

REFUGEE UPDATE

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AN OPEN SOCIETY AND THE APRIL 2004 FEDERAL GOVERNMENT SECURITY POLICY BY TOM CLARK

Any analysis of the April 2004 federal policy "Securing an Open Society ..." must look at the context. The Policy fits within a wider evolution in international politics since the terrorist attacks on New York September 2001. That context is one of preventive initiatives that have the effect of limiting the rights and freedoms of some people on the grounds that there are indications they may commit harm to others. However, the constant focus on danger and lack of security is incompatible with the notion of an open society. The policy maintains the focus on measures responding to fear and offers little to maintain or advance an open society.

The "open society" which the federal policy aims to preserve, was popularized by the philosopher Karl Popper in his 1945 book *Open Society and Its Enemies*. An open society is a society based on the recognition that no one has a monopoly on the truth, that different people have different views and interests, and that there is a need for institutions which protect the rights of all people to allow them to live together in peace. An open society is characterized by a reliance on the rule of law, the existence of a democratically elected government, a diverse and vigorous civil society, and respect for minorities and minority opinions. A rule of law ensures the fair, impartial and predictable application of the laws at all

levels, by an impartial and independent judiciary.¹ It is difficult to see how laws at all levels can be applied consistently when the supreme law, the Constitution Act, has never been adopted appropriately by the various people and peoples it purports to represent, and when the Supreme Court is a creature of federal legislation and federal government patronage.

The federal policy seeks "balancing" the needs of "national security" with "core Canadian values of openness, diversity and respect for civil liberties." Civil liberties are not things to be "balanced;" they are rights to be ensured.² In an open society, a court would "ensure" civil liberties. The policy fails to mention international human rights obligations. Yet the UN and the UN treaty bodies are at this moment concerned that decades of evolution in international rights not be sacrificed to current preoccupations of the G8 with terrorism.³ The possibility of an open society is the result of centuries of painful evolution away from the Star Chamber Court and torture as tools to address national security concerns. The wider international

¹ Statement by the delegation of Nordic Countries, OSCE Review Meeting, Vienna, 1996 referring to the OSCE Warsaw Seminar on the topic [Rule of Law] 1995.

² See Covenant on Civil and Political Rights, Article 2.

³ See Additional Progress Report Prepared by Ms. Kalliopi K. Koufa, Special Rapporteur on Terrorism and Human Rights, Addendum, An Update on International Anti-Terrorist Activities and Initiatives, UN Doc. E/CN.4/Sub.2/2003/WP.1/Add.1

wisdom of the moment would put a premium on ensuring civil liberties. Indeed, it is possible to conceive of a policy which would advance civil liberties while meeting the stated core "national security interests" of (1) protecting Canadians (2) ensuring Canada is not a base for threats to "our allies," (presumably a euphemism for the United States) and (3) contributing to international security.

The April 2004 policy "Securing an Open Society" claims to be "first of its kind" and "a strategic framework and action plan designed to ensure Canada is prepared for and can respond to current and future threats." The federal policy is legitimately concerned with improving coordination of responses to emergencies in the aftermath of the SARS experience. It is less convincingly concerned about the "increase in terrorist acts." The Policy uses these security concerns to further shift two delicate balances in the place called Canada: one balance is between federal and provincial authorities; the other between the discretionary power of the authorities and the safeguards for the individual.

The Policy advances a federal role in coordination of both health and security emergencies. One highlight is a proposed National Security Advisory Council (NSAC) of experts. (The appointments to this will presumably follow the normal patronage propensities). Another highlight is the announcement of an advisory Cross Cultural Roundtable on Security (CCRS) -- another opportunity for patronage. The combined advice from the NSAC and CCRS should leave plenty of room for government decisions that "balance" these against each other.

There are some subtle issues in the document such as the question of whose security the policy is addressing. The policy assumes a common understanding of "national", but the word has different meanings inside and outside Quebec. The policy assumes a common view on anti-terrorism when it talks of "us" and "our" national security as if Canada was a homogeneous "people" rather than a multi-cultural society made up of several peoples, and many ethnic and cultural minorities and economic and social

groups. The creation of a Cross-Cultural Roundtable on Security could be interpreted positively as recognition that there is no single "us" and "our" whose security is being addressed by the measures. However, the Roundtable could be viewed more cynically as providing a forum for airing and managing security concerns which the policy will inevitably generate for particular minority groups. A place for ethnic community leaders to raise concerns is no substitute for the basic security need: a simple effective court remedy that will protect every individual in every people and every group from acts of the authorities that threaten important or constitutional rights in an hour of need.

The policy has assembled bundles of additional measures for public health and public safety in six areas:

*Intelligence;
Emergency Planning and
Management;
Public Health;
Transport Security;
Border Security; and
International Security.*



Some of the measures proposed in these bundles should have no great adverse effect on rights. Spending money on intelligence collection capacity and creating a federal provincial territorial forum on emergencies appear relevant and useful. Some measures seem to reinvent the wheel. Creating an arms-length review mechanism for RCMP national security activities could be rights-enhancing -- but it sounds like the existing Security Intelligence Review Committee. The proposed "national" Security Committee of parliamentarians sounds like

the existing Special Senate Committee on Security and Intelligence that has periodically produced useful reports for decades. Improving public health coordination around emergencies seems sensible. It should give greater effect to the right to health. The efforts to improve marine security seem generally useful, but they could be problematic for refugee and migrant rights if they produce greater capacity to interdict boats rather than improved capacity for rescue-at-sea. Some of the measures appear somewhat

hypocritical. For example, the policy measure of promoting peace-building follows the measure of ensuring that Canadian Forces are "combat-capable" and are able to work with "our allies." Hopefully this does not mean preparing to join the US in adventures like its initiative in Iraq. Providing funds to other countries so they can build good governance mirrors Canada's rather hypocritical promoting of human rights so long as the rights are being promoted in other countries. There are few measures to improve an open society in Canada. Some of the measures have greater potential for rights restriction. The planned review of the *Emergency Preparedness Act*, the successor adaptation of the infamous *War Measures Act*, will likely be controversial. The proposals for further aviation security could portend more interdiction for refugees and more hassles for visitors to international religious or academic meetings and for visitors who are family members of refugees, immigrants and some first-generation naturalized citizens.

