

REFUGEE UPDATE

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FAITH, CIVIL DISOBEDIENCE AND SANCTUARY BY LORAIN MACKENZIE SHEPHERD

Editors note: This article is taken from a workshop on Sanctuary and Civil Disobedience at the Canadian Council for Refugees Consultation, November 21, 2003 in Winnipeg.

"Let every person be subject to the governing authorities; for there is no authority except from God, and those authorities that exist have been instituted by God. Therefore whoever resists authority resists what God has appointed, and those who resist will incur judgement"

(Christian Bible: Romans 13:1-2).

Canadians are known to be upholders of the law and of order. But what if the law seems unjust and appears to run against the laws of God?

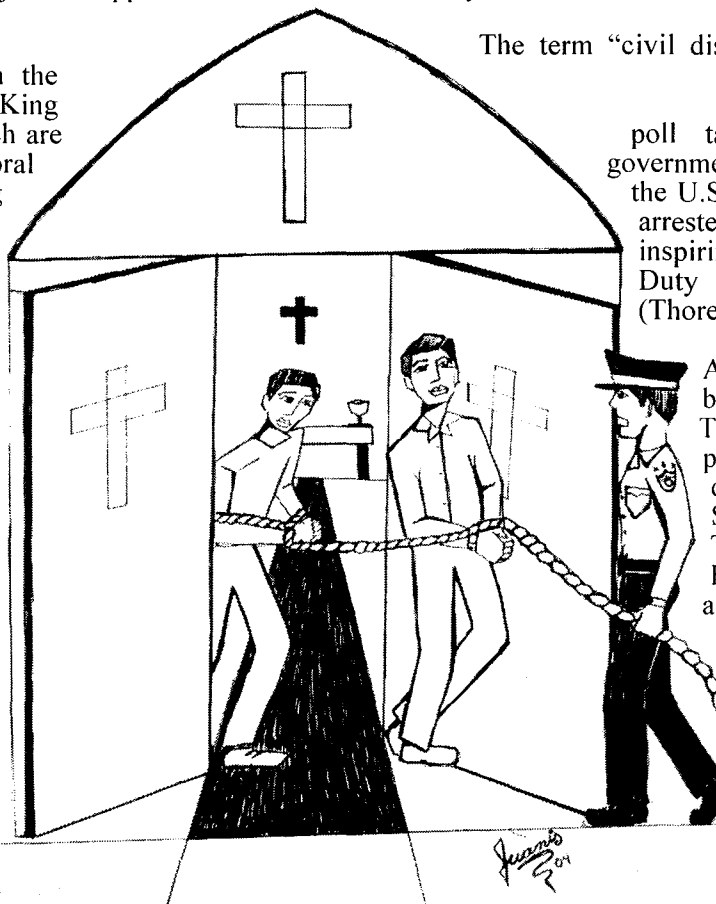
In the civil rights movement in the United States, Martin Luther King defined unjust laws as those which are out of harmony with the higher moral law or the law of God (King "Letter" 121). The laws of the Nazi Germany are an obvious example of unjust laws. The Nuremberg War Crimes Trials found Nazi leaders guilty for obeying the laws of the land because they should have recognized the inherent evil in them and should have disobeyed them by following a higher sense of morality (Redekop 3-4).

What do we do when our own civil laws allow legitimate refugees to be sent back to probable torture or death in their country of origin? Our first steps need to be challenges of these laws through petitions, letters, hearings, lobbying, litigation, etc. Only after all possible avenues for legal challenges have been

exhausted should we consider civil disobedience and sanctuary.

The term "civil disobedience" was coined by Henry David Thoreau who refused to pay his annual poll tax, in 1846, to protest government sanction of slavery and of the U.S. war with Mexico. He was arrested and imprisoned overnight, inspiring his 1849 essay: "On the Duty of Civil Disobedience." (Thoreau 292-3, 296).

Acts of civil disobedience go back further in history than Thoreau. There are many precedents of civil disobedience in the Hebrew Scriptures and the 2nd Testament of the Christian Bible. The Hebrew slaves in ancient Egypt refused to follow Egyptian laws. The apostle Paul seemed to make his second home in prison as he continually defied local laws. The gospels record Jesus breaking one law after another.



There are precedents of civil disobedience within other faith traditions. Twentieth century Tibetan monks grounded their protests in their Buddhist faith. North American First Nations blockades were strengthened by their Traditional teachings. Mahatma Gandhi's civil disobedience in India was based in part upon his Hindu

faith.

If we are considering civil disobedience through sanctuary we might consider the following notes of caution and spiritual preparation which have been gleaned from those who have engaged in civil disobedience.

Notes of Caution

1. *Don't act as an individual or as an isolated faith community. Our conscience is partially shaped by our prejudices & biases and we can be mistaken. We need the wisdom of others in the passions of the moment. It is particularly dangerous to give divine justification for our actions while viewing any critique as a challenge of God's will.*

2. *Don't focus solely on civil disobedience. This should only be a last resort while we continue to work with other legal avenues of protest.*

3. *Don't practice civil disobedience for fame or attention. We need to honestly reflect on our motivations. Why are we doing this? For whose sake are we doing this? What could we or those most at risk gain or lose?*

Spiritual Preparation

1. Take time for discernment. Nurture a humble, prayerful & loving spirit through communal worship and support, meditation, study, and prayer. Rooted in spiritual discernment, civil disobedience becomes a sacred and holy act, a sign & cause of God's transformative presence. It becomes a "sacrament of civil disobedience" (Dear).

2. Carefully assess, plan and prepare. If your faith community receives a request for sanctuary, it is crucial for the refugee claimant that you carefully assess the situation, and ascertain that all legal options have been fully explored and will continue to be sought. The faith community's full knowledge, prayerful consideration and consent is essential. Practical considerations of the building and space also need to be made.

3. Be clear about objectives. Be reasonable and specific. How much time, energy and resources are you willing to commit? Is the purpose of sanctuary only related to your specific case, or is it intended to have further reaching effects? What are the specific objectives of those most at risk? How do these differ? How will you decide to end the action of civil disobedience?

4. Be public. Civil disobedience intentionally challenges laws in a public manner to highlight the injustice of the laws. Its intent is not to quietly slip around laws. Don't cover up, but don't seek undue publicity. It is usually helpful to communicate to media and officials ahead of time.

5. Behave in a respectful, non-violent manner. Non-violence extends to the tongue and the heart. We need to be rooted primarily in love, not in anger or fear, or we may perpetuate violence. Martin Luther King emphasized the importance of befriending, not belittling, the opponent through unconditional love. The end goal for him was reconciliation and the creation of the beloved community

(King "Pilgrimage" 113). Gandhi preached the doctrine of *ahimsa* to encourage his followers not to offend anyone nor to harbour any uncharitable thought. There was no room for enemies in Gandhi's philosophy (Gandhi 1929: 138).

