

REFUGEE UPDATE

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WHY SAFE THIRD COUNTRY AGREEMENT IS A BAD DEAL

BY TOM CLARK

On 29 December 2004, Canada closed the door on many refugee claimants seeking protection at the US-Canada border. Under a deal between the two countries that came into force on that date, the United States was declared a "safe third country" to which refugees could be returned if they didn't meet criteria for processing in Canada. This is a bad deal for refugees, for Canada, the US and the world. Here's why.

The agreement forces those who don't meet the exemptions to seek protection in the US, which is not safe for them on several accounts, one being the possibility of jail. Thousands of asylum seekers, including children, are held in detention in the US, for months and even years, often in isolated jails and alongside convicted criminals. Those detained have reduced chances of getting the protection they deserve because it is difficult to get legal help to present a claim of refugee status. Then there have been widely publicized abuses of detainees in US immigration jails.

Another barrier to protection is that the US is inconsistent in recognizing the need for protection. In the past, numerous claimants have been recognized as refugees in Canada after having been refused in the US, because of more restrictive US rules and the (more restricted?) way the US interprets the refugee definition. Nor does US law protect people who face a risk of cruel and unusual

treatment or punishment, unlike Canadian law. A third barrier is that people who claim in the US after having been there for more than a year are denied a hearing and so get sub-standard treatment. The responsibility for a person's death or further persecution will rest squarely with Canada, if we deny entry under this deal to a refugee who may be deported by the US back to persecution.

US policies and practices discriminate on the basis of their nationality, ethnicity or religion. For example, the US detains Haitian claimants based on nationality. People from mainly Muslim countries are also at risk of detention.

The US is becoming less safe for refugees. The US Congress is considering a number of anti-refugee provisions. The House has already passed these measures as part of the REAL ID Act.

The US is not even safe for Canadian citizens. Maher Arar was deported by the US to torture. If the US is not safe even for someone with a Canadian passport, it cannot be considered safe for refugee claimants who have no government to protect them.

Paradoxically, the agreement makes the US-Canada border less secure. Before the safe third country agreement, refugee claimants presented themselves at the border in an orderly process, were interviewed and

checked for security. Refugee claimants now needing Canada's protection will have to seek ways to cross the border irregularly. Thus refugee claimants will bear the brunt of this deal, as they face greater danger trying to find safety in Canada.

Irregular border crossings are dangerous; each year many migrants die attempting to cross borders around the world. It is entirely predictable that such agreements bring an increase in casualties at the border as desperate refugees try to overcome new obstacles to find the protection they need in Canada.

The agreement makes the refugee determination process more complicated by adding a new step that is difficult to implement – the safe third country agreement. There is no easy way to determine which claimants are entitled to claim in Canada under the terms of the agreement. Instead of spending time on the important question of whether the claimants need protection, Canadian officials will divert resources to determining whether the claimants meet the exceptions in the agreement.

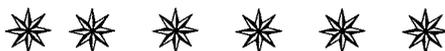
Lastly, Canada has given the US undue influence in the

selection of refugees for resettlement to Canada. The deal obliges Canada to accept up to 200 refugees a year referred by the US. As such, Canada has given away its right to select refugees most in need of resettlement, and may find itself collaborating with the US on solutions that are strongly rooted in political convenience.

Behind the smooth language about asylum sharing, Canada is slamming the door on refugees. The goal and the effect of the agreement is to reduce the number of refugees who reach Canada to seek refugee protection. In any given year, Canada receives less than ¼ of 1% of the world's refugees. It is disgraceful that we should reduce our share of the world's refugee problem even further.

1 For the exemptions, see the fact sheet: "Safe Third Country Agreement: Impact on Refugee Claimants (FREQUENTLY ASKED QUESTIONS (FAQs))" January 2005 on CCR website at www.web.ca/~ccr

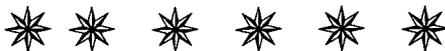
Tom Clark sits on the Editorial Board of Refugee Update, and was the National Coordinator of the Interchurch Committee for Refugees.



SAFE THIRD COUNTRY AGREEMENT WITH THE UNITED STATES

The safe third country agreement prevents you from making a claim at the US-Canadian land border, unless you meet at least one of the following criteria. You can make a claim if you have a relative in Canada who is a Canadian citizen, a permanent resident, a protected person, accepted in principle on humanitarian and compassionate grounds, 18 years of age or over and a refugee claimant or on a work or study permit. **Having a relative with visitor status will not allow you to make a refugee claim.** A relative includes any immediate family member, grandparent, uncle or aunt, nephew or niece. Also, you can make a claim if you are under 18 and unmarried, not travelling with your parent or legal guardian, and neither your mother, father, nor legal guardian is in Canada or the US. You are exempt if you were charged with or convicted of an offence punishable with the death penalty in the country where the charge or conviction was made, though this may make you ineligible on grounds of criminality. You are also exempt if you have a visa to enter Canada other than a transit visa, if you are from a country to which Canada has temporarily suspended removals (as of 02/28/05, Afghanistan, Burundi, Democratic Republic of Congo, Haiti, Iraq, Liberia, Maldives, Rwanda, Sri Lanka, Zimbabwe), or if Canada does not require that you have a visa but the US does (as of 02/28/05, Antigua and Barbuda, Barbados, Botswana, Cyprus, Greece, Malta, Mexico, Namibia, Papua New Guinea, Republic of (South) Korea, St. Kitts and Nevis, St. Lucia, St. Vincent, Solomon Islands, Swaziland, Western Samoa).

It does not matter whether you have made an asylum application in the US, only that you meet one of these exceptions while making a claim through a land-entry point between the US and Canada. These modifications do not affect claims made at an airport, port landing, or ferry landing. Meeting one of these exceptions does not guarantee that you can make a refugee claim; you will be ineligible if you have previously made a refugee claim in Canada, if you have been granted refugee protection by another country, or if you are inadmissible on certain criminality or security grounds. In order to prove eligibility, you will be interviewed by an immigration officer who will take into account what you say and any documents you provide, likely making phone calls or searching for a claimed family member in immigration databases.