The Border Security policy proposals are more uniformly rights-restricting. This is consistent with the pattern of several governments' legislation and court rulings over the last decade. The federal policy itself notes: "Well before the events of September 11, 2001, Canada had taken significant steps to enhance border security." This is an understatement. The period 1989-2001 was characterized by waves of rights-restricting changes aimed at control of the entry and of the remaining in Canada of specific individuals and groups of non-citizens. During those years, the Courts misapplied or simply failed to apply constitutional protections that had earlier been taken for granted. The failure of the Constitution to protect from legislative excesses undermined the sense of security of non-citizens in Canada. In its 1992 *Chiarelli* ruling, the Supreme Court found *Charter* rights to life and freedom and full due process did not apply in the deportation of resident non-citizens who had served criminal sentences. In the 1999 judgment on *Baker*, the court failed to apply *Charter* rights so as to give effect to international family rights and children's rights for a single mother and her children faced with deportation by the authorities. The rights were found to be simply "factors" to be weighed in the discretionary decision of an official. The Court found it acceptable that Ministers, in effect, adjudicate a person's right to protection from torture. The Court found it constitutional for Ministers to consider whether or not to deport refugees to a serious probability of torture on grounds of national security in the cases *Suresh* and *Ahani* in 2001. The Court did not allow Ahani the same opportunity as Suresh to present his reasons against expulsion. The UN Human Rights Committee subsequently ruled that Ahani's

expulsion had violated rights promised by the Covenant on Civil and Political Rights.⁴ All these Supreme Court decisions set aside international rights and due process standards to facilitate deportations that would appease public opinion and show deference to the desires of the federal government or parliament. (The wishes of the government and parliament are effectively synonymous in a majority government situation.) Such behaviour results in part because the Supreme Court is shaped by federal patronage appointments and is given no clear direction on how, or when, to apply the *Charter of Rights and Freedoms* among its other duties as the highest federal court. Achieving an open society requires establishing a Constitution, and a court capable of consistently applying it, within a rule of constitutional law.

The 2001 Anti Terrorism Act put additional groups in Canada under limited due process safeguards previously reserved for refugees and migrants. The Anti-Terrorism Act created new crimes of belonging to certain organizations, brought preventive detention, and brought investigative hearings. These roll back centuries of evolution in rights and freedoms. For individuals affected, as for the refugees and migrants, whose most fundamental rights can be put at risk in deportation, security means a simple effective court remedy that will be consistently applied to protect fundamental rights put at risk by acts of the authorities. That security need is, in fact, an international right promised to everyone in a member State of the Organization of American States. Achieving an open society requires putting a premium on protecting the international rights of the individual as compared with policy needs defined by the authorities.

The measures under the Border Security heading in the April 2004 policy develop some of these familiar themes from over a decade of federal measures and Court deference to them. In 2001 a "Smart Border Declaration" with the US aimed to strengthen co-operation on intelligence and law enforcement. The Smart Border Declaration brought back an old idea -- a "Safe Third Country Agreement." This would allow Canada to return to the US some refugee claimants who came to Canada via the US. This idea is repeated in the April 2004 policy. It creates uncertainties and insecurities for refugees seeking asylum in Canada at a US land border. The 2001 Declaration also planned integrated border enforcement teams, provisions to make it easy for pre-cleared low-risk goods and travelers to pass, and provisions to make it harder for the others. In December 2003, the Martin Liberals combined aspects of immigration and security into a

⁴ Human Right Committee, Communication No. 1051/2002, Views 25 May 2004, UN Doc. CCPR/C/80/D/1051/2002, 25 May 2004.

Border Services Agency within a wider Department of Public Safety and Emergency Preparedness. The 2004 policy proposes "a next generation smart borders agenda," extending it to Mexico and then working with the G8 to make the "smart border" international. The consequence expected is greater freedom of movement for all those deemed safe and respectable. It is implicit that there will be greater difficulty and more danger of criminalization for those fleeing for their lives to find asylum as refugees. The policy calls for implementing an automated fingerprint system – again a measure that will disproportionately fall on refugees who, alone, as a group must be fingerprinted. This measure affects their rights to privacy and to equal treatment. Following complaints about the recent introduction of special photo identity cards with biometric capability for all permanent resident non-citizens as a group, evidently impairing their right to privacy and their right to equal treatment, the policy now proposes to restore equal treatment by putting facial recognition biometric technology into the Canadian passport affecting all Canadians "in accordance with international standards". It would be

helpful to the security of everyone, including refugees, if the government were equally concerned to meet international human rights standards.

In summary, behind its clever allusion to an open society, this policy package represents mostly more of, and extensions of, the kind of measures in place which are already reducing the freedoms and security of some of the people and peoples in Canada. There are virtually no measures to advance an open society. Paradoxically, a greater overall sense of security among the people and peoples might be achieved by a policy that promoted and advanced an open society, gave effect to more international human rights, and better ensured civil liberties for all.

Tom Clark sits on the Editorial Board of Refugee Update, and was the National Coordinator of the Interchurch Committee for Refugees.



FCJ HAMILTON HOUSE FACT-FINDING MISSION TO COSTA RICA BY MAUREEN SILCOFF

In March 2004, Francisco Rico-Martinez, Co-Director of FCJ Hamilton House Refugee Project, headed to Costa Rica on a fact-finding mission. The purpose of this trip was to investigate the factors motivating the sudden increase in numbers of refugee claimants in Canada from that country.

The claims from Costa Rica presented at the Refugee Division tended to be based on domestic violence and sexual orientation. The Refugee Division, for the most part, were refusing these refugee claims. In fact, the Board presented a precedent decision which members were encouraged to follow. This precedent outlined reasons why there was state protection in Costa Rica. It was based on the Board's documentation that talked about, for example, the fact that people unhappy with the police could complain to the Ombudsman.

Most claimant were refused on the basis of similar reasoning. The Board Members would say something like, "You have faced domestic violence, but you should have tried harder to get police protection by going to another police station." or "You have suffered at the hands of your ex-husband, but you had a protection order and the police would have enforced it had you remained in your country".

One of the requirements for refugee protection is that the claimant establish that the state cannot protect him or her. If there is evidence that the state can protect the claimant, the Board will refuse to grant protection.