6. Be firm and persistent in what you understand to be the truth. Gandhi used the phrase *satyagraha* to mean force which is born of truth, love and non-violence (Gandhi 1928: 65-66).

7. Accept the consequences of civil disobedience, such as arrest, fines or imprisonment, with grace. King and Gandhi both point out that voluntary suffering may be the most powerful and effective force to transform unjust laws and systems of oppression (King "Pilgrimage" 114).

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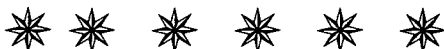
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LE RECOURS À L'ASILE RELIGIEUX PAR ÉLISABETH GARANT

Summary in English

Last March 5, the violation of a sanctuary to arrest and deport an asylum seeker generated a sense of indignation. In Quebec, six churches of various Christian denominations have accepted to be a place of sanctuary. An inter-confessional coalition in support of sanctuary was created in July, 2003. Last October, the coalition organized a demonstration on Parliament Hill, as well as a press conference and a delegation that met representatives of various political parties.

Each case merits individual attention. They all have 3 points in common: 1) Partiality of certain decisions rendered by the IRB; 2) Absence of an effective appeal on the merit to correct errors and 3) Restrictive effect caused by security concerns on decisions regarding protection. The case of Mohamed Cherfi illustrates that security concerns related to social militancy are sometimes considered more heavily than a just analysis of protection needs.

Centre Justice et Foi promotes social analysis and dialogue inspired by Christian faith in view of social change.

Le Centre Justice et Foi est un lieu d'analyse sociale et de concertation inspiré par la foi chrétienne en vue de la transformation de la réalité sociale.

Version abrégée du texte qui a été publiée dans la Revue Vivre Ensemble (Vol. 12, No 41)

La violation du sanctuaire de l'Église St-Pierre à Québec le 5 mars 2004, pour arrêter puis déporter un demandeur d'asile, a suscité une forte réaction d'indignation au sein de la population. Différents milieux et différentes organisations, laïques tout aussi bien que religieuses, ont dénoncé cet abus de pouvoir des forces policières et des agents d'immigration qui ont ainsi rompu la tradition du recours à la protection des sanctuaires établie et respectée jusqu'alors. Plusieurs ont aussi rappelé l'importance qu'ont ces espaces sacrés pour assurer la défense des plus vulnérables contre un système générateur d'injustices mais aussi pour affirmer les valeurs fondamentales des sociétés québécoise et canadienne.

Depuis l'été dernier, au moins huit églises ont accepté d'accorder le refuge à des demandeurs d'asile qui étaient menacés de déportation et qui avaient épuisé tous les recours possibles pour faire reconnaître leurs besoins de protection. Ces sanctuaires se retrouvent dans différents lieux au Canada : Halifax, Québec, North Hatley, Montréal (3 lieux), Ottawa et Winnipeg. Les communautés de foi appartiennent aussi à différentes dénominations chrétiennes : l'Église Unie du Canada (3), l'Église Unitarienne (2), l'Église catholique (2) et l'Église anglicane (1).

Certaines situations ont connu un dénouement heureux. Par exemple, les revendicateurs colombiens réfugiés à North Hatley ont pu bénéficier d'une entente avec le gouvernement du Québec. Mais pour plusieurs autres, l'attente se prolonge dans des conditions précaires et dans l'impossibilité de pouvoir quitter le sanctuaire. Comme c'est d'ailleurs le cas de la famille colombienne Vega, réfugiée dans la paroisse St-Andrew Norwood (Église Unie) à Ville St-Laurent, qui a franchi le cap des 250 jours de réclusion le 22 mars dernier.

Une Coalition interconfessionnelle pour l'asile religieux s'est donc constituée à Montréal en juillet 2003 afin de regrouper les personnes impliquées dans les sanctuaires en cours mais aussi des organismes intervenant au niveau des enjeux d'immigration et de la défense des personnes réfugiées. Elle visait d'abord à favoriser un partage d'informations, d'expériences et de démarches entre les lieux de sanctuaires. La Coalition voulait ensuite mener des actions collectives afin de dénoncer ensemble les problèmes du système de protection des réfugiés au Canada qui engendrent des décisions erronées et mettent en danger la vie d'un nombre significatif de demandeurs d'asile.

C'est ainsi que la Coalition a organisé en octobre dernier une manifestation sur la Colline parlementaire à Ottawa, une conférence de presse ainsi qu'une délégation composée de représentants des diverses confessions religieuses pour rencontrer les différents partis de la Chambre des communes. Ce fut l'occasion de présenter les situations des personnes en sanctuaires mais d'interpeller aussi l'institution sur les failles du système que ces cas révélaient.

Les revendications liées à l'occupation des sanctuaires

Au-delà de la protection que les lieux de culte offrent aux personnes qui y trouvent refuge, il y a aussi des rôles d'éveil des consciences et de contestation de l'ordre établi injuste qui se réalisent par le recours au sanctuaire. Le vécu des personnes qui ont trouvé asile dans des églises depuis l'été dernier a démontré qu'il y avait des raisons sérieuses de craindre pour leur vie si elles devaient être retournées dans leur pays d'origine. Elles ont aussi montré qu'elles avaient tout essayé pour faire renverser le verdict de non reconnaissance de leurs besoins de protection par le Canada sans obtenir aucun succès.

Leurs histoires individuelles méritent que des communautés de foi et des réseaux de solidarité se mobilisent pour obtenir des changements au niveau des décisions administratives et politiques qui ont été prises par le système d'immigration. Mais au-delà des solutions ponctuelles du cas par cas, il est important de voir les enjeux similaires que soulèvent l'ensemble des demandes de protection acceptées par les Églises. On constate que trois carences majeures du système d'immigration et de l'application de la loi peuvent être identifiées pour l'ensemble des demandes de protection : La partialité de certaines décisions rendues par la CISR, l'absence d'un droit d'appel effectif pour corriger les erreurs qui sont faites, l'effet restrictif des

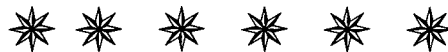
enjeux de sécurité sur les décisions de protection rendues.

La loi d'immigration adoptée en 2002 a entraîné une réduction du nombre de commissaires réalisant l'audition des demandes pour la reconnaissance du statut de réfugié. D'un panel de deux commissaires, parfois même de trois avec la loi précédente, un seul commissaire a actuellement la responsabilité de déterminer si la protection demandée par le réfugié repose sur des craintes fondées. Il n'est donc pas tout à fait étonnant que l'on rencontre davantage de décisions erronées, arbitraires ou biaisées par les préjugés que peut avoir le décideur.