THE MEANING OF A WHITE CHRISTMAS FOR REFUGEES

BY ANA TERESA RICO

Yesterday, the 23rd of December, I headed to the border instead of finishing my Christmas shopping list. I did not know what to expect or what I would find there. The only thing I knew was that there was a long caravan of taxis, cars and vans at the Peace Bridge, connecting Fort Erie to Buffalo. When we arrived we found about 500 people sprawled all over the Immigration Canada Complex. A man wearing a windbreaker and a scarf was walking around with one eye on his luggage and the other looking for French interpretation, of which none was found that day. A Canadian Immigration officer with the black, bullet proof suit was forcing the refugees to stand on a side walk that was completely over run by people to the point that no one could move without tripping over someone. A Congolese did not move from the road and the tall square officer took it as an insult and yelled at him to get on the sidewalk before he put him somewhere where he did not want to be. He was oblivious to the notion that these people may not know a word in English, which was true in this case. The man just stood there, his face was red and puffed from the cold, he was shaking slightly but I did not know if it was from the fear or the cold or maybe even both. I stood there looking astonished, not knowing what to do. All I could think about was that it was the day before Christmas Eve, theoretically a time of peace and happiness, but here I could not find any of it. In fact what I found was a frosted nightmare where a warm fire should have been. Scenes such as this one were repeated throughout the complex, children were laying on the washroom floors to keep warm because they were not allowed into the main building.

All the people at the main building were given a number and taken on buses not knowing where they were going or what would happen to their only belongings, their luggage. The Refugees were in a panic, some were crying

others were shaking; they were terrified of going back to the United States and being detained or worse: deported. The buses loaded with babies, children, teenagers, men and woman were taken to a gray building. They were kept in these buses all day, only letting them leave to go to the washroom or to get food at the Salvation Army truck. Mothers were interrogated for wanting to get baby formula for their babies. A teenage girl was put to shame because she did not want to tell the male officer that she needed to get pads from her luggage. This continued throughout the entire day until the Red Cross arrived and put pressure to let the women and children into the building. That night half of the people slept in the buses and the other half slept on the floor, wrapped in Red Cross blankets, in the building. There was no Christmas tree, no presents for the kids; no child was asking their mother if they could stay up to see if Santa was coming. They were instead lining up for food, making sure that their little spot on the floor for their family was not taken. That night they were no children in the Complex, they were all adults fending for their family.

One of the moments that shattered my heart was when we were taking a break at the trailer and a mother and a daughter came looking for their dad. They were permanent residents and had not seen him for 2 and half years. The two were happy because they thought they would be able to spend Christmas with him finally and be together as a family. They rushed into the trailer and asked us if we knew where their father was. The young teenager told us that her father had been split up from his friends who he was crossing with. She told us with a knot in her throat that she did not know if her father

was in the American side or in the Canadian side. She asked me if I knew where he was. As soon as the words, I don't know, came out of my mouth she and her mother



their faces changed completely, they cried. They calmed down a bit and started using the phone to call friends on the other side to get more information, each time she asked for her dad and got no response a tear rolled down her cheek and she would hold on to the desk for support. She had asked Santa to give her, her dad back but the Canadian Government did not feel the same way. After the third phone call she found out that he had cross the border safely but did not know where he was. She asked us again if we knew where they were keeping the refugees, we pointed them into the Immigration Canada Complex not knowing if she would be allowed to see him or if they had already moved him into the gray building. I never found out if she was reunited with her father and at that moment a rush of anger and disappointment at the Canadian Government that I had never felt before. I could not help but think that 14 years ago that could have been my father; I could have been that girl with sad, big brown

eyes searching for any glimpse of hope, which could have been my Christmas present from the Canadian Government.

We left the Refugee Camp at around 11:30 p.m. and realized on the drive back that it was midnight Christmas Eve. We knew there were still people on buses, on the floor in blankets, not knowing what their future would look like and completely drained. I knew that I would be in my bed in a couple of hours and that later on that day I would be preparing for a Christmas party while a few hours away people would be getting out of their make shift beds in the bus to get their morning coffee. I cannot help but think: Is this really a Merry Christmas? Is this really Canada, the North, strong and free?

Ana Teresa Rico is a full-time student at York University, in the Environmental Studies program.



O CANADA! - A REFLECTION

BY ROBERTA FARKAS-HUEZO

Having grown up a hockey fan in Buffalo, New York, right on the Canada-U.S. border, I learned the Canadian national anthem along with my own Star Spangled Banner. Both songs were sung before every hockey game, and I found the music and lyrics of O Canada! far easier to navigate than those of my own American national anthem. My siblings and I filled the air with loud versions of both anthems before each Buffalo Sabres game that we watched, whether on television or in person. O Canada!

As I grew older, frequent trips across the border into Canada became the norm. As a youngster, I hardly noticed any differences between our societies. Other than the fact that one had to stop at a small booth on the way into and out of Canada, the border held little meaning for me. Canada was a place where the people were a bit more polite, the cities a bit cleaner, the parks a bit nicer, and the theater a bit better than the offerings in Buffalo. Beyond these minimal differences, my childhood and then adolescent experiences offered little cause to differentiate between life south and life north of the border.

As I entered university and became more aware of domestic and international politics, however, I realized that there were very great differences between my own country and my neighbor to the North. As a political science student, I became particularly interested in refugee issues.

It was the 1980's, and the repression and civil wars in Central America were causing thousands of refugees to stream into North America. I moved to Houston, Texas after university to serve as a volunteer in a refugee shelter. While there, I learned of a program whereby hundreds of Central American refugees were being resettled from the United States, where acceptance rates for Central American asylum claims hovered at a dismal 1% - 3%, into Canada through the Canadian consulate in Atlanta, Georgia. I also became aware of a steady stream of refugees making their way to the Canadian border, often through my hometown of Buffalo. Canada? I wondered. Why Canada?