The Hamilton House fact-finding mission contains 10 interviews conducted by Francisco Rico-Martinez. The interviews were conducted largely with government players involved in or with direct knowledge of protection issues. These included a member of the National Assembly and a member of the Supreme Court. People were interviewed mostly about domestic violence, but also about children's issues and sexual orientation.

In my opinion, after reading the report, one cannot help but conclude that the state, despite some efforts, is not at the point where it can offer protection. While the interviews outline efforts, the various governmental persons clearly state that women in domestic violence situations are not protected.

This report is invaluable to refugee claimants. It offers clear and specific evidence that directly addresses the issue of state protection in Costa Rica. The Board has

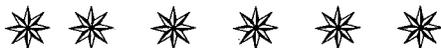
relied on some documentation it had previous to the report and that documentation was in part, outdated and non-specific to the fact situations the refugee claimants were presenting in their hearings. What resulted were decisions reflecting two different realities: one reality for the claimant – the person's past experience of not being protected, and another reality the Board put together based on the documentation – that there was protection. This report bridges the gap.

The report has been distributed to the Refugee Lawyers Association and the Canadian Council for Refugees. It has been used by refugee lawyers at hearings. There have not been very many decisions yet based on the report. A few decisions that I have heard about where the report has been used have gone both positive and negative. Where the Board had refused the claim, with the report, it has stated that the report, overall, indicates that there is in fact protection. I believe that this is more of a political statement – we are not going to accept Costa Rican refugees - than an impartial assessment of the evidence. We will wait and see what the Federal Court makes of these cases.

The report has also been offered in PRRA (Pre-Removal Risk Assessment) applications and in stays at the Federal Court. I am aware of one situation where the Federal Court judge stopped a claimant's deportation because the report had to first be considered by the PRRA unit, as it was relevant to the issue of whether the person would face a risk upon return to Costa Rica.

This report, as well as future such fact-finding missions, are extremely important to the plight of refugees in Canada. Claimants require current, issue-specific evidence in order to have their claims accepted, particularly when the Board has displayed a trend to refuse refugee claims based on evidence it has acquired. The report has in fact contributed to successful cases and I would encourage more of these reports in order to provide refugees with the best possible evidence in their claims.

Maureen Silcoff is a refugee lawyer working in Toronto



IT'S IN OUR HANDS BY LINA ANANI

This year marks the global launch of a historic campaign by Amnesty International (AI) to Stop Violence Against Women. The campaign seeks to promote an understanding of the root causes of violence against women and ways to combat it. It is intended as a contribution to the efforts of women's rights movements around the world. AI bases its work on the definition in the UN Declaration on the Elimination of Violence Against Women, which states that violence against women is,

any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.¹

One of the major underlying causes of the violence is discrimination against women, discrimination which denies women equality with men in all areas of life. Discrimination devalues women's status in society and

dehumanizes them, thereby rendering it acceptable to carry out acts of violence against them. Violence is both rooted in discrimination and serves to reinforce discrimination. The UN Declaration on the Elimination of Violence Against Women states that violence against women is a "manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men" and that "violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men."²

The ongoing, widespread brutality directed at women and girls is the most outrageous human rights scandal of our times. This violence takes many forms and includes acts of violence in the home, in the community and by the state. It's sad to say that the violence is not limited to any political or economic system but prevails in every society in the world. It cuts across boundaries of wealth, of culture and of race. The power structures within society which perpetuate the violence are deep-rooted and inflexible. Being subjected to violence or to the threat of violence

¹ Declaration on the Elimination of Violence Against Women, G.A. Res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993), para. 1 [Declaration].

² Declaration, *supra* note 1.

prevents women from fully exercising and enjoying their human rights.

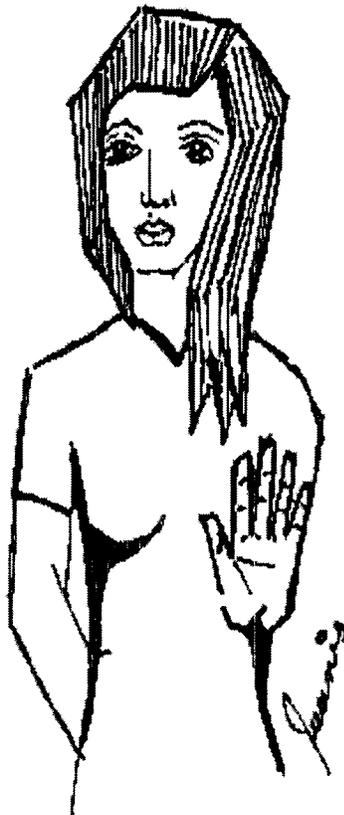
During armed conflict, violence against women often becomes sexualized and rape is often used as a weapon of war, to dehumanize women and to attack the community to which they belong. Wartime propaganda in many countries fuel gender stereotypes, present women as the source of a community's honour and promote attacks against women as attacks against their communities. In other conflicts, girls have been forcibly recruited as child soldiers, then sexually abused and exploited. Conflict and insecurity takes its toll on the health of women and girls, such as the widespread transmission of HIV and other diseases due to the sexual violence.

Violence against women is a human rights violation. Framing it as a human rights issue removes it from the private realm and places the matter as a public concern which requires public authorities to take action. The human rights framework also specifies governments' obligations under international law to promote and protect women's human rights.

Women all over the world have responded in various ways to the violence being perpetrated against them and their loved ones. They have organized together to expose and counter the violence directed at women. This technique is very effective as violence thrives on silence, shame and fear. Women have achieved dramatic changes in laws, policies and practices. They have demanded a response from governments, communities and individuals. Most importantly, they have challenged the perception that women are passive victims of violence. However, the response to this activism in many countries has been a backlash by those who view gender equality as a threat to social stability and deeply entrenched economic

interests. As a result, many of the gains have been reversed or ignored in different parts of the world.

The AI report³ published for the launch of the campaign highlights the responsibility of the state, the community and individuals for taking action to end violence against women. AI's campaign is designed to mobilize both men and women to work to counter violence and to use the power and persuasion of the human rights framework to stop the violence. We must all speak out against the violence, listen to women's stories and believe them. We must condemn violence against women as the major human rights scandal of our times. And we must confront those in authority if they fail to prevent, punish and redress violence against women. For further information on the campaign, please visit www.amnesty.ca. To discuss ways of working together on the campaign, please contact the author at lanani@sympatico.ca



Lina Anani has been a member of Amnesty International (AI) Canada for 18 years, is a former Vice-President of the national board and is a current member of AI Canada's Women's Human Rights

Advisory Committee.

