committee will begin formulating its recommendations. They have until December 31, 1997 to submit their report to the Minister, whoever may be the Minister by that time. They are not expected to make explicit textual proposals for legislative amendment, but rather broader recommendations of the kinds of changes to be made.

How significant is the committee's work likely to prove? Many people have noted the timing of the establishment of the review, just before an election. This allows the Liberals to defer any questions about immigration during the campaign (note 1). Even immigration officials are making caustic comments along these lines. We may also think of the many reports previously commissioned by governments that sit unheeded on the shelves. A committee member, Susan Davis, has personal experience of

this: her 1994 report, with Lorne Waldman, was not acted upon; a second study has not even been made public.

On the other hand, both the current Immigration Minister and the Department have clear interests that the committee's report may well further. Assuming the recommendations move in the direction they want (not an unreasonable assumption), they may well be keen to implement at least parts of the report. Areas that we want to look out for in particular are: restrictions on the powers of the IRB (perhaps going so far as to have CIC do the initial refugee determination with the IRB as some kind of limited appeal authority); exclusions of more people from the refugee determination system (perhaps looking for some way to bring back a revised and simplified version of the credible basis screening); severe provisions for those without valid identity documents (will there be a harmonization toward US "summary exclusion" for refugee claimants who arrive without ID?).

Meanwhile within our communities a very different vision is being developed. The Canadian Council for Refugees has been encouraging people to meet locally to prepare their input to the committee. While there is a fair degree of cynicism about the direction the committee is going in, many people feel that we have an interest, independent of the committee's work, in formulating our own vision of a just refugee and immigration system. Some of the predominant themes coming out of these meetings are as follows:

- Public opinion plays a critical role in the development of policy. Unless we succeed in influencing the public at large and winning the support of key sectors, we will not be able to bring about the kinds of policies we believe are necessary and just.

- Current policies are unfair in each of the three main pillars: families are kept separated; refugees are denied protection; and the economic potential of immigrants is wasted by the barriers to full employment for newcomers.

- Immigration policy should be consistent with foreign policy, development aid principles and goals of integration of newcomers.

- Respect for our human rights obligations should guide immigration policy and practice. Our human rights commitments need to be written into the Act.

- The Immigration Department behaves too much as a law unto itself and needs to be made accountable.

The CCR will use these meetings and a session at our upcoming conference in Edmonton to develop a brief, which will be designed both for submission to the review committee, as well as for advocacy in other settings.

### NOTE 1.

Securing Our Future Together, the Liberal Party's 1997 plan, refers to the advisory group's review of the Act (page 25): "a new Liberal government will act swiftly to respond to the advisory group's recommendations and implement changes to make Canada's immigration system simpler, more effective and more comprehensible".

*Janet Dench is the Working Group Coordinator at the Canadian Council for Refugees.*

# HOW IS THE GLOBAL POLICY OF DETENTION AND DETERRENCE WORKING IN CANADA U.S. AND MEXICO?

BY TOM CLARK

these factories. Workers rights, including safety standards, are undeveloped. And to raise wages in these border factories would do little to address a key factor pushing migration which is the pay level throughout Mexico. We were told people can get work, but at wages below subsistence level. Many people lose hope. They want to improve their lot in the traditional way - migration to a better place. And in fact the number of persons trying to leave Mexico for the US is large and growing. There were 1.4 million apprehensions in the US in 1995.

We stood in the middle of the modest iron bridge spanning two worlds at Nuevo Laredo and watched people wading across the river from Mexico to the US, their clothes high on their heads. Ahead was the evidently well kept US town of Laredo. Behind, the relatively shabby Mexican town of Nuevo Laredo complete with city centre square park and wrought iron band stand. We chatted with the US border patrol agents on the bridge. They were recruited from local Spanish speakers - a relatively poor area of the USA. The guard said the people who cross are rounded up and shipped back. We would later see this phenomenon. Walking back over another bridge to the US side from a final supper of enchiladas in Mexico we saw a group of despondent young men walking towards Mexico on the other side. A van at the US check point ahead had just let them out. Yes, we were told at the border that was the US border patrol returning migrants. We did not see the more sinister features of the border. Further up river there are wire fences on which Mexicans impale themselves or lacerate limbs seeking hope and a living wage. A Mexican human rights organization regularly reports the number of bodies found in the treacherous Rio Grande river of persons killed trying to cross. US agencies told us the US military work with the US border patrol. We were told that in one incident the military appeared to have shot a Mexican migrant armed with a pistol in the back as he fled.