I asked those looking North why they chose Canada as their destination. Canada, they told me, was a beacon of hope. In Canada, they would not have to live in the shadows as undocumented immigrants. In Canada, they would not have to fear deportation. In Canada, they could rebuild their lives in an atmosphere of dignity and respect. Canada, to them, was the definition of an open and welcoming society.

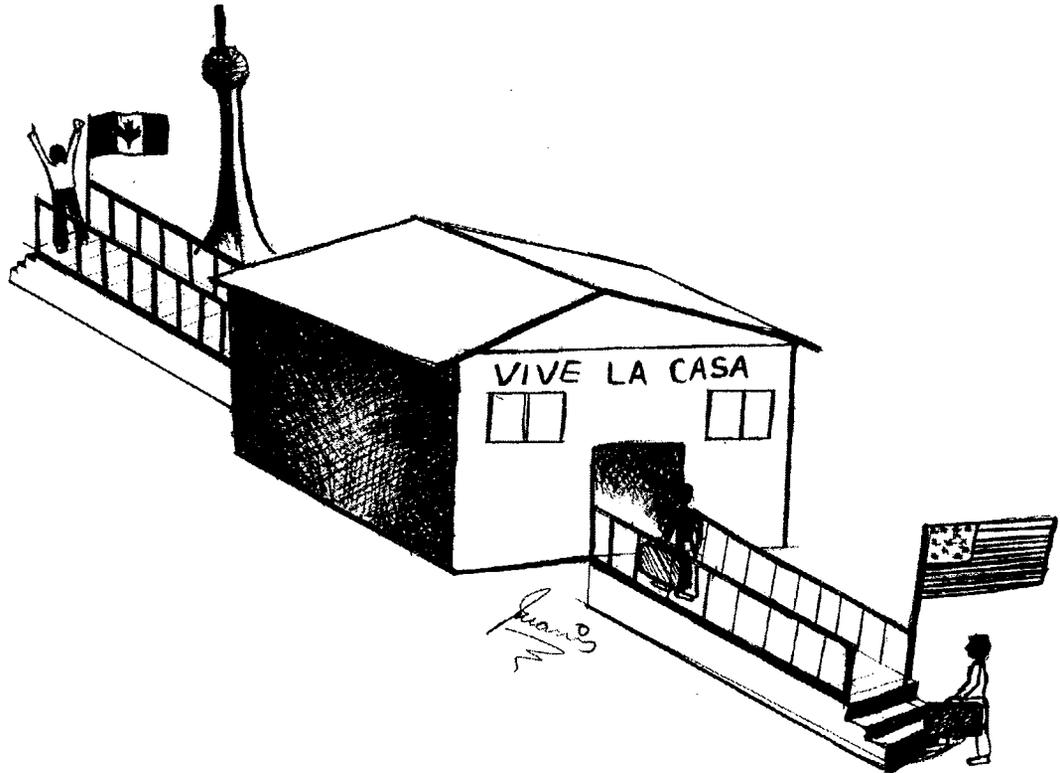
I looked into this northbound phenomenon further and discovered a fledgling non-profit organization in Buffalo that had emerged to fill the needs of the increasing number of refugees passing through the city on their way to Canada. Vive, run at the time by several Roman Catholic nuns, was growing and in need of additional staff. I was looking for a job. It was a perfect fit. I moved back to Buffalo and began working with Vive shortly thereafter. And there I stayed for almost a dozen years. My husband joined Vive's staff two years after I did; he remains with Vive to this day.

Our association with Vive gave us a bird's eye view of Canada's refugee determination system over the years. We were, quite frankly, in awe of the Canadian system, particularly when compared to that of the United States. A relatively apolitical system of determination, legal aid, work permits, medical coverage, social assistance, very little detention of refugee claimants, a cooperative atmosphere between Canadian immigration officials and border NGOs... My husband and I became what I like to call "Canada-philes." We saw the hope of the refugees as they crossed the border, and often, so often, that hope was realized. Oh, Canada!

But then, in the 1990s, rumblings of a Canada-U.S. Safe Third Country Agreement began to be heard. Vive joined other NGOs, on both sides of the border, to vigorously oppose such an agreement. This NGO struggle, spearheaded by the Canadian Council for Refugees and encompassing intense lobbying and educational campaigns, appeared successful at first. NGO efforts, combined with U.S. reluctance to add thousands of refugee claimants to an already backlogged U.S. asylum system, staved off Safe Third for a decade. But this success ultimately fell victim to the post-9/11 U.S.-Canada Safe Border Accord, which among many other things committed both countries to follow through with the Safe Third Country Agreement.

Since the implementation of Safe Third Country on December 29, 2004, the number of refugee claimants entering Canada through Buffalo has dropped dramatically. Advocates fear that the dismantling of a once orderly and fair system for processing refugee claimants at the border will lead to an increase in claimants making dangerous attempts to enter Canada surreptitiously to make inland claims. There is also fear that, as word gets out that one of the exceptions to Safe Third is that of unaccompanied minors, desperate parents will send their children on journeys to Canada without the benefit of dependable adult accompaniment.

