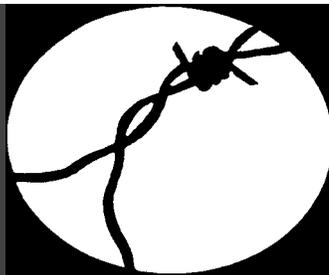
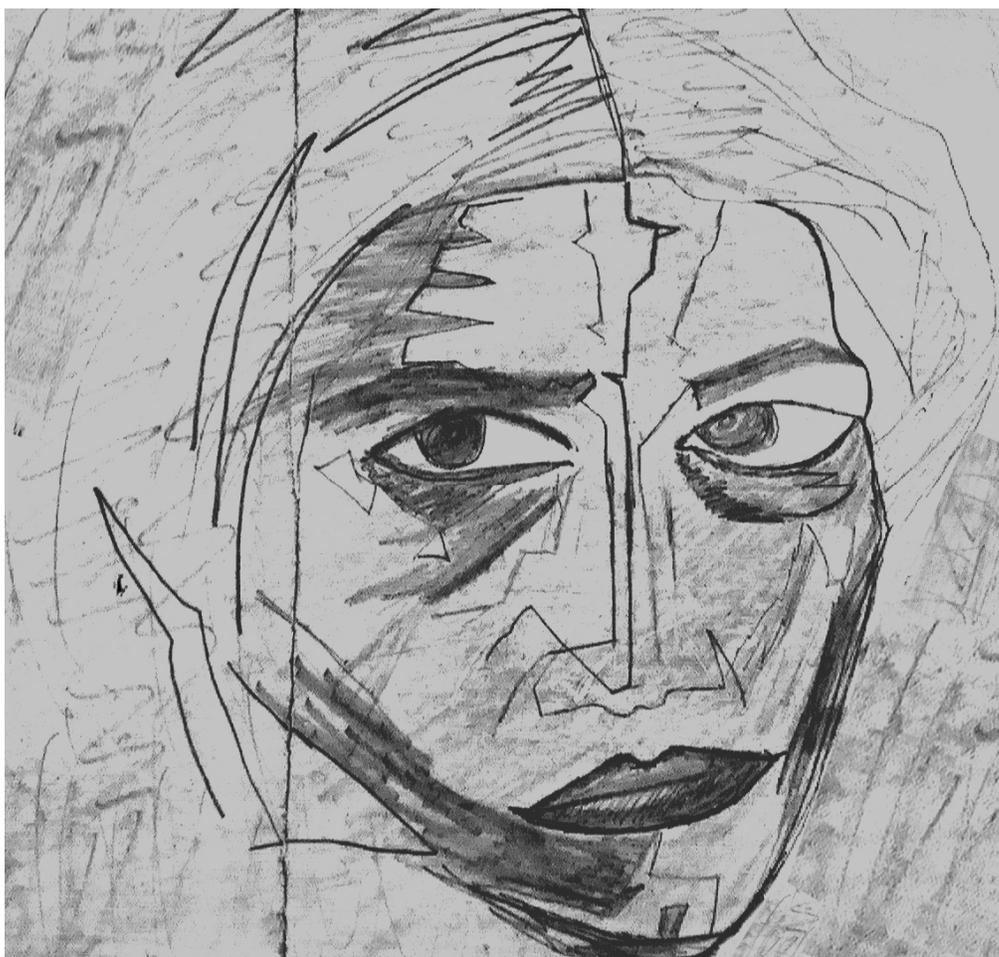


First Light



A Biannual Publication of the Canadian Centre for Victims of Torture (CCVT)



Happy Women's Day

Accredited member of the International Rehabilitation Council for Torture Victims (IRCT)

Winter 2008



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada



United Way
of Greater Toronto

First Light

Winter 2008

First Light is published semi-annually and is intended to inform the interested reader about torture, its effects and what we can do in aiding survivors to overcome their experience of torture and war. CCVT views itself as part of a larger global community and is committed to the struggle for human rights, justice and the end of the practice of torture. We chose to call this publication **First Light** because as the first light before true dawn, it symbolizes the first ray of hope for survivors of torture.

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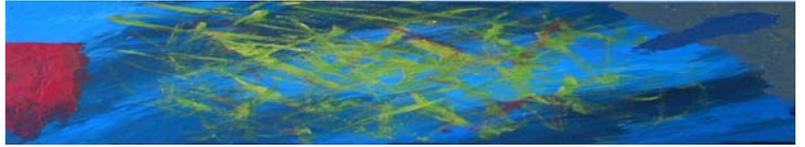
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Mandate

The Canadian Centre for Victims of Torture aids survivors in overcoming the lasting effects of torture and war. In partnership with the community, the Centre supports survivors in the process of successful integration into Canadian society, works for their protection and integrity, and raises awareness of the continuing effects of torture and war on survivors and their families. **The CCVT gives hope after the horror.**

In This Issue...