³ Amnesty International. *It's in Our Hands: Stop Violence Against Women* (AI Index No.: ACT 77/001/2004), online: www.amnesty.org

SUPPORT GROWS FOR US WAR RESISTERS IN CANADA

BY MICHELLE ROBIDOUX

There are many ways in which the US war on Iraq can be compared to the Vietnam war. The occupation is increasingly a quagmire for the US government. Troops have refused orders sending them on what they describe as a 'suicide mission'. One-third of reservists called up have failed to report for duty, and a small but growing number of US military personnel are choosing to come to Canada rather than fight an illegal and immoral war.

There are currently four US war resisters who have come to Canada in opposition to the war on Iraq. Three of them have applied for refugee status, whereas the fourth is a dual citizen.

Jeremy Hinzman, 26, who left the 82nd Airborne in Fort Bragg, N.C. when he was given orders for Iraq, has a hearing scheduled at the Immigration and Refugee Board in Toronto on December 6. Two other resisters, Brandon Hughey, 19 and David Sanders, 20 are awaiting their hearings.

The Canadian government has intervened in Jeremy's case to argue that he does not qualify as a refugee. But the UN Handbook on Refugees defines soldiers who refuse to fight in wars that are "condemned by the international community as contrary to the basic rules of human conduct" as "conventional refugees." A key question that the Immigration and Refugee Board will have to answer is whether the jail sentences surely awaiting war resisters in the US would amount to "persecution for their political or religious beliefs," as outlined in the UN Handbook on Refugees.

According to Jeffrey House, the lawyer for the three, "To imprison someone for doing the right thing and refusing to participate in war crimes is persecution, pure and simple". While the Immigration and Refugee Board deliberates this question, the War Resisters Support Campaign is mobilizing to ensure that US war resisters are allowed to stay – regardless of the outcome of the IRB proceedings.

Across the country, individuals and community organizations have been collecting signatures on petitions and lobbying politicians, as well as organizing public meetings where the war resisters have told their stories. They have also begun to put in place the resources needed to ensure that war resisters have the material and social support necessary.

Not surprisingly, one of the first groups out of the gate to lend support has been Vietnam war resisters. Over 50,000 Americans came to Canada during the Vietnam war, as draft resisters and war resisters. Today they are at the heart of building support for this new generation. "Canadians do not want to send war objectors to prison in the U.S. for refusing to fight in a blatantly illegal war that has outraged the entire world," says Carolyn Egan, president of the Steelworker Toronto Area Council and herself a Vietnam-era immigrant from the US.

The Canadian Labour Congress and the Canadian Friends Service Committee (Quakers) have endorsed the War Resister Support Campaign, as have many prominent Canadians including Maude Barlow, David Suzuki, Shirley Douglas, Buzz Hargrove and many more. It was broad anti-war sentiment that stopped the Canadian government from joining the 'coalition of the killing' in the current war on Iraq. That same sentiment must now succeed in pressuring the Liberals to let US war resisters stay.

For more information on the War Resisters Support Campaign, or to sign the petition, see www.resisters.ca.

THE SALVADOREAN EXPERIENCE WITHIN THE CANADIAN CONTEXT

BY TANYA CHUTE

The struggle for social justice centers around a struggle for equality – equality of participation and voice, together with equality of access to valued resources. The two forms of equality are indivisible. Political voice is necessary to assert claims to resources, while access to resources is in turn necessary for agency and voice (Plant, 1998). One response to inequality is advocacy work, whereby relatively privileged individuals speak out on behalf of marginalized groups such as refugees. Given their comparative advantage for making their voices heard, refugee advocates can play an important role in challenging dominant discourses and power structures. Nevertheless, refugees must also be supported in the struggle to assert their own political voice here in Canada. Not only are refugee interests best served by refugee voices, but also refugees have an important role to play in holding Canada accountable to our self-proclaimed values of openness, fairness, and democratic equality.

Refugee communities with a history of dedicated struggle for justice in their home country are more than equal to this challenging task. A recent study of the political participation of former refugees from El Salvador found considerable transferability of political skills developed back home during the revolutionary struggle of the 80s. Critical analysis developed under a highly unequal political regime reveals the same need for structural change in Canada as in El Salvador. One participant reflected:

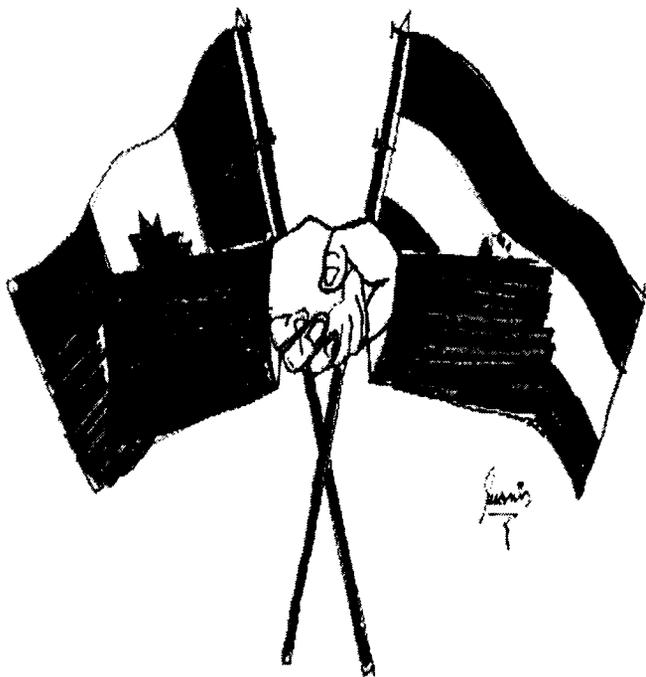
... in El Salvador, the essence was to change a structure... to democratize the country... some worked politically, others militarily, others in unions, the church, so many ways. But in essence it's the same because here, in the first world, with other conditions... there are still structures that have to be changed... You only have to think that in Toronto, immigrants make up 55% of the population but you look at municipal government and the number of immigrant representatives is minimal.