La nouvelle loi d'immigration avait pourtant prévu une façon de palier à cette réduction du nombre de commissaires en introduisant une véritable procédure d'appel à la Commission de l'immigration. Pourtant, les ministres fédéraux de l'immigration qui se sont succédés n'ont pas voulu mettre en œuvre cet article de loi pourtant adopté par le parlement. Les erreurs qui surviennent dans les décisions rendues ont donc des recours très limités pour obtenir le renversement d'une décision. Que ce soit dans un recours à la cour fédérale ou dans un examen des risques avant renvoi (ERAR), les chances de réussite sont extrêmement faibles.

Le contexte actuel qui met l'accent sur les enjeux de sécurité nationale intervient aussi dans les décisions biaisées qui peuvent être rendues à différentes étapes du processus. Les craintes qui existent par rapport à certains pays d'origine ou les risques à la sécurité que l'on attribue à l'action des militants sociaux prennent parfois le dessus sur une analyse juste des besoins de protection exprimés par le demandeur. Le cas de Mohamed Cherfi, qui s'était réfugié dans le sanctuaire de St-Pierre à Québec en est une éloquente illustration.

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REFUGEES OVER A BARREL

BY DAVID MATAS

*Editor's note: **Pork barrelling** is the process by which democratic governments buy votes by subsidizing special interest groups.*

The Government has announced a change in the system of selecting appointments to the Immigration and Refugee Board, claiming that pork barrelling would now end. A press release dated March 16, 2004 from the Government stated:

"Judy Sgro, Minister of Citizenship and

Immigration, today announced changes to the appointment process for the Immigration and Refugee Board to eliminate political patronage".

The announcement was startling, not so much because of the changes in the selection procedure that were announced;

these changes are relatively modest. What was jaw dropping was rather the Government's admission that patronage had been the order of the day.

I would have liked to have been able to say: "Who knew that there was political patronage?" But, everyone knew. It was apparent to anyone dealing with the Board that, wedged in amongst hard working, conscientious, experienced Board members were pigs feeding at the trough.

If all that patronage appointees were doing was snoozing their way through work and pocketing their pay, the result would have been bad enough. But it was far worse.

Before their appointments to the Board, patronage appointees by and large had no contact with the refugee experience. The tales of woe refugees bring to Canada are so at variance with the blinkered experience of the typical patronage appointee that these tales are met with disbelief.

Patronage appointees tend to believe that refugees make up their heartbreaking stories in order to sneak their way into Canada. The reason refugees do this, in the eyes of these sceptical hacks, is to earn more money than they could back home.

This base monetary motivation is one that patronage appointee Board members well understand and assume is pervasive. Patronage appointee Board members project their own greed, their own instinct to rush to the trough on to the claimants in front of them.

The worst patronage appointees though, have not been the lazy ones or even the ones that assumed everyone was lying for money. The worst have been the righteous, those who decided that their patronage appointments had a purpose other than satisfying their own clamour for office.

These few truly mischievous appointees concluded that their appointments gave them a political mandate, helping the party in power which had appointed them. What this self appointed political mandate almost invariably meant was saying no to as many refugees as possible.

Self arrogating patronage appointees resolved to assuage public xenophobia they saw impacting adversely on the Government that had bestowed on them its favours. These appointees were determined to do their part to help the Government that had helped them by giving the heave ho to as many refugee claimants as possible. The most negative Board members have also been the most political.

All this was bad enough when the Board sat with two member panels. The various chairs of the Board have been well aware of the dilemma the Government presented to the Board with its pork appointments. The staff of the Board has developed the most elaborate, detailed training materials imaginable to attempt to counter the bottomless ignorance of its patronage appointments. It would have been easier to teach a rhinoceros to dance ballet.

As well, for the hearing of claims, chairs, vice chairs and coordinating members have paired the worst of the

patronage appointees with rational, experienced Board members. That way, since one vote in favour of a claimant was enough for refugee recognition, the worst patronage appointee could do little harm.

All that changed in 2002 when Parliament decided to reduce refugee panels from two members to one and when the Government decided not to implement the appeal from negative refugee decisions that Parliament had legislated. At this point, the negative decision of one patronage appointee Board member carried the day, without appeal. At this point, there was no stopping the rampaging of the swine. The stench became insufferable. The Board was fast sinking under the weight of the pork barrels that had been thrown on top of it.

All the same, we would have to be naive to think that, on its own, this insufferable state of affairs would have led the Government to do anything. The plight of refugees, regrettably, does not register with high enough definition on the Government radar screen. There were other factors at play.

There is a new Prime Minister who has proclaimed that he would do things differently. In the face of that proclamation, there was the sponsorship scandal contradicting this promise of difference, dragging the Government down. The Government needed something, anything to show that it was cleaning up its act. Reform of the Board appointment process was a vehicle ready at hand.

The announcement of Minister Judy Sgro is the result. Will it make a difference?

A number of commentators have pointed out that the change in the appointment system is not that radical. The new system does not look that different from the old. The levers in the appointment process which allowed the Government to subvert the Board in the past still exist.

My own view is more sanguine. Corruption and competence are not just a matter of rules and procedures. They are a culture. The Government was steeped in a culture of Board patronage. Both those who wanted to give a pay off and those who wanted to receive one targeted the Board. The announcement of Minister Judy Sgro is a statement this targeting is over.

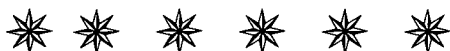
More important to effecting change at the Board than the fiddling with the appointments process is the admission that there was patronage. That is an admission that would never have been made if patronage were continuing.

Patronage is a sin that dares not speak its name. No government promises or defends patronage. Patronage is always something that the others did, the predecessors, not something the government is now doing. The very fact that this Government has named patronage as a practice in which it has been engaged is significant, indeed, stunning. The emperor has publicly admitted he had no clothes. From this pronouncement, there is no going back. From this point on, we can expect the emperor to put on at least a pair of pants.

There can no longer be business as usual once the Government has applied the "P" word to itself. The Government's self indictment of its past practices is more a guarantee of their termination than any specific procedure put in place to change them. The culture of pork is ending.

Refugees can only be thankful.

David Matas is a former president of the Canadian Council for Refugees. He is a lawyer in private practice in Winnipeg, Manitoba.