- 3 Happy Women's Day!
- 4 Report on Canada's Compliance to the Convention Against Torture (CAT)
- 16 Ruling on Safe Third Country
Leigh Salsberg
- 18 Where We Are Now?
A brief survey on woman's condition
Monireh Mohammadi
- 20 IRPA Five Year's Later: A Reflection on Refugee Rights
Tom Clark
- 26 CCVT updates: First Light Celebration & AGM
- 30 The Refugee Appeal Division: People not Paper
Gloria Nafziger
- 32 Family Separation: Problems of the CCVT Clients
Mulugeta Abai
- 37 Pain and Confusion
Padideh Hassanpour
- 38 The Forgotten Afghan Refugees in Iran
Soraya Attai
- 39 Is Law Equal For All?
Elda Selfo
- 40 Question of Allegiance
Catharine Raine
- 43 CCVT Participation at ExCom
Ezat Mossallanejad
- 46 Book Review: Refugee Sandwich
John Faustmann
- 47 Mental Health & Refugees
Selamawit Yohannes
- 48 BLACK HISTORY MONTH: "African perspective"
Jean Paul "Ainsaba" Gahunde



First Light

Winter 2008

Happy Women's Day!

With great honor and utmost pleasure, the Canadian Centre for Victims of Torture (CCVT) conveys its heartfelt congratulations for the occasion of the March 8th, the International Women's Day. Throughout history, women have been examples of self-sacrifice, sincerity, love and all that is heroic in the life of humankind. It is not exaggeration if we respond to every gigantic leap in the history of civilization with the question, "Who was she?" According to a public figure, "poetry and fiction are based upon women's love and the movements of history are mainly due to the sentiments or ambitions she has inspired."* There is hardly any achievement in human civilization without the soil and seal of women. Members of human family – man, woman, transgender, etc.- owe their knowledge, wisdom, prudence, hope, and love to women.

It is a tragedy that in the first decade of the 21st century, women are subjected to multiple tortures and endless sufferings due to their gender. Despite all these, women have challenged the fate imposed on them by socio-economic as well as cultural and political forces of both the modern and patriarchal societies. They have remained defiant in the face of relentless torture.

Last year (April 1, 2006 to March 31, 2007), the CCVT served 778 new clients from 61 countries. More than 54 percent of these clients were women. Out of 253 new chil-

dren survivors we served in the same period, 141 were girls (56%). We have documented the cases of women who have been subjected to all sorts of tortures and gender-related persecutions (rape, sexual abuse, honored killing, female genital mutilations, domestic violence, etc.).

We have also found that across the globe, women struggled openly against the practice of torture and persecution on the one hand and for peace, justice and human rights on the other. They have always refused to be passive witnesses of human rights violations.

Women's movement for emancipation is getting momentum in each and every corner of the globe on a daily basis. Despite all difficulties, women have remained upright, steadfast and defiant. It is not exaggeration if we echo a celebrated writer who has made an analogy between the woman and the sun:

**Without sun, flowers do not blossom
Without woman there is no love
And without love there is no life.**

* From the speech of December 22, 1875 by Chauncey Mitchell Depew, American lawyer and railroad executive, on "Woman," in Lewis Copeland ed., *The World's Great Speeches*, Garden City Publishing Co., Inc., N.Y., 1942, pp. 638-39).



First Light

Winter 2008

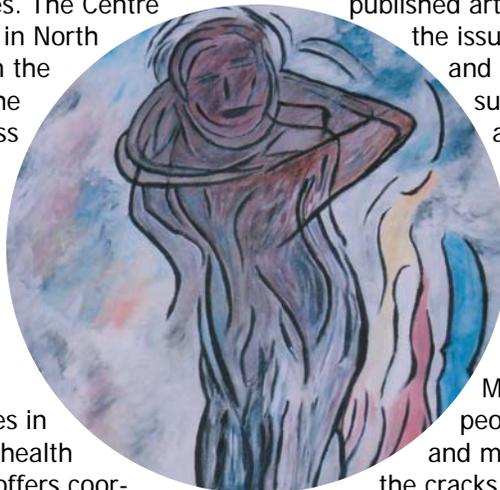
Report on Canada's Compliance to the Convention Against Torture (CAT)

The Canadian Centre for Victims of Torture (ccvt) sent the following report to the Canadian government to be forwarded to the UN Committee against torture. This is the part of the Canadian obligation under the Convention Against Torture.