Former refugees thus turn to alternative strategies for expressing their political voice. With their extensive experience in political movements, unions, and churches in El Salvador, they are well prepared for active participation in similar networks in Canada. Research participants spoke of collaborative relationships with refugee and human rights networks such as the Canadian Council for Refugees and Amnesty International, church-based social justice movements like Development and Peace, as well as

local unions sympathetic to Salvadoran struggles. To each of these networks, research participants brought their organizing experience, their commitment to a strategy of joint education and action, and their political values of equality and solidarity.

Unfortunately, however, political analysis, experience and organizing skills do not guarantee a hearing for one's political demands. Research participants testified to a series of structural obstacles to host country political participation by refugees in Canada, obstacles which were experienced by newcomers as racism. "White" political parties were criticized for their failure to represent refugee interests or to offer real support to candidates from newcomer communities. Multiculturalism policies were seen to group newcomers together under artificial identities that did not foster the necessary cohesion for effective political mobilization. Thus, Salvadorans failed to identify with "Latin American" community organizations led by the more established South American communities, seeking instead an alternative structure that might express a distinctly Salvadoran voice. Such a structure has begun to take shape under the guise of the Salvadoran Canadian Association – Toronto, formerly the Association in Support of Change in El Salvador.

The refugee sector itself was viewed with ambivalence. On the one hand, research participants



cited community work; particularly work with refugees and other newcomers, as the most developed area of local political participation for Salvadoran Canadians. Meaningful employment in this sector was enhanced by opportunities for political networking through organizations like the Canadian Council for Refugees and the Ontario Council of Agencies Serving Immigrants. Experience gained in this arena contributed significantly to the emergence of leaders engaged in non-formal political organizing within the Toronto Salvadoran community.

On the other hand, settlement organizations were criticized for failing to live up to lofty promises of full immigrant integration. A Citizenship and Immigration Canada discussion paper on immigrant integration affirms: "Successful integration for a newcomer to Canada is about the ability to contribute free of barriers, to every dimension of Canadian life – economic, social, cultural and political" (CIC, 2001). In practice, however, settlement services tend to prioritize the economic dimension of integration. Research participants stated that the settlement sector pressured newcomers to take the first low-paying job available rather than investing in educational upgrading or re-qualification, channeling many refugees into a day-to-day struggle for survival that stood as a major obstacle to active political participation. One participant shared: "during the first few years...people work twelve or

thirteen hours a day, at four different jobs. You leave the house at seven in the morning and come home at ten at night... Two or three years go by without you getting involved."

Rather than helping newcomers to become politically involved, settlement agencies shy away from political activities for fear of losing their funding. One research participant noted: "This is the problem we have with the settlement agencies. They don't look at political problems... They're afraid that if they criticize government, they'll lose their funding." Funding cuts to the settlement sector in the 1990s have created a survival mentality that shuns risk-taking and inhibits creative political engagement with refugee communities.

Refugees themselves, however, remind us that politics has always been risky business. Many of them have experienced great hardship and suffering in their home country for their commitment to political ideals of equality and justice. Refugees call refugee advocates in turn to take risks as we draw alongside them in their challenging struggle to find once again their political voice. Together, as we take up the risk and the challenge of solidarity, may we discover that the Canada we dream of is indeed within our grasp.

Tanya Chute is a staff person at KAIROS.



WITH CHILD IN JAIL BY SAEIDEH CIABIGARJAN

I come from the relatively small city of Azerbaijan in Iran. My family was very poor but culturally and politically rich. My father was an old man, but extremely wise and knowledgeable. He was illiterate but well aware of what was happening in the world. From childhood I became socially aware, particularly about women's oppression, specifically when I looked into the lives of my elder sisters, who were suffering from unsuccessful marriages.

In the course of growing up, I developed an aspiration to work for the emancipation of humankind, especially from poverty and patriarchal oppression. Soon I found myself in a circle of like-minded women. We used to go to visit different groups of women and young girls, to discuss with them their lives and the state of their society and we tried our best to enlighten them.

Iranian society went through political turmoil and a fully-fledged revolutionary movement in 1978. We

intensified our activities and soon in our small city we became a small active group well known to everybody. When the oppression came, it not only affected me but it affected my whole family. Many of my family members escaped and lived underground while the rest were harassed on a continuous basis. During these years I married a gentleman who was politically active and well respected in the community. We loved each other and cherished the hope that we would blossom and that, by furthering human rights activities, we would establish a fruitful and affectionate family life. All together we lived together for only sixteen months and the fruit of this intimate relationship was a baby boy. Everything was more or less all right; we had a warm house, a handsome baby, and hope for a bright future.

Our house was invaded in a cold, dark, and winter night on December 22nd, 1982. The guards arrested all three of us. We were separated in jail; they threw me in

a small dirty cell with no blanket and no heating system. I was alone with my four-month-old baby and did not know what they had done to my husband. They put me through all sorts of torture and degrading treatment and punishment including sexual abuse to extract information about my husband and his activities. My worst experience was the time when they tortured my husband in the neighboring cell in a way that I could hear his screams. They mentioned my name and insulted me threatening that they would rape and kill me if he didn't confess. They took him to the point that during his screams he sounded like a dying beast. I was ready to be tortured ten times more to stop my husband's torture by the butchers of human kind.

Living with the baby in jail, and resisting against torture was not an easy task. I had no diapers to clean the baby. I had only two old ragged pieces of clothing. My cell was drenched in stench, and I could only go to the bathroom three times a day for a total of twenty minutes. I had to very quickly wash my baby's clothes, the baby and myself in order to return to the cell on time. The food was poor and very soon as a result of torture and poor nutrition, my breast milk dried up. I begged the guards for milk or powdered milk; they answered me with insults and beatings. They told me that there was one ration of food for one prisoner and that baby was not considered a prisoner. My child was starving and I was left with no choice but to chew the poor food I received and put it in the mouth of my baby. In that way I helped my poor baby to survive. Once when my child was about six months old I noticed some sores on his head; he had long hair and I didn't notice it earlier. When I looked carefully I found many infected soars and worms coming out of the wounds. This was because of the lack of sanitation and the fact that we had not been allowed to wash for more than two months.