AN ARGUMENT FOR GENDER POLICIES IN COMMUNITY ORGANIZATIONS

BY TRISH TAFT

"Contemporary gender systems are often designed by ideologues and inscribed in law, justified by custom and enforced by policy, sustained by processes of socialization and reinforced through distinct institutions"

(Moghadam 1994:16)

All newcomers to Canada bring a wealth of unique experiences, some of which are quite different from role expectations and behavioural customs of many Canadians. They are then faced with the difficult process of adapting to new structural and systemic conventions after arrival. Although different in these ways, new immigrants undertake journeys that are affected by the same social determinants for health and well being faced by others in society experiencing barriers to inclusion and equity. To secure equal rights on any number of diversity variables, it is necessary to review and evaluate existing policies and practices. A "gender-equality analysis" ensures that although advantages and disadvantages may accrue differently because one is socially designated as man or woman, the sum benefit for each is seen to be equal to that of the other (Morris 2004).

Differentials in accessing power are faced by newcomer men and women although they take different forms. The challenges to adjusting to Canadian life are great. Canadian population health statistics show that there are already barriers to inclusivity faced by those on lower incomes, sole parents, young mothers, the disabled and those on social assistance. Since the mid 1990s, a gradual erosion of unemployment supports, childcare, social supports, affordable housing and a reduction of income transfers have driven the wedge deeper between those who earn in the top percentile and those on low income. The effects on men and women are further differentiated across class, ethnicity, religion and age. Immigrants and refugees face these inequitable demographic structures within an environment inadequately equipped to redress them. When immigrants join already marginalized or disadvantaged social groups and communities, the discriminatory

effects are exacerbated for all. The social dangers to not addressing social differences grounded in gendered systems of power and value are great.

The community organization offers a crucial interface to evaluate the relationship between national immigration policies and local-level mandates to facilitate short-term settlement. Many organizations that provide federally and provincially funded services today were established to respond to needs identified by government policies created in the 1980s. In 2004, organizations find themselves caught in the gap between their community mandates and the general inadequacy of settlement resources. Funding mandates no longer match community mandates. Government settlement contracts do not incorporate in their planning the effects of structural or systemic barriers faced by particular social groups and do not therefore provide the means by which to mediate those barriers (i.e. settlement services do not include community development, advocacy or education). Not only do we need policies to redress existing inequities, we need to understand the growing barriers and the changing needs as phases of immigration modify our communities. It is not possible to achieve maximum benefits from available settlement, language and employment programs without addressing gender differences, in interaction with other structural inequities, within the local community.

Gender issues as they pertain to women cannot be seen as subordinate or secondary in an approach that considers power differences in relation to existing community challenges. Women and children make up the largest proportion of the poor in Canada. Women and children make up the largest proportion of refugees and displaced persons around the world. Many

immigrant women and children come from situations of disparity and inequality within which their lives have already been disadvantaged. On their behalf, community organizations must look at the relationship between empowerment equality and equity when discussing needs and issues with funding bodies and in allocating resources to short-term settlement services. Gender mainstreaming across the social service sector will provide a stronger foundation for equitable communities, particularly when seen in conjunction with other aspects of diversity such as race, age, disability and sexual orientation.

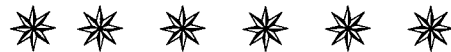
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URBAN REFUGEES IN CAIRO

BY ALISTAIR BOULTON

Disclaimer: Please note that the views expressed reflect those of the writer and not necessarily UNHCR

The urban refugee experience is more variable than any general description can provide but it can certainly be differentiated from the experience of refugees in camps. Refugees in urban areas will generally have been through an individual rather than a prima facie determination process. In all likelihood this has resulted in a vastly more legalistic process than camp refugees will have known. It likely too has resulted in communities divided by the results of that individual determination, whether necessarily or artificially is a matter of debate.

Responsible themselves generally for finding somewhere to live and getting about, they face transportation and all other livelihood expenses which camp-based refugees do not. An important corollary of course, from the service provider point of view, is the difficulty in getting and remaining in contact, never a problem with the captive community of a camp.

Urban refugees, unless confined to a ghetto, a situation of which I am unaware, are also distinguished from camp refugees in that they interact with local, indigenous populations. They may in consequence be

subject to discrimination and harassment by both the local population and local law enforcement in a way that simply never arises with camp-based populations, notwithstanding the sometimes significant inter-ethnic or other violence in camps.

In short, urban refugees are freer than those in camps but, as long ago observed, this may only be the freedom to sleep under bridges and starve. Egypt is perhaps fairly representative of the "urban refugee experience", however imperfectly defined.

Egypt

Egypt hosts approximately 20,000 recognized refugees. There are at least an equal number of displaced persons, predominantly Sudanese. These figures take no account of approximately 70,000 Palestinians most of whom would qualify for ipso facto recognition as refugees under the second clause of article 1D of the 1951 Convention. Nor, obviously, do they include a million or more spontaneously settled Sudanese (i.e. persons resident in Egypt who never approached UNHCR for

recognition).

While Egypt is a signatory to both the 1951 (Geneva Refugee) Convention and the 1969 OAU (Organization of African Unity) Convention, the registration, protection and assistance of refugees falls exclusively to UNHCR by virtue of an unmodified 1954 agreement between UNHCR and the Egyptian government. The agreement calls upon UNHCR to assist and as far as possible resettle refugees in Egypt.

Since the late 1990's, between 2,000 and 4,000 refugees have been resettled out of Egypt annually, primarily to the United States, Canada and Australia, though Finland has also conducted selection missions and accepted approximately 150 persons per year for the last two years.

While some refugees have integrated relatively well and run enterprises or have jobs allowing them to earn a decent living, the majority have not. With limited resources at its disposal, UNHCR's implementing partner has had to grow increasingly restrictive in terms of those qualifying for "care and maintenance" grants. Currently, only families and refugees with vulnerabilities qualify for more than one-off assistance. Even those receiving ongoing monthly assistance, according to a study done by UNHCR in 2003, receive an amount equal to approximately 30% of their subsistence needs. The balance is already provided through refugees' own efforts, something to be borne in mind by any agency, including UNHCR, promoting the concept of "self-reliance."

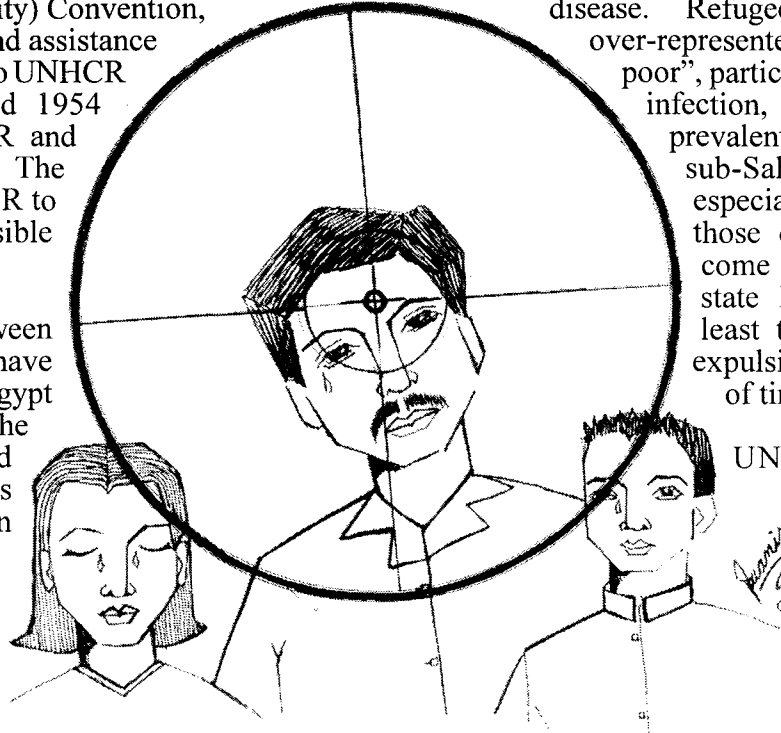
As with refugees --or people-- everywhere, the principal material concerns are housing, health, education and work.