The Safe Third Country Agreement does not



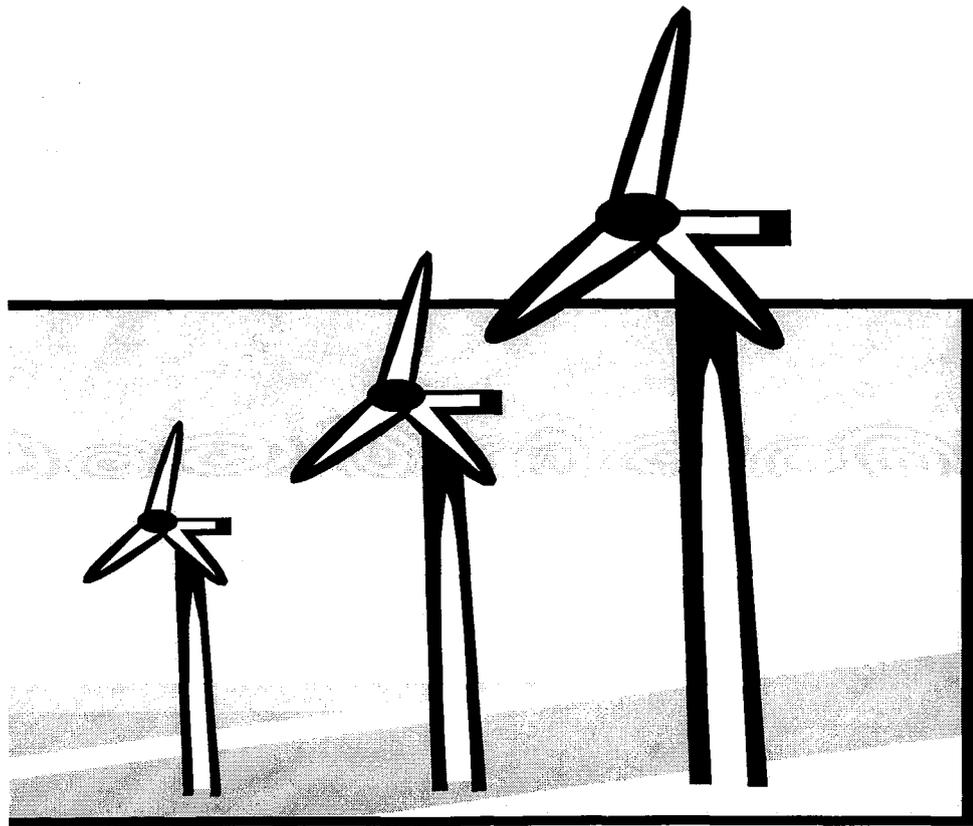
change the fact that people fleeing death and persecution need protection and will do what they must to obtain it. By signing the Safe Third Agreement, Canada has forced thousands of refugee claimants to either stay underground in the United States, to risk detention in the U.S. asylum system, or to seek irregular entry into Canada. I fear that Canada has lost a good deal of her shine in the eyes of those hopeful refugees who might have once sought her protection. With a heavy heart, I think back to my days of O Canada! and Oh, Canada! Now, in light of the implications of Safe Third, I can say to my northern neighbor only this... Oh no, Canada!

Roberta Farkas-Huezo worked with Vive, Inc. in Buffalo, New York from 1988 until 1999. She is currently the President of the Fort Erie Multicultural Centre.



***"You can judge politicians by how they treat refugees;
they do to them what they would do to everyone else if they
could get
away with it".***

Ken Livingstone, Mayor of London



FEDERAL BUDGET ANALYSIS- IMMIGRANTS/REFUGEES

The Canadian budget analysis provided by Citizens for Public Justice (CPJ) included this interesting section on IMMIGRANTS AND REFUGEES:

This is a mixed bag. CPJ applauds the \$298 million earmarked to help immigrants adjust to Canada through settlement programs and agencies. It's needed money for good and necessary work. An additional \$100 million will include "more efficient and responsive services and improvements to the availability of client information and assistance." That means that this funding will support an enhanced Going to Canada (Internet-based) immigration portal, allowing prospective newcomers to make better-informed decisions. It will also help settlement agencies begin to establish common service standards, codes and so on, so it's great to see the money there. And it's helpful to all that \$75 million has been tucked into the health care agreement to get health-care workers trained elsewhere working in the Canadian health system.

At the same time, there is nothing to reduce refugee limbo in this budget. The resources of the Immigration department are not adequate to process the applications of refugees in Canada, or those waiting overseas, whether for sponsorship or to be chosen out of camps. That means the department is pushed to the limit, staff burnout and get jaded, and those in need are kept waiting ... without relief. There is plenty of money to stop asylum-seekers from even getting a foot on Canadian soil.

There is \$433 million in the budget for border security. Some of that money will go to customs agents to speed up trade and get trucks across border posts faster. But security is a big concern for this money and CPJ reads two messages into that. One, those who come to our borders - refugees - are still being seen first as security threats, and second as people in need of protection for whom Canada has an international obligation. And second, because Canada is operating out of skepticism far more than justice and compassion, we are stopping people at airports from getting on planes to Canada.

This process is called interdiction, and CPJ expects that this budget item will likely increase that unsavoury and often racist practice. That means that Canada is putting more money into keeping people out than in helping new Canadians get on with their lives.



LA MAISON D'HAÏTI, UN ORGANISME IMPLIQUÉ AU SEIN DE SA COMMUNAUTÉ !

PAR CATHERINE GAUVREAU

Ms. Marjorie Villefranche, Programs' Director gave us an interview in which she painted a portrait of her organization and of her community.

What are the obstacles that immigrants must face?

Racism: Maison d'Haïti helps people, especially Blacks and individuals from North Africa to fight against racism.

Participating in a twinning program facilitates the integration in the new society. Currently the existence of this program is being reviewed since the government no longer finances it as a distinct

program.

Learning a new language and culture: Maison d'Haïti offers various educational programs for children and adults. In this area, the government is also cutting funding. Nine hours per week is insufficient to learn a new language.

Difficulty finding a stable job: Maison d'Haïti helps immigrants write their C.V. and to find a new job. There are no clear guidelines to evaluate foreign diplomas. Since, employers do not know what immigrants' papers are worth, they have a tendency to not

consider them to their just value.

Difficulty finding a decent apartment: Maison d'Haïti supports the construction of social housing. It is difficult to find a decent apartment when you cannot offer the required guarantees, such as a stable job and a bank account.

Poverty: Maison d'Haïti is involved in programs that promote good nutrition for young mothers and pregnant women. The provisions of the *Law on the elimination of poverty* must be applied.

Do immigrants feel that they are members of Quebec society?

Immigrants must first grieve for their country of origin. They must learn to overcome their difficulties in order not to fail. Maison d'Haïti helps individuals to take charge of their lives and to have a voice in their community.