After six months they allowed me to see my husband behind the glass for only a few minutes. This was the first and last visit. Sixteen months after the initial arrest they executed my husband without permitting me to see him before his death. He was twenty-eight years of age. He was a human rights activist, a man of letters, a poet, a writer and a master of art. He had great passion for life and hope for the ultimate salvation of humankind. I still hold twelve letters he wrote to me in prison, each full of love, hope, and passion for life.

I came to know about my husband's execution two months after his death. When I met the judge of Shariah (Islamic Jurisprudence) who was the hanging judge I asked him: Why did they kill my husband? Neither one of us believed in violence; nor had we been involved in any kind of violent activities. He smiled and told me that he ordered the execution of my husband because he was intelligent, resisted all torture,

refused to give them any information and his spirit could not be broken.

Those of us who were imprisoned with our babies had an especially difficult life. My child had no idea of the outside world. His world was limited to a small cell and the most vivid events in his life were when I was brought back to the cell, my body covered in wounds.

I remained in jail with frequent torture, harassment and threats for four years. When they released us my child had no idea about all the things that are taken for granted in every day life. He had never seen a car, a tree, a man with a moustache, amongst many other things. He was scared of any kind of sound; it took him a long time to adapt to his new environment. My father had put his property and his life as a guarantee for my release. I had to report to the prison authorities every month. One year later, at one of those reportings, they re-arrested me because they didn't like the 'fast paced manner' with which I was climbing the stairs, and the apparent 'aggressive' way in which I signed my name in the reporting book. They did not allow me to take my child with me; he was left with very little protection. They released me after six months, and I found my child in a desperate situation. He had been passed through different hands, sometimes taken care of by my relatives, sometimes by neighbours and at other times with no protection. He was not ready to accept me as his mother because of the tremendous hardships he had gone through already as a child.

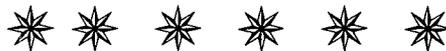
Living outside of jail was not much better. I had been left with no job, no money, and no accommodation. A shadow was following me all the time. My father-in-law blamed me for everything and began harassing me. I was left with no choice but to accept a traditionally arranged marriage in an attempt to protect my child and myself. A year later I became pregnant and delivered another baby boy. Unfortunately my second marriage turned out to be an abusive one; it was like slavery. At home I was constantly abused and harassed by my husband and outside of my home I was harassed by security forces that were suspicious of me. Life was becoming harder and harder every day. At this point I was left with no other option but to leave my eldest son from my first beloved husband in Iran and come to Canada with my youngest son. I was so sad to have to leave my son and face an unknown fate.

I have been in Canada for around four and a half years. I am very thankful to all the people in Canada who understood my torture and trauma and helped me with my refugee claim. That includes my lawyers, physicians, psychiatrists, nurses, befriender and counselor from the Canadian Centre for Victims of Torture and many other people. I presently am a permanent resident of Canada and cherish the hope that

physicians, psychiatrists, nurses, befriender and counselor from the Canadian Centre for Victims of Torture and many other people. I presently am a permanent resident of Canada and cherish the hope that one day I will become a citizen of this great country. Unfortunately, I am still separated from my eldest son who is now twenty-two years old and has suffered such trauma in his childhood. I am a single mother and a divorced woman. I cherish the hope that Immigration Canada will accelerate the process of unification of my family. My youngest child also shares my aspiration and is looking forward to the day that he will be reunited with his older brother.

I am sure one day we will live as a happy family and I will do my best to encourage my children to be useful, to pay back their debts to Canadian society, to work for a better life, for members of the human family, and to be good to themselves. As a woman, I work to fight against the discrimination against women and their oppression. One day I hope we will all embrace freedom and become equal members of the human family.

Saeideh Ciabigarjan lives in Toronto.



KAIROS Cultivating Just Peace Campaign 2003-2005

In July 2004 Immigration Minister Judy Sgro called on the Canadian Churches to stop offering sanctuary to failed refugee claimants. The churches responded that the problem lies not with sanctuary, but with a system that does not allow appeals even if claimants are to be deported back to possible torture or death.

Canada is morally and legally obliged to welcome people fleeing persecution. A fair and just refugee determination system is essential to meeting that obligation. But our system is complicated and flawed. Chief among its flaws is the continued lack of a process for claimants to appeal a negative decision on the merits of their case.

It's time to change this dangerous situation. Join with KAIROS, the social justice organization of the Canadian churches, and with refugee advocacy partners to call on the government to immediately implement the long-promised Refugee Appeal Division. Sign and promote our "Appeal for Refugee Rights" petition to the government and help Canada live up to its promise to welcome those in danger.

For more information and to download the petition,
go to **www.kairoscanada.org/e/action**
and follow the links for
Current Campaign: Cultivating Just Peace

WRITE ... AND WRONG!!!: AN OPINION

BY KEN LUCKHARDT

Some articles should simply never be written! Take, for example, a September 8 Toronto Star column by veteran journalist on Latin America, Oakland Ross. The entire piece revolves around a scheme whereby an unknown number of Colombians allegedly obtain illegitimate refugee status in Canada.

The story goes something like this: certain employees of the Colombian Senate have charged persons up to \$6,100.00 for papers which state that the bearer has been the victim of an assassination or kid napping threat from armed actors in Colombia's decades-long civil war. The papers are then presented to Canadian Embassy officials who, the theory goes, become more sympathetic to the said person's refugee application. Three Colombians have been arrested and a further investigation is pending, according to the article.

To this point, Ross has provided the reader with information that is eminently factual and provable, based on an obvious case of corruption in the ranks of Colombian officialdom.

However, the article goes far beyond the corruption story itself by (a) creating very stereotypic and injurious images re: the refugee determination process and by (b) distorting necessary coverage of the ever-increasing crisis and tragedy facing the majority of Colombians.

Consider the following string of consciously chosen, negative descriptions from a veteran journalist on Latin American affairs:

"elaborate scheme that has duped the Canadian Embassy..."

"undeserving applicants"

"fraudulently obtained residence in Canada"

"scam"

"bogus refugees"

"fake documents", and

"bogus confirmation."

This is hardly terminology that encourages Canadians to feel good about refugees.