Housing

Unfavourable differential treatment of refugees in Egypt is especially conspicuous in housing. It is not deliberate state policy or formal discrimination which presents the challenge but a generalized practice of charging foreigners higher rents. Refugees are simply, generally, foreigners without money. They cannot access the owned or rent-frozen apartments Egyptians can. To compensate, refugees tend to share accommodation, most often in un- or under-serviced areas of a city already numbering 20 million. It is not uncommon to have six or seven persons sharing a room.

Health

Overcrowding, in poor conditions, dramatically increases the incidence of serious, preventable disease. Refugees are thus predictably over-represented in the "diseases of the poor", particularly tuberculosis. HIV infection, while nothing like as prevalent as in many camps in sub-Saharan Africa, is an especially invidious problem as those diagnosed with it who come to the attention of the state have hitherto been, at least theoretically, subject to expulsion within a short period of time.



UNHCR has recently embraced a plan to decentralize health services in an effort to improve access. An operational partner has recently created a clinic in a particularly deprived part of Cairo which will serve not

only the refugees but also their host community. This is an enormously important initiative both in terms of its specific goal of promoting better health and in evidencing the type of project capable of bridging the traditional gap between refugee and development programming.

Education

Egypt did reserve on article 22(1) of the 1951 Convention imposing the obligation to provide primary education. The right is affirmed without discrimination based on nationality in other instruments Egypt has signed, including the 1989 Convention on the Rights of the Child. In any event, Egypt effectively overrode its reservation through a Presidential decree in 2002.

The problem of education for refugee children, not to mention adolescents and adults (many of whom have had no formal education) is not a legal one. It is largely a question of resources, places and fees providing the principal barriers. At present, most refugee children do go to school, supported by grants provided by UNHCR, but the schools are run by NGOs active in the support of refugees, frequently church-based. The Egyptian authorities do not necessarily recognize the curricula followed. Secondary and post-secondary places are scarce though local universities supported by donor funding provide a few scholarships.

Work

The majority of adult refugees in Egypt are employed. Contrary to a common perception that Egypt reserved on the entitlement to work in the 1951 Convention, it did not. It simply has not gone the rest of the way, distinguishing refugees from other foreigners and facilitating legal employment through the issuance of work permits. It has, however, ceased to stamp "work prohibited" on refugees' residence permits. Accordingly, refugees tend to work in the informal economy and for the most part this work is tolerated by the authorities.

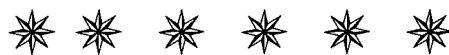
The economic sector providing most work to refugees is domestic service. Because such work is traditionally undertaken disproportionately by women and since employers in Egypt continue to reflect this bias, women refugees generally speaking, do better than men finding work. Men tend to work in casual labour activities such as construction. A number of NGOs already run successful vocational training and job placement programs. UNHCR is expanding its own and supporting refugee community efforts in the area, including, potentially, micro loans to small businesses.

There has been an understandable though unfortunate reluctance on the part of some refugees to access

vocational training or employment opportunities owing to the belief this renders them less attractive for resettlement places. For Sudanese refugees, who constitute 75% of the refugees in Egypt, the prospect of at least formal peace in significant portions of Sudan makes it likely that resettlement as a solution will be promoted less often. Recent focus groups conducted with Sudanese refugees, however, indicated considerable skepticism about the peace process. Even with diminished levels of resettlement therefore there may not be significant numbers of refugees repatriating from Egypt in the near term. There is accordingly a heightened need to ensure vocational training and employment opportunities are expanded while people make up their minds about returning.

If the Sudanese are typical of the broader refugee population, and I suggest they are, things are tough in Egypt but not so bad as in a camp. Only one individual, to my knowledge, has suggested that Egypt ought to build camps. The others await the better solutions: return, remain but with greater assistance, or resettlement.

Alistair Boulton is a UNHCR Resettlement Officer working in Cairo



CCR DECRIES SECURITY POLICY'S IMPACT ON REFUGEES

28 April 2004

Montreal. The Canadian Council for Refugees today reacted with outrage at the federal government's treatment of refugees in the new National Security Policy.

"Portraying refugees as a threat to our security is completely unjustified," said Nick Summers, President. "The government is reacting in a cowardly manner to pressures from the US by scapegoating refugees, who are among the world's most vulnerable people. Refugees are not a threat to our security: they are people whose own security is threatened and who are asking us for protection."

The National Security Policy boasts about the activities abroad of Canadian interdiction officers (known euphemistically as "migration integrity officers") who prevent passengers without the proper documents from travelling to Canada. This implies that these people represent a security threat. In fact, most of them are asylum seekers who have no choice but to use improper documents in their attempt to flee persecution. Having been interdicted by Canada, they have no guarantee of protection elsewhere and may be forced back to persecution in their home country. Despite repeated calls by the CCR and other organizations, Canada has continuously refused to take any responsibility for the fate of the people who these "migration integrity officers" turn away.

The Policy also states that the government is developing strategies to reform the refugee determination system. "Refugee reform does not belong under the heading of national security," said Summers. "As long as security is motivating the reform and the Government uses refugees as scapegoats, the rights of refugees will inevitably take a back seat. The result will be that refugees are hurt and Canada will end up violating its international obligations towards those people rightfully seeking asylum among us. Canada has a refugee determination system that is admired and copied by other countries around

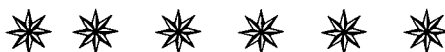
the world. The system is not perfect and could be improved but it should not be sacrificed by the Canadian Government to appease the U.S.”

The current refugee determination system already provides the government with a full set of tools to deal with any refugee claimants who represent a security threat. These were needed with only a minuscule number of claimants. In 2003, over 30,000 claims were made but only one claimant was found ineligible based on the very broad security inadmissibility criteria. It is most unlikely that any sophisticated terrorist would choose to enter Canada as a refugee claimant because of all the screening that they have to go through (fingerprinting, photographing, interviewing).