The inevitable consequence of the attractive border and the US returns is a build up of lacerated and despairing people in the Mexican border zone. One

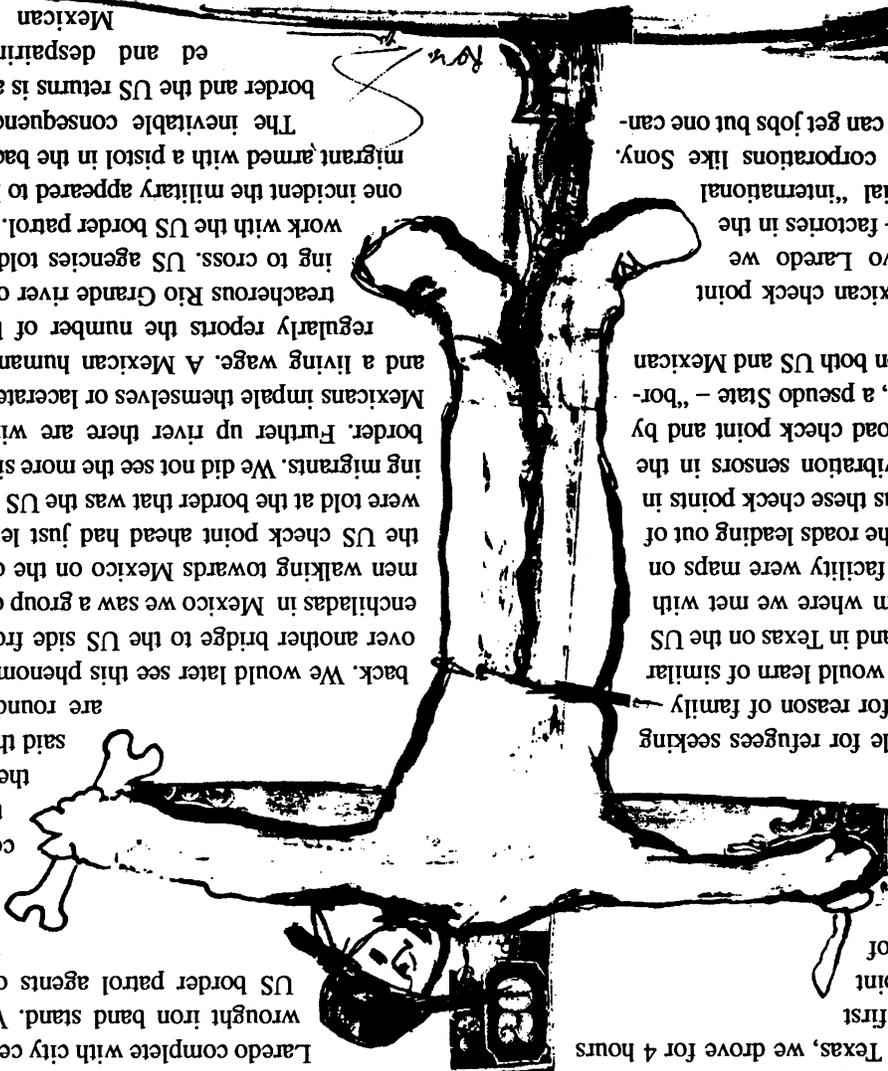
he visit to the Mexico-US border at Neuvo Laredo came at the end of a formal church gathering. Church agencies and religious bodies from Canada, Mexico and the US met on February 28 to March 2 in Monterrey, Mexico to learn of the experiences of church workers from the Mexican border with the US and from both sides of the Mexican church project in Nuevo Laredo and continued with visits to agencies and to a US detention facility in the area of Texas known as the "valley".

Monterrey is still a beautiful Mexican town. By all accounts it is a relatively rich industrial town. It still projects the Mexican civic pride. At the same time, there was a palpable poverty which I had not felt on my last trip to Mexico in 1989.