Worse than that are the utterly indefensible conclusions that a rational reader would draw from Ross' comments regarding Colombian refugees in particular. He quotes an unnamed "Colombian official" (the infamous journalist ruse, and a cowardly and lazy one at that) who says that some of the Colombians who have entered Canada through this scheme are FARC or ELN "guerrillas".

Where's the evidence for this, Mr. Ross? Who is this nameless "Colombian official" and where is s/he based? In Colombia? Or perhaps in the Colombian Embassy in Ottawa, or the Consular office in Toronto? If this suddenly important "Colombian official" is based in Canada, is it not likely that such a representative of the Colombian state would seek political benefit by casting such aspersions and a veil of suspicion on the large number of Colombian refugees entering Canada, many of whom are fleeing state repression?

Perhaps this same "Colombian official" would want to opportunistically contribute to the anti-refugee sentiment that has been nourished by right-wing ideologues since 9/11. Who really benefits, Mr. Ross, from the equation that Colombian refugee equals illegitimate (or even guerrilla) refugee?

Perhaps the "Colombian official" would also want to add some Southern fuel to the recent debate triggered by the Canadian Immigration Minister Judy Sgro and her efforts to take the "sanctuary movement" away from the churches.

The Canadian government has designated Colombia—along with the Democratic Republic of the Congo, El Salvador, Guatemala, Sierra Leone and Sudan—as a country where refugee applicants can apply from within the country itself. Perhaps this unnamed "Colombian official" would intentionally throw up the spectre of "guerrilla refugees" with a view to encourage Canadian officials and the public to question the wisdom of granting Colombians the right to apply from within their borders.

All of these questions come to mind for one simple reason: the original article that documented this bureaucratic corruption and which appeared in the Colombian weekly magazine, Semana, had a decidedly different tone.

The Semana piece never questioned the validity of refugee claims coming out of Colombia, which houses the worst human rights crisis in the Western hemisphere. More importantly, the Semana article NEVER made any reference to members of left-wing guerrilla forces being the beneficiaries of this corruption. Where then did this accusation come from one must ask?

Maybe the Semana journalist didn't resort to finding an unnamed "Colombian official" for additional comment because it is widely known that Colombian officials are inveterate liars when it comes to admitting the role of the Colombian state in human rights violations. They are even more hard-pressed to acknowledge the well-established relationship between the Colombian military and right wing paramilitary forces, the combination of which, according to an October 2004 report of the Colombian Commission of Jurists, is responsible for approximately 80 per cent of all

political killings in Colombia.

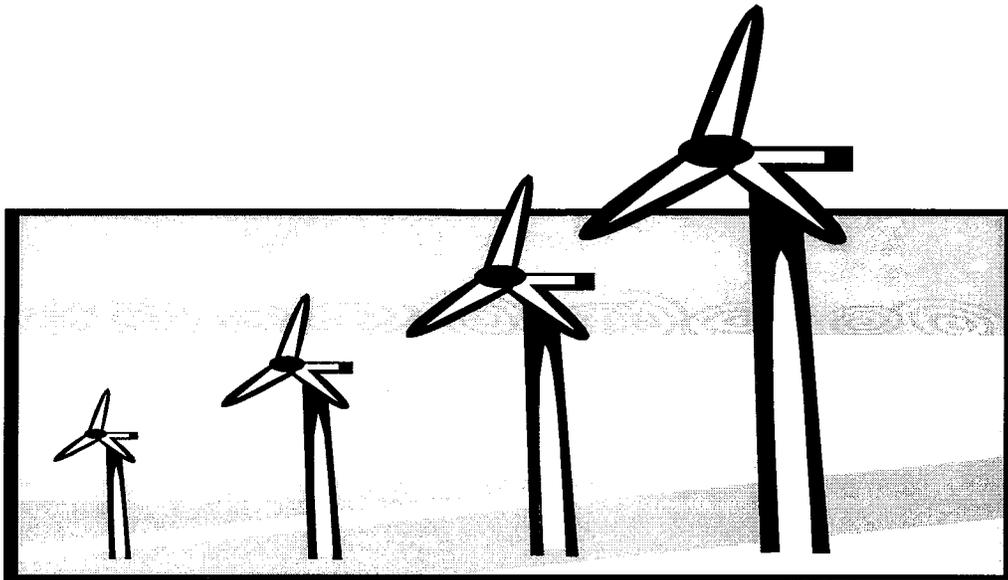
A case in point: on August 5, three more trade unionists were assassinated by members of the 18th Brigade of the Colombian army in Arauca. After the executions, another "Colombian official" publicly stated that these unionists had been stockpiling guns and explosives in the house where they held meetings. Members of Colombia's ruling elite further claimed that these unionists were terrorists and had been killed only after they opened fire on an army patrol. Colombia's Vice-President more specifically claimed that the three were members of the ELN guerrilla force.

A month later, in an almost unprecedented act of honesty

forced upon him by overwhelming evidence and public pressure, Colombia's Attorney General ordered the capture and arrest of soldiers responsible for killing these trade unionists. It seems that they were just trade unionists...as rational people not associated with Colombian state terror (or its defence), would assume.

There is danger, Mr. Ross, in quoting unnamed "Colombian officials" and you should know better!

Ken Luckhardt sits on the Editorial Board of Refugee Update.



A GUEST AT THE DOOR

They came uninvited. No one had asked them to come. They just came. Some believed that the newcomers were fleeing persecution in their homelands. Others said that they just came in search of a better life for their families.

Displaced persons, economic migrants or refugees, they all came great distances. Of course anywhere is far from the Yukon. Over the years they have come from all corners of our planet, from Bulgaria to Vietnam, the Philippines to Argentina, with the hope of a new start, another chance in their hearts. Some stayed. Others moved on.

Last Friday a pot luck supper at the Anglican Church's Hellaby Hall here in Whitehorse brought eighty some people together. The room filled with laughter and animated conversation as fifty some of our newest residents shared a meal with new friends and supporters as kids darting between and

around adult obstacles. A tension underlay the gathering though.

Since last spring when the first family arrived in our community, Whitehorse has received nearly sixty Latin Americans refugees, men, women and children. They have come from a variety of countries: Argentina, Mexico, Costa Rica, Bolivia and Venezuela among them. We have also welcomed at the same time new Latin American landed immigrants who have chosen to live and work in the Yukon.