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Nick Summers, President (709) 753-7860 (ext. 333) or (709) 682-9329

Janet Dench, Executive Director (514) 277-7223 (ext. 2)



TRAFFICKING IN WOMEN AND GIRLS:

A REPORT OF THE CCR'S PROJECT

BY AFSANEH HOJABRI

Starting March 2003, the Canadian Council for Refugees launched a project on “Trafficking in Women and Girls”, with the goal of developing the capacity among Canadian NGOs, including refugee-serving NGOs, to respond appropriately to the needs of trafficked persons in Canada, and to work towards the eradication of forced labour in Canada.

The main activity of the project has been the



organization of regional and national meetings. The project also set up a web page in order to provide background information about various aspects of trafficking issues and list relevant resources and links. Significant work went into the creation of this website with a view to providing a balanced presentation of the

basic issues (see below for the location of this and other informative material).

In Fall 2003, ten regional meetings were held, followed by a national meeting on November 19th, 2003 in Winnipeg, with the participation of 74 representatives from various sectors (refugee and immigrant serving organizations, women's groups, government and inter-government, lawyers, academics, etc.) from across Canada¹.

Participants at the meetings were confronted with a disturbing picture of the situation of displaced and migrating persons. Restrictive immigration policies prevent many from ever acquiring “status” in the country of destination. Meanwhile, women, children and people of colour are particularly vulnerable and targets for exploitation.

Our meetings raised and grappled with many questions surrounding trafficking issues, including:

- ▶ the conditions which trigger international migration;
- ▶ available labour options for migrants;
- ▶ elements making undocumented persons vulnerable;
- ▶ effects of government policies and enforcement practices on migrants.

While we did not reach conclusive answers to these and other questions, it was clear that we need to go beyond framing trafficking in persons as a criminal

¹. Regional meetings were held in Halifax, Saint John, Montreal, Ottawa, Toronto, London, Windsor, Winnipeg, Edmonton, and Vancouver.

activity and developing enforcement-type responses, which has been the pattern to date. The participants also indicated an urgent need to put forth recommendations and further pursue the discussion.

RECOMMENDATIONS:

A set of recommendations came out of the national meeting with a consensus that they should all be guided by the following principles. Any recommendation should be:

- ✓ non-punitive;
- ✓ respectful of human rights and economic rights of trafficked persons;
- ✓ provide supportive services;
- ✓ be guided by gender and race analysis of the issues; and
- ✓ inclusive of trafficked persons.

The recommendations coming out of the national meeting can be categorized under the following overlapping, non-prioritized, different areas:

A. Protection

1. Protection of trafficked persons, including policy recommendations to shift the focus away from criminalizing traffickers to protecting the trafficked.
2. Measures to allow trafficked persons to regularize their status in Canada.
3. Immediate measures, such as access to the Interim Federal Health Program, a work permit and settlement services.
4. Long term protection, protection of rights irrespective of status in Canada.
5. Provision of separated children with a guardian within Canada; and
6. Amendment of exiting immigration programs to reduce vulnerabilities of temporary workers to exploitation.

B. Recommendations towards conducting more Research, Data Collection and Training on various aspects of trafficking.

C. Recommendations for maintaining, creating, and further developing of the Networking between and among NGOs, and other stakeholders (including private sectors, government), at local, national and international levels.

D. Recommendations for Awareness-Raising and

Advocacy. The awareness-raising should target the public and involve a cross-sectorial range of partners. It should also increase government attention to the issue of trafficking.

E. Recommendation to provide Funding for grassroots NGOs providing services.

FOLLOW-UP

Since the initiation of this project by the CCR, there has been a growing interest in the topic of trafficking in women, particularly on the part of the government. Meanwhile, the local meetings held in Fall 2003 generated great sensitivity towards the issue and indicated the participants desire and commitment to meet again once the report was available.

The CCR will be organizing follow-up meetings in several cities across Canada. The primary objective of the follow-up meetings is to move beyond formulation of the recommendations towards their implementation. Regional groups are expected to use the recommendations as a springboard for developing concrete and realistic actions to be taken locally. The follow-up meetings are being held from April-June 2004.

This project was funded by Status of Women Canada, Justice Canada, the CAW Social Justice Fund and the CEP Humanity Fund.

The CCR's web-page is located at www.trafficking.ca.

The Report of the national meeting is published in English and French and can be ordered from the CCR office at the address below. Electronic versions of the report can be accessed at the main web-page (www.trafficking.ca). The French report is available at <http://www.web.ca/%7Eccr/trafffr.html>

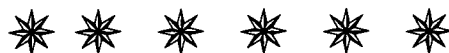
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VIDEO CONFERENCING REFUGEE STATUS HEARINGS IS UNCONSTITUTIONAL

BY RAOUL BOULAKIA

October 2003, the Immigration and Refugee Board announced that claimants in Toronto from certain countries would be heard in other cities. The claimants are then heard by video-conference. The refugee claimant sits with

his/her counsel in an empty hearing room in Toronto while the interpreter sits with the Board member and Refugee Protection Officer in a hearing room in a distant city.

Video Conference Hearings of Toronto Refugee Claimants

Calgary

Venezuelans and Nicaraguans

Montreal

Nigerians, Hungarians, Bulgarians, El Salvadorians, Kenyans, Peruvians, Guatemalans

Vancouver

Mexicans

The aim is to reduce the Board's backlog of cases in Toronto which has 70% of the Board's workload. The *Immigration and Refugee Protection Act* (IRPA) s.164 authorizes the Board to use it and the Board believes the Federal Court decision in the Gonzalez case of November 2002 as "approved of the hearing of refugee claims by videoconference".

A Board member must find "exceptional circumstances" to diverge from the policy and in practice the Board has rarely permitted transfers back to Toronto. The finding of exceptional circumstances is discretionary. Identical cases are not treated equally. For example, one of my clients who is a victim of domestic abuse from El Salvador is being allowed to have her case heard in person, but another similar client is not.

The basic question is whether the power to hold videoconference refugee status hearings is itself contrary to the Constitution B the Charter of Rights and Freedoms.

In Canadian criminal and civil trials, video can only be used where a witness is otherwise unavailable, or is too threatened to appear in person. No criminal trial hearings proceed by video. So the treatment of refugee hearings in this way in Canada is almost unique.

The 1985 *Singh v. Canada* judgment by the Supreme Court of Canada was about the right to a fair hearing for refugees. Before the *Singh* decision, a claimant testified in front of an Immigration officer who then sent the transcript and written submissions to a panel of the Refugee Status Advisory Committee. The Court ruled that refugee claimants were entitled to an oral hearing in which they could address and confront the Board members' doubts.