In conclusion what are immigrants' contributions?

It is important. Immigrants maintain economic sectors viable and promote the economic vitality of Montreal. They also ensure the diversity and quality of life, which the city promotes.

Mme Marjorie Villefranche, directrice des programmes, nous a accordé une entrevue afin de dresser un portrait de son organisme et du quartier Saint-Michel à Montréal.

La Maison d'Haïti est un organisme dédié à l'éducation et à l'intégration des personnes et des familles immigrantes ainsi qu'à la création et au développement de liens étroits avec la société d'accueil.

L'organisme a pour missions, la promotion, l'intégration, l'amélioration des conditions de vie et la défense des droits des québécois d'origine haïtienne et des personnes immigrantes ainsi que la promotion de leur participation au développement de la société d'accueil.

Les objectifs de la Maison d'Haïti sont de développer pour ces populations : des programmes d'éducation continue, d'alphabétisation, d'insertion en emploi, d'intégration des jeunes, de soutien scolaire et parental.» (Site web: www.mhaiti.org)

Q: Quels sont les obstacles dont les personnes immigrantes doivent faire face ?

Le racisme : Nous avons constaté que nouveaux arrivants,

particulièrement les Noirs, toutes générations confondues et peu importe de statut, doivent faire face au racisme. Ceci se vit particulièrement dans le secteur de l'emploi. De plus, depuis septembre 2001, les personnes provenant du Maghreb sont nettement traitées de façon différente.

La Maison d'Haïti aide les personnes à se battre afin que leurs droits soient respectés et qu'elles aient accès aux services offerts.

Présentement, le programme de jumelage, un moyen facilitant l'intégration à la société d'accueil, est malheureusement remis en question, puisque le gouvernement ne finance plus le jumelage en tant que programme distinct.

L'apprentissage d'une langue et culture : Des personnes se voient contraints d'apprendre une nouvelle langue et des coutumes différentes. Certaines peuvent se sentir dépassés par les événements.

La Maison d'Haïti offre une variété de projets d'éducation populaire que ce soit de l'aide aux devoirs à des ateliers de compétence parentale visant à favoriser des relations harmonieuses et respectueuses entre les enfants et leurs parents. Le gouvernement coupe dans le financement des cours de français à temps plein. Neuf heures de cours par semaine sont insuffisantes pour apprendre une nouvelle langue.

Des jeunes patrouillent également les rues du quartier afin de discuter avec les jeunes de gangs ou qui seraient attirés ou intimidés par celles-ci.

Les jeunes mères âgées de 15 à 24 ans de la communauté noire sont encouragées et soutenues dans leur projet de vie, afin d'assurer leur pleine réinsertion dans la société.

La précarité dans l'emploi :

Les nouveaux arrivants occupent souvent des emplois précaires. Ils sont de plus en plus scolarisés, mais les emplois qu'ils trouvent sont de moins en moins rémunérés. Les exigences requises sont devenues très élevées et leurs diplômes sont évalués à la baisse. Ceci crée des conditions pénibles de vie.

La Maison d'Haïti assiste les personnes à rédiger leur curriculum vitae et dans leur recherche d'emploi.



Les règles pour évaluer les diplômes devraient être clairement établies. Les employeurs ne font pas confiance aux papiers que les nouveaux arrivants leur présentent. En conséquence, ils ont tendance à les évaluer à la baisse.

La difficulté à se trouver un logement convenable : Beaucoup de logements sont insalubres. Trop souvent, les nouveaux arrivants doivent s'installer dans des quartiers immigrants, faute de pouvoir offrir les garanties nécessaires pour obtenir un logement décent, tels un compte en banque et un emploi stable. Il n'y a pas assez de logements sociaux pour répondre à la demande.

La Maison d'Haïti encourage la construction d'un nombre plus élevé de logements sociaux. Récemment, certaines personnes ont participé à des consultations pour fonder une coopérative de logements.

La pauvreté : Les personnes ont de la difficulté à boucler leur fin de mois et doivent par conséquent avoir recours aux banques alimentaires. Les coupures dans l'aide sociale ont durement touché les nouveaux arrivants.

La Maison d'Haïti travaille afin que la sécurité alimentaire des jeunes mères et femmes enceintes soit assurée en leur procurant de l'information et de la formation, ainsi que des bons pour acheter du lait, des céréales et des œufs.

Il faudrait que les dispositions prévues dans la *Loi sur*

l'élimination de la pauvreté soit appliquée.

Q : Est-ce que les nouveaux arrivants sentent qu'ils font partie de la société d'accueil ?

Les personnes doivent tout d'abord faire le deuil de leur pays d'origine. Elles doivent surmonter les difficultés d'adaptation afin de ne pas faire face à un échec.

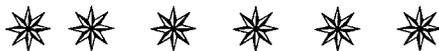
L'objectif de la **Maison d'Haïti** est de permettre aux personnes de se prendre en main et de les inciter à poser des actions citoyennes. Par exemple, les parents s'impliquent dans les écoles de leurs enfants. Certains jeunes et les femmes ont pris la parole dans des forums publics. D'autres personnes se sont exprimées lors de consultations publiques sur la revitalisation du quartier.

Q : En conclusion, quelle est la contribution des nouveaux arrivants ?

Celle-ci est importante. Ils maintiennent des secteurs d'économie vivants, comme l'industrie du textile. Ils favorisent la vitalité économique de Montréal.

Ils assurent également la diversité dont Montréal se vante. Ils ajoutent à la qualité de vie de tous les résidents par l'atmosphère qui se dégage à Montréal !

Catherine Gauvreau, is a member of the Editorial Board of Refugee Update.



CCR DECRIES SHORTFALL IN PRIVATELY SPONSORED REFUGEES ADMITTED

BY THE CANADIAN COUNCIL FOR REFUGEES

Montreal. The Canadian Council for Refugees (CCR) today expressed dismay at the unexpectedly low number of privately sponsored refugees admitted to Canada by the government in 2004. The shortfall is particularly disappointing because groups in Canada have applied to sponsor thousands more refugees, many of whom have already waited years to be processed for resettlement to Canada.