To get to the border with Texas, we drove for 4 hours across desert in Mexico. The first shock was the road check point to get into the border area of Mexico. Mexican military inspected our van and looked at our documents. This is ostensibly to check for drug trafficking. But it could obviously be an obstacle for refugees seeking asylum in the US or Canada for reason of family or other links there. Later, we would learn of similar military style check points inland in Texas on the US side of the border. In the room where we met with the head of the US detention facility were maps on the wall with large marks on the roads leading out of the Texas valley. Others told us these check points in the ground in fields around the road check point and by surveillance helicopters. Thus, a pseudo State - "border land" - has been created on both US and Mexican sides of the border.

Driving on from the Mexican check point towards the centre of Nuevo Laredo we drove past the Maquiladoras - factories in the Mexican side of the artificial "international zone". We saw major name corporations like Sony. Here, we were told, Mexicans can get jobs but one cannot survive on the pay.

Agencies on the US side reported their visits to



Mexican priest was responsible for prisons and migrants in one of the border towns. We stood surrounded by unfinished concrete in a half built community centre, kindly made available by the city authorities. Efforts had been made to make this a shelter for some 100 single men migrants. Yet these facilities are not safe for asylum seekers. The authorities come in the night and search the facility. Anyone without Mexican papers is taken away. I was led to understand that this is common at other church facilities along the Mexican side of the US border. What happened to these people? I understood they were taken to jail or taken back to Guatemala in buses. Later, at the US detention facility, we would find very plausible refugees, who had crossed from the Mexican border from a wide range of countries – including Eastern Europe and Africa. The jails are overcrowded and conditions unsanitary. I was overwhelmed by the enormity of this solitary work with jails and migrants.

Where did the migrants go who were sent back from the USA? We visited a “colonia”, a new township set up by migrants who had been stopped on the way up to the US or who had been on the way back down or who were working in the international zone factories in Mexico. Driving down the dust road among the higgledy piggledy crowded and roughly built dwellings we came to an area of mud and pools of water. The sanitary drain system doesn't work, we were told, and drinking water has to be brought in by truck. Yet outside each small shack hydro metres were mounted on posts, a sign of electric power from overhead wires to the houses. To our surprise, we learned that similar “colonies” have been built in the border zone in the Texas valley, a relatively poor and poorly serviced area of the US.

The priest from the diocese of Tapachula near Mexico's Southern border told us there has been a long history of migration into Southern Mexico from Honduras, Guatemala and Nicaragua for seasonal work picking coffee. Along with these migrant workers come a few refugees – from Guatemala, El Salvador, Nicaragua, Honduras and, now, countries beyond. The more recent concerns of Canada and the US about migration and drug trafficking have put the people migrating at risk. Albergue Belen is a new church shelter for migrants in Tapachula. There remain Guatemalan refugees in Chiapas, but the conflict in that Mexican state complicates matters. Our Mexican colleagues told us little about that situation. However, we were told about a church shelter project in Villalobos, Northern Guatemala, where people arrive. These presumably include the people rounded up in the raids on the church shelters on the Mexican side of the US border as well as migrants and refugees rounded up in Southern Mexico. From the reports, the situation at Villalobos in Guatemala parallels that of the Mexican Northern border with the US. People gather who want to head into Mexico from Guatemala and who have been sent back from Mexico. However, the social and economic infrastructure here is less able even than that in Mexico to cope. The social problems here were summed up by the priest as “hell”. Unfortunately, there was no plan to see these problems directly.

Our visit ended on the US side of the border zone with

Mexico where almost all those apprehended are imprisoned in expanding US prisons. It was pointed out that staffing the prisons and the enhanced border patrol brigades provided much-needed employment in the poor Texas valley area. We got to see some of the people released from the US immigration jail because they were in a proceeding which might stay their deportation – refugees and special cases. Even when released they were in somewhat isolated church run shelter facilities.

The prison facility which we visited, the Port Isabel Service Processing Centre, came close to meeting UN Standard Minimum Rules so far as I could tell. But it managed to make conditions miserable, presumably, as the head of the facility said to us, to send a deterrent message back South. People can't easily keep in touch with families and friends by phone. The facility shows a film about people's rights, but do people really understand if they have a case to be made? Lawyers can find it difficult in practice to get to see a client without tying up an entire morning – it happens the client is exercising at the time, or the client will have to miss lunch to see the lawyer – and so on.