Is the use of video conferencing a reasonable limit on the right to a fair hearing? The argument of the government in *Singh* against the oral hearing was almost the same as the argument of the Board for videoconferencing. The government argued that it would place "an unreasonable burden on the Board's resources" to require an oral hearing in every case because the Board was already subjected to

the strain of the volume of cases to be heard. Justice Wilson responded: "The principles of natural justice and procedural fairness which have long been espoused by our courts, and the constitutional entrenchment of the principles of fundamental justice in s.7, implicitly recognize that a balance of administrative convenience doesn't override the need to adhere to these principles..."

The question becomes whether a video hearing process can satisfy the fair and "oral hearing" required by the Court in *Singh*.

The decision from the videoconference procedure and the use of the procedure cannot be appealed. Recourse is limited to judicial review by the Federal Court where the Court almost invariably accepts the Board's assessment of the credibility of the refugee claimant. The Court presumes the tribunal is expert and able to evaluate the claimant's demeanour. However there can be no serious assessment of demeanour by video. Demeanour has a big effect on an assessment of credibility and also on assessing the merits of the claim. A Board member's subjective impression of the claimant reinforces or undermines any sympathy for the claimant.

In the one case litigated in Canada, *Gonzales v. Canada (MCI)*, 2002, Mr. Justice MacKay of the Federal Court rejected the argument that hearing a refugee claimant by video conference is unfair. The case involved a claimant from Cuba who was heard from St. John's, Newfoundland, by Board members in Ottawa. Yet the decision is limited to the "circumstances in this case" and several of the strong arguments were not made. The claimant did not give evidence showing an adverse effect and did not refer to the important United States case law on the issue.

In fact, three American cases address the issue broadly and decisively. In *Rusu v. U.S. INS*, July 2002, the Court decided that credibility cannot be assessed by video-conference in a refugee proceeding: "video conferencing may render it difficult for a factfinder in adjudicative proceedings to make credibility determinations and to

gauge demeanor". Put simply, an Independent Judge's ability to judge a petitioner's credibility and demeanor plays a pivotal role in an asylum determination; an unfavorable credibility determination is likely to be fatal to such a claim.

In *Perez v. Department of the Navy*, June 2000, the court remanded the appeal for an in-person hearing because the case dealt with "serious questions of witness credibility going to the central disputed fact in the case and the administrative judge could have supported different credibility determinations if he had held the hearing in-person."

In *Vicente v. Department of the Army*, October, 2000, the court relied on *Perez*, to remand the appeal so that a portion of a hearing previously held by video-conference could be held in-person. This was necessary because there were "serious questions of witness credibility going to the central disputed facts in this case which the [administrative judge] might have resolved differently" at an in-person hearing.

The general principle that emerges from United States jurisprudence is that there should not be a video-conference hearing when credibility is an issue. Any case where credibility is stated to be an issue could not be processed by video-conference.

The effect of the video hearing goes deeper than one issue of credibility. The video hearing effects the claimant's level of comfort in presenting his or her case, effects the counsel's ability to interact with the Board member, and effects the Board member's level of empathy with or alienation from the claimant. Video-conferencing should never be used for a full hearing.

A study by Crépeau, Rousseau, Foxen and Houle published in the *Journal of Refugee Studies* found that refugee determination hearings present unique challenges for both refugee claimants and decision-makers. (*The complexity of determining refugeehood: a multidisciplinary analysis of the decision-making process of the Canadian Immigration and Refugee Board*, 15 JRS 1, 2001.)

The Board's policy treats all cultures as equally comfortable with video-hearing. The Crepeau study recognizes cultural variance as a major issue affecting how refugee claimants are able to present themselves, and how they are perceived.

The Study also found Traumatization to be a major factor

for claimants in self-presentation and level of comfort with the proceeding: "In most cases *awareness of the importance* leads the claimants to mobilize all their resources, so the influence of traumatic experience on their testimony will be more subtle". This is problematic for video hearings. First, subtle demeanour will be less likely to be picked up in a video conference. Second, the claimant is unlikely to adequately express discomfort, since they understand making a favourable impression on the decision-maker is crucial.

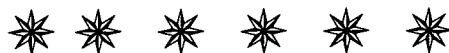
Requiring the claimant to proceed by speaking to a decision-maker watching the claimant by video and seen by the claimant in a television set can only compound the already-existent problems inherent in refugee determination.

Empathy with the claimant is a major factor in decision-making. Board members have tended to be more humane when dealing with a claimant in person. It can be easier to be inhumane to a person from whom one is distanced. The Crépeau report concluded that avoidance of empathizing with trauma is a major issue in Refugee Board hearings. The report found that avoidance takes "numerous forms: direct avoidance, denial and trivialization of extreme events." This can only be compounded when watching a person testify through the distancing of a television set.

The refugee determination system presents both claimants and Board members with exceptionally intense situations that are comparable with few other types of proceeding. A claimant's life can be at stake. The pressure on the claimant is intense. This is the more so when there has been an experience of trauma, or when there is a fear of traumatic persecution. The Board member has to deal with cross-cultural factors, difficult issues of demeanour that can ever explicitly or unconsciously affect outcomes, and the basic emotional demand of either empathizing with or distancing from the claimant. All of these factors are aggravated in a video-hearing.

Making a refugee describe their experiences by video falls squarely within the wider political trend of dehumanizing refugees. As such, it must be resisted. Refugees are people who deserve contact with fellow human beings who might then understand and empathize with their plight.

Raoul Boulakia is a refugee lawyer working in Toronto.



BOOK REVIEW

NEWS OVERBOARD

The Tabloid Media, Race Politics, and Islam.

By Iain Lygo

When the Tampa rescued 433 asylum seekers, Captain Rinnan's courage and compassion was celebrated though out

the world. In Australia, Rinnan and his container ship were portrayed as a threat to Australia's sovereignty. In Howard's Australia, asylum seekers are mandatorally detained; indefinitely in camps off-limits to the media.

This fundamental breach of human rights not only goes unquestioned by the tabloid media but is celebrated by the shock jocks and many ultra conservative columnists and editors.

News Overboard critically scrutinizes how the tabloid media also blew the "dog whistle" in 2001 and continues to blow it today.

News Overboard examines;

- ✓ How the government's lies during the Tampa 'crisis' were unquestioningly told to the Australian people by the tabloid media.
- ✓ How the tabloid media portrays Australia's detention centres as luxurious resort.
- ✓ How the tabloid press ignores criticism of our detention centres only to launch scathing attacks on those questioning mandatory and indefinite detention in isolated desert camps.
- ✓ How the tabloid media provides damage control about mandatory detention when the government does not have a leg to stand on.