“By offering private sponsorships Canadians are demonstrating their commitment to providing a new

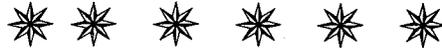
home to refugees, but the government is not doing its part,” said Nick Summers, CCR President. “Last year the government did not even live up to its extremely modest undertaking of processing at least 3,400 privately sponsored refugees.”

Citizenship and Immigration Canada's 2004 immigration plan said it would admit between 3,400 and 4,000 privately sponsored refugees. In fact, by year end they had admitted only 3,114, representing 92% of the bottom end of the promised range.

“The shortfall means that 300 refugees who could have started a new life in Canada continue to wait in precarious situations overseas,” said John Peters, representing a sponsorship agreement holder, Manitoba Interfaith Immigration Council. “In fact private sponsors are ready and willing to offer homes to many, many more refugees. The government, however, has not been willing to match the sponsors’ capacity nor have they even matched their own meager promise of processing at least 3,400 refugees.”

As a result of the government’s processing delays, applications for private sponsorship have been building up for several years and there is now an accumulated backlog of approximately 12,000 sponsored refugees awaiting processing.

The Canadian Council for Refugees recently published a report documenting the years routinely spent by refugees waiting for processing: *No Faster Way? Private sponsorship of refugees: Overseas Processing Delays*, October 2004.



CCR TRAFFICKING PROJECT – DEVELOPMENTS IN VANCOUVER

BY NORRIE DE VALENCIA

It seems like only yesterday I listened over and over to people musing, “Trafficking? – What do you mean trafficking in persons? There is no trafficking in Canada.”

Before looking at the direction the CCR trafficking project is taking in Vancouver, we should remind ourselves of the Guiding Principles established through the CCR local and national consultation process. These are:

Non-punitive : Measures must not penalize trafficked persons

Human rights: Measures must be guided by and respectful of the human rights of trafficked persons.

Economic rights: Measures must be guided by and respectful of the economic rights of trafficked persons.

Supportive services: There is a need for supportive services for trafficked person.

Gender and race analysis: A gender and race analysis should be brought to any consideration of trafficking issues.

Inclusive of trafficked persons: Discussions about trafficked person should include trafficked persons themselves.

In Vancouver the original meeting drew approximately 80 people on the Saturday morning of a Thanksgiving weekend in October, 2003, - no small indication of the importance of this topic in the minds of many. Participants requested a follow-up meeting. Six months later, some met again and at that point, two topics became the focus of continued work.

One topic involves public education. We are able to report that the first public education event will be held on April 4, 2005 at the Vancouver Public Library. The Red Cross has kindly facilitated the event and it will be hosted by CBCs Katherine Gretzinger. The topic is “Community Responses to Trafficking in Persons”.

The second interest area identified was putting in place a form of status for victims, thereby allowing them immediate protection and access to a support network including housing, legal support and medical/psychological services.

In our research and exploration of support services it became obvious very early on that if victims were without status, they remained vulnerable and insecure, and very little effective or long-term support could be provided. Agencies willing to participate were restricted by their internal operational and funding guidelines. A “don’t ask, don’t tell” policy had no solid, constructive basis on which to move ahead. Any effective solution

would have to be legitimate and expeditious.

A refugee claim, or an H&C application, that would languish for months and years in processing with little or no guarantee of a positive outcome, would be no help to vulnerable victims and may, in fact, increase their sense of fear and insecurity.

The following case which came to light in Vancouver in the Fall of 2004 illustrates the current situation:

They met in a nightclub in country "A" and after conversing with her he realized she had been trafficked. He felt sympathetic and wanted to help her which he did, and she was able to escape the web of her traffickers.

However, he then was threatened repeatedly, his family members were threatened and one was kidnapped. He paid the ransom. He tried to seek protection but none was available since there was a climate of corruption in his country. He continued to receive death threats. Then he received a demand for payment to "buy her freedom". He paid the demand

They married, confident that they would be able to find support. They had "interesting" and specific information about the actual trafficking transactions and operations in both countries. They tried everything to get protection, approaching both local and international bodies, but to no avail.

He and his family members continued to receive death threats. Fearing death, he fled to Canada seeking protection. She returned to her country "B" where the traffickers operate, (also in a climate of corruption). She continued to receive death threats in her country.

He wanted to bring her here and be reunited with her but there was no vehicle. Even though a group was willing to submit a private sponsorship application, her country "B" is not a source country and she does not therefore meet the convention definition.

Some months after making his claim in Canada, her emails became sporadic and "strange" and he suspected that she had again been entangled in the web of trafficking. When this happened he was extremely upset and determined to go and try to help her. He abandoned his claim in Canada.

We have received no further communication from either of them since he left. We fear the worst.

The group intent on mapping out a form of status became known as the "mapping committee". Almost immediately, various challenges arose some of which are:

The "pull factor" - concern has been repeatedly expressed about the magnet effect of having in place a mechanism to protect and shelter victims. "Won't this mean that such a mechanism will result in uncontrolled numbers of trafficking victims landing on our shores and claiming assistance?" we are asked.

In answer to this concern, we point to the U.S. statistics. They have had legislation (the Victims of Trafficking Protection Act) in place since 2000. In order to appease apprehension about the "pull factor", they put in place a yearly cap of 5000. It is almost five years now since the legislation was put in place and only a total of just over 500 T-Visas have been issued in that 5-year period. In other words, even though legal channels are in place, very few victims know of, or are able, to avail themselves of these services. This would indicate that most victims are still under severe threat, in great fear, and unable to break away.