INTRODUCTION

The Canadian Centre for Victims of Torture (CCVT) is a non-governmental charitable organization that helps survivors of torture to overcome the lasting effects of torture and war. Since its inception in 1977, the CCVT has provided services to over 16,000 survivors of torture, war and generalized violence from 136 countries. The Centre is the first of its kind to be established in North America and the second such facility in the world. Working with the community, the Centre supports survivors in the process of successful integration into Canadian society, works for their protection, and raises awareness of the continuing effects of torture and war. CCVT provides its clients with "hope after the horror".

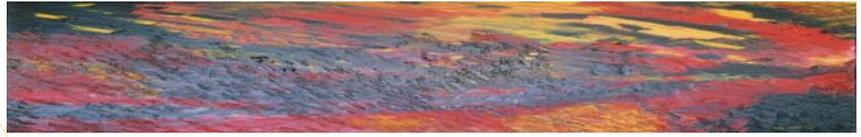
The Centre offers survivors and their families a wide range of holistic services in the broad areas of settlement, mental health and child/youth programming. It also offers coordinated professional services, including specialized medical and legal support. These programs are currently supported by 250 volunteers, most of them serve as befrienders, escorts, interpreters, event organizers, newsletter editing or English as a Second Language (ESL) tutors to survivors of torture.



The CCVT conducts nationwide public education programs and specialized training to share its expertise with other service providers, governmental organizations (such as the Immigration and Refugee Board) and the general community about torture, its effects and ways to provide an appropriate response. As a part of our public education, for the last 9 years, we have celebrated June 26th as the U.N. International Day in Support of Victims of Torture. In this celebration, we involve the community in a very dynamic way.

In addition to these activities, the Centre monitors the practice of the crime of torture around the globe and has published articles, essays, pamphlets and books on the issue of the global prevalence of torture and the need for rehabilitation of torture survivors. The CCVT monthly bulletin and its bi-annual journal, entitled "First Light", help community workers all over the country make their work more effective in terms of assisting survivors of torture. We have also produced two videos as educational tools in this respect.

Moreover, CCVT has provided support to people in limbo, i.e. Convention refugees and many others who are often fall between the cracks due to gaps in the Immigration act and problems such as the lack of identification documents. Being caught in limbo results in prolonged anguish and separation from loved ones, and aggravates the impact of the torture experience on survivors. In such cases, our support has included on-going contact with Canadian and UN officials, providing information and special counseling to refugees, lobbying the government for policy change,



First Light

Winter 2008

and on-going collaboration with sister organizations such as the Toronto Refugee Affairs Council, Ontario Council of Agencies Serving Immigrants and the Canadian Council for Refugees.

In our effort to prevent torture, CCVT has been active in monitoring national and international instruments relevant to survivors of torture, war, and organized violence. We have collaborated with the government in monitoring the implementation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and other relevant international instruments in different countries of the world through regular communication and participation in annual consultations with the Ministry of Foreign Affairs. We have attended U.N. seminars on the prevention of torture and the rehabilitation of survivors and similar conferences in countries like Switzerland, Denmark, Ethiopia, the former Yugoslavia, Chile, Nigeria, Rwanda and South Africa.

Given our knowledge and expertise on the multiplicity of physical, psychological and social issues faced by torture survivors, we welcome this opportunity to share our insights on how Canada has so far complied with the principles of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (that will be referred to as CAT in this document).

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CANADA'S CONTRIBUTION TO THE UN VOLUNTARY FUND

Before looking into the issue of Canadian compliance with CAT, we would like to reiterate that Canada is one of the initiators of the UN Fund for Torture Victims, but its contribution is minimal (\$60,000) in comparison with other industrialized countries. We have frequently brought it to the attention of the Canadian government that given Canada's

prominence in the human rights movement, this is inexcusable. Unfortunately, the government has not yet considered our frequent requests. We expect that the Canadian government increase its contribution to the UN Voluntary Fund and allocate more resources for the rehabilitation of torture services at home.

ANTI-TERRORISM ACT AND SECURITY CERTIFICATES

The passage of Bill C-36 into the Anti-Terrorist Act on December 18, 2001 and the subsequent Bill C-42 into Public Safety Act, 2002, which received Royal Assent on May 6, 2004, have led to the intensification of enforcement measures in Canada.

Under the Anti-Terrorist Act, police can arrest and detain people without warrant. This can happen under "exigent circumstances" even without the consent of the Attorney General, the minister responsible for police forces. Police may also enter a dwelling house without such a warrant. Terms such as "believes on reasonable grounds" and "suspects on reasonable grounds" are not defined by the Anti-terrorism Act. These provisions have left police with tremendous power to arrest and detain people without due process. The Act suffers from lack of transparency and encourages secret trials.