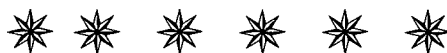
News Overboard exposes:

- ✓ How the Daily Telegraph hijacks right of replies leaving authors open to public humiliation.
- ✓ How Andrew Bolt claimed the Australian government is too generous in regards to refugee appeals using the case of Karim Tchoulyak as an example. This asylum seeker had already been sent back to his native Algeria (probably to his execution) before his appeal was even heard.

Comprehensive academic studies reveal 54% of Australians would be concerned if their relatives married a Muslim. The tabloid media and the conservative government has been instrumental in racism becoming mainstream in Australia. News Overboard examines how this situation came about in the new millennium.

For more information please contact newsverboard@yahoo.com.au

*Submitted by Ken Luckhardt
who is in the International Department of the CAW-Canada*



IRB STATISTICS

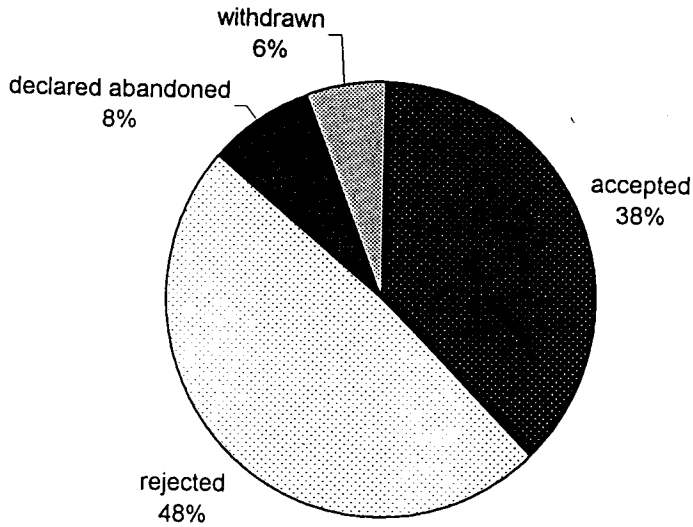
The acceptance rate for refugee claims continued to fall, with 38% of claims accepted from Jan. - Mar. 2004, compared to 42% in 2003 (itself down from 47% over the preceding several years).

From Jan. - March 2004, 6,597 claims were referred to the IRB and 12,117 claims were finalized.

At the end of March 2004, there were 36,558 claims pending. If the IRB maintains the same rate of finalization of decisions as it did in the past fiscal year, it will take just under 10 months to finalize all the pending claims.

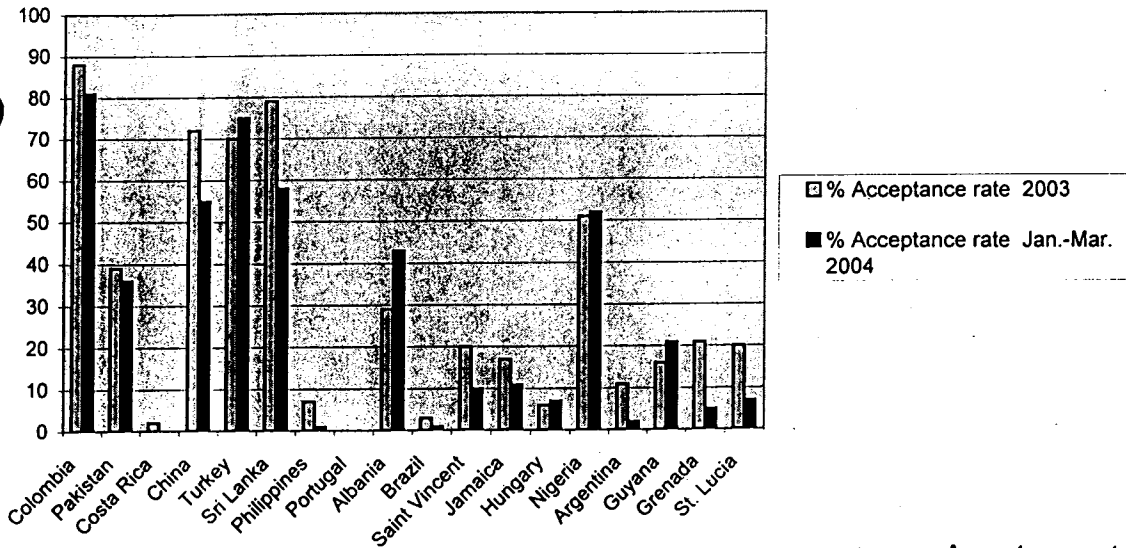
Rates for refugee claims

In the last fiscal year (April 2003 to March 2004), just under 20,000 claims were rejected and another 4,000 abandoned. (This means a lot of PRRA decisions.)

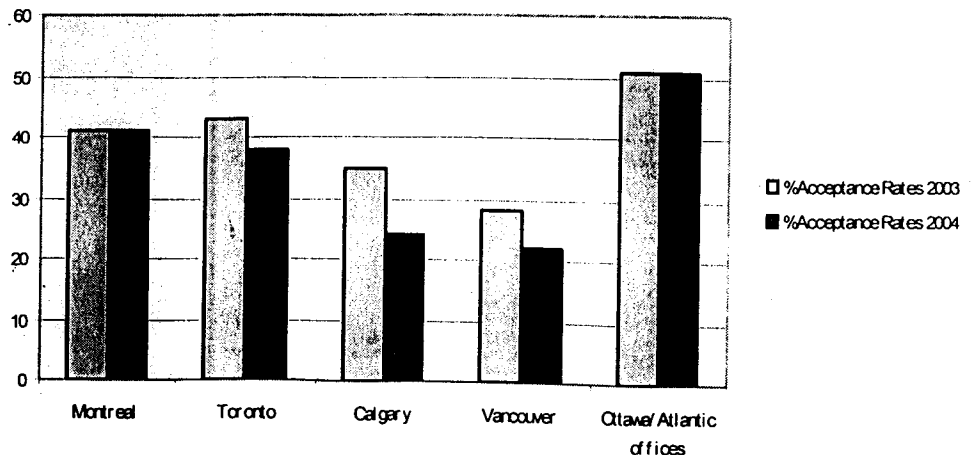


Since much of the decline in the acceptance rate can be attributed to Toronto, it is worth looking at the breakdown, for the Toronto office, by country of feared persecution.

Toronto: Top countries (by number of claims finalized)

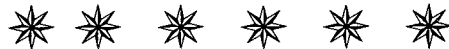


Acceptance rate for refugee claims





The new Toronto Immigration Holding Centre at 385 Rexdale Boulevard



REFUGEE UPDATE

FOUNDED BY JESUIT REFUGEE SERVICE - CANADA

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