A further interesting development, occurring at the time of writing, is that the 46 Council of Europe member states (known as CAHTEH) are meeting to finalize the draft European Convention Against Trafficking in Human Beings. This document is much more protective of the rights of trafficked persons than the norms set out in EU states' national laws which focus more on criminalization and border control. The Parliamentary Assembly of

the Council of Europe (PACE) has already set out a blueprint for the Convention that will focus on protecting the rights of trafficked people (and reads almost like the CCR guiding principles!). In addition to a strong focus on rights of the victims, the Convention provides for a monitoring mechanism to be carried out by one single independent expert body. This body would monitor implementation of the Convention by EU and non-EU states alike and is mandated to consider collective complaints from NGOs alleging the non-fulfillment of a state's obligations under the Convention. The Convention draft reflects recommendations of 179 NGOs working for or on behalf of trafficked persons.

With so many countries providing protection, and in light of the US figures to date, surely those who have concerns about the "pull factor" in Canada must now revise their thinking.

There are interesting challenges to the CCR structure as this project, clearly identified with the CCR at its inception and early stages, "decentralizes" and takes on local characteristics. Is it still a CCR project? How can CCR values be guaranteed as the project evolves and new local players, many of whom may not be CCR members, join in?

The issue of required testimony by the victims has divided our committee members. Obviously it is a fundamental premise of enforcement work to "conserve evidence". Other members on the committee would require no testimony at all stating that the fact that the victims are "protected" is the greatest deterrent available to traffickers since they thereby lose their source of profit. Still other members cautiously support the victims testifying if they are able and willing, and if testimony is provided in a climate of sensitivity and respect.

On January 10, 2005, the mapping committee became the Anti-Trafficking Coalition of Vancouver. In mapping our draft proposal, the following frame was approved by the committee:

- Part 1.** Examples – scope of problem
- Part 2.** Legal aspect/mechanism – current bottleneck – propose ways of addressing
- Part 3.** Cite US example
- Part 4.** Propose legislative change
- Part 5.** Provide vision of how it would work

The next meeting which will move us closer to finalizing the proposal will be on March 7, 2005.

Lastly, we feel supported and encouraged in our work by a number of contacts and developments in the Vancouver area. For example, it has been announced that there will be an International Conference on Trafficking in Vancouver May 2005. One of the key organizers recently wrote:

The Conference is taking the form of speakers and a panel where we will attempt to cover subject matters that will provide the NGOs, RCMP, municipal police forces, and government the tools to strategically put into place a work action plan tailored to our needs here in B.C. The whole topic of victims is possibly the most important one.

At this time, we feel hopeful that we will be able to make a difference.

*Norrie de Valencia is a member of the Editorial Board of Refugee Update
Vancouver, February 2005.*



BOOK REVIEW

THE GLOBAL REFUGEE REGIME: CHARITY, MANAGEMENT AND HUMAN RIGHTS, BY TOM CLARK.

REVIEWED BY JACK COSTELLO SJ

The Global Refugee Regime: Charity, Management and Human Rights, by Tom Clark, Victoria: Trafford Publishing, 2004. 274 pp.

For more than seventeen years Tom Clark served as director of the Inter-Church Committee for Refugees (ICCR). During those years between 1984 and 2001 he gained an encyclopedic knowledge of whatever related to refugee rights and protection. He became an expert on the relevant UN Conventions, the recommendations of international commissions and committees, national legislation, and on the practical actions—both ecclesial and secular—that had been taken during the almost two decades he held the position. By the time the church coalitions as distinct entities came to an end in July 2001, Tom Clark was recognized in Geneva, Ottawa, Washington, and by most significant NGOs working with refugees as a leader in the field.

As Michael Creal told the gathered people at the book launch recently, this book is the study, work, travel, advocacy and collegiality of those 17 years—committed to 275 pages. It is a comprehensive and authoritative introduction to the events and conditions that make people refugee including: globalization, the end of the cold war, and the unfair economic structures and practices of the haves against the have-nots—as well as world movements that are more benign.

Tom Clark recognizes the “UN World Order” that “umbrellas” all efforts to respond to refugees and asylum seekers at this time. He presents the blessings (some protection at last) and the horrors (often very incomplete protection) of life over months and even years in camps. He sets out the social and historical contexts for legislation protecting refugees and for the fluctuating state responses since WW II to refugee claimants—frightened, then more open, and again more defensive. And, in recalling Nancy Pocock, a dedicated Canadian Quaker, he praises the generous, usually anonymous individuals and NGOs who put themselves on the line for refugees day after day, year after year, in advocacy and direct service. All of this he does while presenting the readers with an impressive analysis of the complex relationships among containment policy, management strategies and “charity.”

But this book, with its almost overwhelming array of facts, concepts, charts, and records of conventions and policies, is not just a dispassionate exercise in history and analysis. Clark shines through as a passionate, gentle-voiced advocate. His advocacy is fixed on one goal: that the nations of the world can achieve and exercise a “rule of law,” a “rights-enhancing” regime that applies at all times, to all governments, and for all people seeking protection. For Clark, implementing a rule of law and rights is an essential mark of genuine civilization. Without that we are subject to whims, to the forces of power and powerlessness, to arbitrary and unaccountable decisions and to political influence. In so many ways this is a hard-hitting and practical book because it is based on excellent analysis and vision.

My “wish list” for what else this book could have been is small—perhaps reduced to quibbles. I found the reading heavy-going at times and wished for a bit more zip in the writing—even with the solemn subject at hand. When Clark wrote his section on “Globalization, Modernization and Co-operation” I found myself wishing he had named the section “Globalization and Marginalization” and noted more forcefully what the sociologist Sigmund Bauman calls the necessary “dis-affinities” created by current forms of globalization in which it is—at least in part—because of globalization that people are forced into marginalization—and migration.

There is a powerful link of logic running between the love for refugees Tom Clark found in Nancy Pocock and his own call for a more just world order. It is this link that makes *The Global Refugee Regime* not an exercise in utopian thinking but a witness to the conviction that another world is possible.

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.

Jack Costello, SJ is the Director of the Jesuit Centre for Social Faith and Justice in Toronto.