These refugees have to establish that their lives are at risk in their home country, that they are in danger of torture or that they have a well founded fear of persecution for reasons outlined by the Geneva Convention of 1951 in order to be granted protection in Canada. Refugees must make their case for protected person status before the Immigration and Refugee Board. Some of these new Yukoners have just begun preparing their case for this crucial hearing. Others have already heard their first no and are appealing the board's decision. A few families here have lost their appeals. These people have been directed to fill out a Pre-Removal Risk Assessment form which looks to see if the person who had been seeking refugee status faces a serious risk not generally faced by others in their home country if they were to return home.

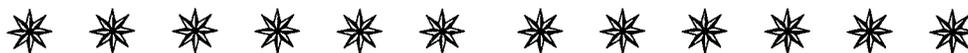
Dreams of a better future, the hope for a life lived without fear slip further away with each no. The distances travelled and sacrifices made must seem in vain for those facing a return to their homeland or those who have already had to leave. I clearly heard the desperation in the voice of one woman I spoke to after the pot luck supper. Her family had nearly exhausted all their legal avenues to stay here.

In our badly torn and divided world the flood of economic, environmental or socio-political refugees will not abate. Certainly not when a garment worker, for example, in Canada according to the web source volunteernow.ca, earns eleven times more than in the Philippines or fifteen times more than a similar worker in Honduras. Or when we spend seventeen billion U.S. dollars a year on pet foods in North America and Europe while neglecting to spend the estimated thirteen billion needed to provide basic health and nutrition globally.

We have gotten in these last few months a foretaste here in Whitehorse of the future. And it is a future that we turn our backs on at our peril. We must welcome the guest at our door locally and globally.

Traditionally at Thanksgiving we offer a grace at our table for the many blessings we have received. Maybe this year we also should pray that the intolerance, hatred, violence in all forms that drive people from their homelands be overcome. We can also pray that our actions in the coming year will seek to build the peace and justice that is the birthright of every human being.

By Michael Dougherty, Yukon News, Just Society Column, 8 October 2004



POPULAR THEATRE: A TOOL FOR JUSTICE

At the May 2004 conference of the Canadian Council for Refugees (CCR), the first plenary was opened by two skits and three images based on Augusto Boal's model of popular theatre. Nine actors and actresses as well as two instructors were involved in the performance that illustrated problems faced by refugees and uprooted people in Canada. The level of participation by members of the audience was unbelievable.

Popular theatre was initially introduced in Brazil by Dr. Augusto Boal. He introduced a new type of community theatre that was different from the traditional practice.

Prior to his experimentation, audiences were encouraged to discuss a play at the end of the performance. In the 1960's Boal developed a process whereby audience members could stop a performance and suggest different actions for the actors. During one of these performances, a woman in the audience went onto the stage and by acting showed her intention. This helped Boal transform his theatre into what he called spect-actor (not spectator) theatre. He began inviting audience members with suggestions for change onto the stage to demonstrate their ideas. In so doing, audience members became empowered to the point that they became agents of change. In this way, theatre became a tool for grass-roots activities.

Dr. Boal shared his experiences in a book, *The Theatre of the Oppressed*, which he published in 1971. He was imprisoned and was later exiled to Argentina, then to Europe. He continued his activities in exile and wrote more books and articles.

In 1986, he returned to Brazil and established a Centre for the Theatre of the Oppressed with focuses on community-based performances. He called his new type of art: *Forum Theatre* and *Image Theatre*. Forum Theatre relies upon presentation of short scenes (between 3 to 7 minutes) that depict problems of a given community. Audience members interact by replacing characters in scenes. They can bring new dialogue and new ideas and thus new solutions to the problems. There is no need for a specific director or writer for Image Theatre. Skits, acts and ideas develop collectively. Everybody can act, even the most amateur. All that is needed is an interest in change and to work hard with others.



Based on the example of the CCR, the Canadian Centre for Victims of Torture (CCVT) organized a theatre group in summer 2004. This group has so far performed skits and images on issues related to refugee protection and protection of torture survivors in Canada. The first performance was on Monday, the 4th of October at site of the CCVT and a second one, on the 17th of October with the assistance of the ARC Festival at Workman Theatre in Toronto.

We do hope that refugee and human rights workers in Canada will use this useful tool extensively.

By Ezat Mossallanejad who currently sits on the Editorial Board of Refugee Update and is an Analyst with CCVT

IRB STATISTICS

The acceptance rate for refugee claims continued to fall, with 40% of claims accepted from Jan. - Jun. 2004, compared to 42% in 2003 (itself down from 47% over the preceding several years).

In the period, 12,207 claims were referred to the IRB and 23,754 claims were finalized.

At the end of June 2004, there were 30,468 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 8 months to finalize all the pending claims.

As well, for the period, there were 9,452 (40%) of cases with a positive outcome, 11,097 (47%) of cases were negative, 1,837 (8%) were abandoned and 1,368 (6%) withdrew or were otherwise resolved.

By regional office, acceptance rates were (by descending order):

| | |
|-----------------|-----------------------------|
| Ottawa/Atlantic | 55% (up from 50% in 2003) |
| Montreal | 42% (same as 2003) |
| Toronto | 40% (down from 43% in 2003) |
| Calgary | 27% (down from 35% in 2003) |
| Vancouver | 24% (down from 28% in 2003) |

The total number of claims for the first 9 months of 2004 were 18,201 (Citizenship and Immigration Canada). In the last three months, the numbers of claims have gone up slightly, compared to the very low numbers in the preceding months. If claims continue at the current rate, there is an expectation of 24,268 for the year 2004. In 2003 there were a total of 31,837 claims.

These claims can be broken down as follows: 54% of claims were made inland
32% of claims were made at the Canada/U.S. border
14% of claims were made at an airport

The regional breakdown of those claims is: 71% in Ontario
21% in Quebec
5% in B.C.
2% in Prairies

The top 10 countries of citizenship for those claims are: Colombia (13%), Mexico (11%), China (8%), Sri Lanka (5%), India (4%), Pakistan (3%), Costa Rica (3%), U.S.A. (3%), Nigeria (2%), and Peru (2%). This represents 54% of all claims.

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