The UN Rules are silent on whether it makes sense to situate facilities in isolated places like disused military facilities – but that too conveys a message. Seeing people in colour coded blue or orange or crimson prison “suits” made a profound impression on me. It made me think of the Gulag. After all, most of these people have committed no crime. They were seeking a future without documentation in a land of promise.

Some of us were able to sit in on two hearings by an immigration judge inside tiny perfect court rooms within the compound of the prison facility. There is a two appearance process. I was able to see one of each. In the first, a short 15-20 minute session, the judge tells the non-citizen they are deportable unless they show cause otherwise. This is read out and into a tape recorder operated by the judge with the help of an ATT telephone company translator if necessary and then handed to the non-citizen in written form. The person is told they can seek a lawyer at their own cost. The second appearance is the hearing of any cause against deportation such as refugee status or long stay in the US. These proceedings can hear witnesses. Although the appointment process for these “judges” sounded political akin to that used for the Immigration and Refugee Board in Canada, the formality of the process was impressive. Refused refugee claimants in Canada do not have this kind of hearing. Surprisingly, the hearing does not have jurisdiction to consider issues related to the UN Convention against Torture. So while the formality of the hearing may impress, the outcome is less encouraging. Also the manner of carrying out deportations is unnecessarily inhumane. For example, families are separated by the deportation process because the US deports different members of the same family from different points along the US border with Mexico.

## CONCLUSIONS

When the experience of the visit is combined with what is known about Canada, general conclusions emerge. The response of the country receiving migrants or refugees, whether Mexico,

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US or Canada, has been to tighten immigration laws or practices to detain and to deter. What was learned on this visit was the serious consequences in terms of diminished rights of the migrants and refugees.

Increasing numbers of migrants and refugees are being incarcerated so that prisons are overcrowded in Mexico and numbers imprisoned have increased in the United States and, to a lesser extent, in Canada. There is a huge impact on the right to family life of non-citizens. Husbands are separated from wives and parents from children. This happens in a variety of ways. For example, there is the practical difficulty of a spouse getting a permit to cross a border or the practical difficulty of visiting a spouse or parent in an isolated US detention facility. If spouses or children try to visit without the approved documents there is a risk if apprehended of deportation with bar of future visits.

It seems more forced returns of migrants and refugee claimants are the priority in all three countries. Incidents of abusive treatment occur in all three countries. In Mexico, any non-Mexican found in border shelters for migrants by the Mexican authorities will be taken for detention and/or deportation. This deserves more investigation because Mexico has in theory a law for granting asylum.

Migrants who have lived all their lives in a country are being deported by all three countries. Migrants who arrived as children and who have been made into criminals in their country of residence are returned as young men to countries which they have hardly known and which are far less equipped to deal with young criminals. Measures in all three countries have the effect of limiting access of migrants and their children to health care, education and social assistance.

Church workers attribute the current migration from Mexico to wage levels which no longer allow families to subsist with dignity. Increasing numbers of poor people have lost faith that political and economic changes will occur to allow them to better themselves and their families by education and hard work. In all three countries, churches, struggling themselves, have been forced to mitigate the human misery by providing shelters, food,

counselling and advocacy for homeless people, migrants, refugees and for those forcibly returned.

There is a link between the growth of migration and economic restructuring. Restructuring seems to be widening the gap between rich and poor countries and between rich and poor people within countries. The impact of restructuring has fallen disproportionately on the poor in all countries, and has been the most dramatic in Mexico among the NAFTA countries.

## SUGGESTED GOVERNMENT MEASURES

There are some measures which could be taken to address the situation:

1. Replacing migration controls with measures which provide migrants with wages on which to subsist and with the possibility of improving the situation of their families in their country of origin. This would be helped by joint efforts of governments in the region to:
  - improve workers' rights
  - renew and ensure the independence of trade unions
  - revitalize participatory democracy at the local level so that more people can affect decisions governing their life and work
  - reduce disparities between rich and poor
2. Adopting (ratifying) the Convention on the Protection of All Migrant Workers and Their Families which would provide a basis for family reunion and ensure some basic rights for all migrant workers.
3. Ending the use of the military for border control of forced migration as an unreasonable and disproportionate response.
4. Establishing clear common guidelines and better legal safeguards for detention and deportation of migrants based on regional human rights standards.
5. Expanding and improving training on human rights for enforcement officials in all countries by an independent authority drawing on human rights standards of the region.

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## REFUGEE UPDATE

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