SAFE THIRD COUNTRY AGREEMENT WITH THE UNITED STATES

The safe third country agreement prevents you from making a claim at the US-Canadian land border, unless you meet at least one of the following criteria. You can make a claim if you have a relative in Canada who is a Canadian citizen, a permanent resident, a protected person, accepted in principle on humanitarian and compassionate grounds, 18 years of age or over and a refugee claimant or on a work or study permit. **Having a relative with visitor status will not allow you to make a refugee claim.** A relative includes any immediate family member, grandparent, uncle or aunt, nephew or niece. Also, you can make a claim if you are under 18 and unmarried, not travelling with your parent or legal guardian, and neither your mother, father, nor legal guardian is in Canada or the US. You are exempt if you were charged with or convicted of an offence punishable with the death penalty in the country where the charge or conviction was made, though this may make you ineligible on grounds of criminality. You are also exempt if you have a visa to enter Canada other than a transit visa, if you are from a country to which Canada has temporarily suspended removals (as of 02/28/05, Afghanistan, Burundi, Democratic Republic of Congo, Haiti, Iraq, Liberia, Maldives, Rwanda, Sri Lanka, Zimbabwe), or if Canada does not require that you have a visa but the US does (as of 02/28/05, Antigua and Barbuda, Barbados, Botswana, Cyprus, Greece, Malta, Mexico, Namibia, Papua New Guinea, Republic of (South) Korea, St. Kitts and Nevis, St. Lucia, St. Vincent, Solomon Islands, Swaziland, Western Samoa).

It does not matter whether you have made an asylum application in the US, only that you meet one of these exceptions while making a claim through a land-entry point between the US and Canada. These modifications do not affect claims made at an airport, port landing, or ferry landing. Meeting one of these exceptions does not guarantee that you can make a refugee claim; you will be ineligible if you have previously made a refugee claim in Canada, if you have been granted refugee protection by another country, or if you are inadmissible on certain criminality or security grounds. In order to prove eligibility, you will be interviewed by an immigration officer who will take into account what you say and any documents you provide, likely making phone calls or searching for a claimed family member in immigration databases.



US GOVERNMENT TESTS PLACING MONITORING BRACELETS ON IMMIGRANTS

source: <http://www.democracynow.org/article.pl?sid=05/03/03/1524203>

National Public Radio is reporting that the Department of Homeland Security has placed electronic monitoring bracelets on ankles of 1,700 immigrants as part of an experimental program that allows the Government to track them 24 hours a day. The bracelets have been placed on a group of immigrants who have never been accused of a crime but whose immigration status is being challenged by the government. In one case, an immigrant from Belize has been ordered to stay in his house from 6 at night to 6 in the morning. If he tries to sneak out of minneapolis home, his ankle bracelet sounds an alarm at a national computer centre in Indiana. The experimental program is expected to last six more months. After that the Department of Homeland Security will decide whether it will order all non-citizens applying to stay here to wear the electronic monitoring device.



IRB STATISTICS

Considering that the Safe Third Country Agreement came into effect on the 29th of December 2004, the statistics provided here are for 2004. It will be interesting to see how the figures will be at the end of 2005. As the acceptance rate has been declining through the past few years, 2004 was no exception.

The IRB released their year end figures for claims, which showed a high number of cases finalized (40,408), with only 40% of them (16,005) resulting on a positive decision, 47% negative (19,180), 7% were abandoned (2,809), and 6% were withdrew or were otherwise resolved (2,414).

Regional acceptance rates (as a percentage of total claims finalized) for 2004 were as follows (by descending order):

Ottawa/Atlantic 53% (51% in 2002, 50% in 2003)
Montreal 41% (43% in 2002, 42% in 2003)
Toronto 40% (50% in 2002, 43% in 2003)
Calgary 27% (48% in 2002, 35% in 2003)
Vancouver 24% (30% in 2002, 28% in 2003)

The acceptance rate has continued to drop. For several years it stood at about 47%, then it dropped to 42% in 2003, and further down to 40% in 2004.

The total number of claims for 2004 were 25,521 (Citizenship and Immigration Canada). In 2003 there were a total of 31,837 claims.

These claims can be broken down as follows:
52% of claims were made inland
35% 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
22% in Quebec
5% in B.C.
2% in Prairies
0.3% in Atlantic

The top 10 countries of citizenship for those claims are: Colombia (3,635, 14%), Mexico (2,820, 11%), China (1,865, 7%), Sri Lanka (1,128, 4%), India (1,068, 4%), Pakistan (880, 3%), U.S.A. (751, 3%), Costa Rica (684, 3%), Nigeria (554, 2%), and Peru (529, 2%). This represents 55% of all claims.

The above figures, compared to the acceptance rate for 2004, show that the countries of acceptance relate closely to the country of citizenship. The numbers may not coincide with the claims, mainly because of the back logs existing at the IRB, thus providing figures that do not reconcile.

Pakistan 3,851 (35%, 54% in 2002, 41% in 2003)
Colombia 3,259 (81%, same as in 2003)
Mexico 2,684 (25%, 24% in 2002, 27% in 2003)
China 2,403 (52%, 56% in 2002, 61% in 2003)
Costa Rica 1,809 (3%, 4% in 2002, 2% in 2003)
Sri Lanka 1,444 (64%, 77% in 2002, 73% in 2003)
India 1,241 (27%, 26% in 2002, 29% in 2003)
Nigeria 1,020 (50%, 35% in 2002, 47% in 2003)
Turkey 1,016 (63%, 55% in 2002, 60% in 2003)
Peru 926 (41%, 32% in 2002, 40% in 2003)

Statistics that may become quite revealing in a year's time are connected to the offices where the claims were made. Following are the top offices where claims (89% of the total claims) were made:

Etobicoke 30%

Fort Erie Peace Bridge 23%
Montreal inland 12%
Toronto airports 8%
Lacolle 6%
Windsor Ambassador Bridge 4%
Trudeau Airport 4%
Vancouver inland 3%

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