Canada has used the "Security Certificate" as a powerful tool in removing inadmissible non-citizens. The security certificate is a legal provision in sections 77 to 88 of the *Immigration and Refugee Protection Act (IRPA)*. The issuance of a security certificate against foreign nationals is based on grounds of being a risk to national security, violating human or international rights and serious criminality. It allows the government to detain non-citizens without charge and deport them at will. The end result is that the



First Light

Winter 2008

detainees and their lawyers never get the chance to see or challenge the details of the government's case.

There has so far hardly been a due process in issuing the certificate, as IRPA allows for it to be signed by members of the executive, the Minister of Public Safety and Emergency Preparedness-Canada (PSEPC), and the Minister of Citizenship and Immigration Canada (CIC). On December 10, 2004, the Federal Court of Appeal reiterated in the *Charkaoui* decision that the certificate process is constitutional and is in accordance with the Canadian Charter of Rights and Freedoms.

In its ruling of *Charkaoui v. Canada* (February 23, 2007), the Supreme Court of Canada (SCC) ruled that the security certificate violates the Charter in two grounds. First of all, the non-disclosure of evidence clause [IRPA, 78(g)] is unconstitutional because there are alternative ways to keep sensitive information secret without sacrificing an individual's right to a fair hearing. Secondly, the SCC found it unjust that foreign nationals can apply for a release from detention 120 days after a decision has been made regarding the reasonableness of the certificate [IRPA, 84(2)]. This results in prolonged and unnecessary detention of foreign nationals. Moreover, it is discriminatory compared with permanent residents who receive review within 48 hours of the detention. The SCC suspended non-disclosure of evidence clause for one year and granted foreign nationals the same procedural rights as permanent residents. The court gave Parliament a year to come up with a new law that would address the above concerns.

On February 12, 2007, the Canadian Centre for Victims of Torture (CCVT) raised its growing concerns with the government about the detention of Mahmoud Jaballah, Mohammad Mahjoub and Hassan Almrei, who had been held at the Kingston Immigration Holding Centre. Mr. Jaballah, Mr. Mahjoub and Mr. Almrei were accused of having terrorist links, but under the national security certificate system, they were denied access to the evidence upon which they had been detained for over five years.

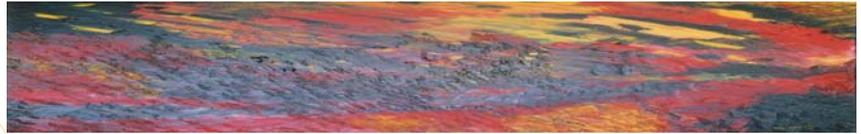
As a result of desperation and powerlessness, the above-mentioned individuals resorted to frequent and prolonged

hunger strikes. Mr. Jaballah, Mr. Mahjoub and Mr. Almrei described their indefinite detention as a form of psychological torture. They neither knew of their possible release nor did they have any means of responding to the allegations against them. Further, the government maintained that it was justifiable to deport them to their respective countries of origin, Egypt and Syria, regardless of the risk of torture.

Both the conditions of the detention under the security certificate legislation and the possibility of deportation to countries that are known to practice torture are legally and morally problematic. By allowing individuals to be detained indefinitely, on the basis of secret evidence, and without charges being laid, the security certificate process infringes upon basic rights guaranteed by the *Canadian Charter of Rights and Freedoms*, notably the right not to be arbitrarily detained and the right to be informed of the reasons for one's detention.

The CCVT is concerned about Canada's preference for deporting Security Certificate detainees rather than subjecting them to the domestic criminal process. The Canadian government's apparent readiness to deport individuals to countries where they are likely to face torture is a clear contravention of international law, in particular the principle of *nonrefoulement*. Moreover, the arbitrary and indefinite detention as such imposes serious direct and indirect costs on the physical and psychological well being of the above detainees.

Under the ruling of the Supreme Court of Canada, those detained under Security Certificate were released only to be put under house arrest. Their movement is restricted and they are under constant satellite surveillance. They are followed by security officials and must obtain special permission when going for treatment and counseling. Currently, CCVT is involved in rehabilitation of two individuals holding Security Certificates who have shared their stories of psychological torture and inhumane, cruel, and degrading treatment and punishment they received in Canadian jail and detention centers. Mr. Mahjoub has revealed to us his experience of psychological torture, stigmatization, and sexual abuse. He spent seven years in jail with no prospect for release in addition to suffering from the lack of health



First Light

Winter 2008

care and psychological treatment in jail. While in detention, Mr. Mahjoub developed Hepatitis C due to the lack of hygiene in the detention center. CCVT has documented his case and provided him with holistic services including psychiatric treatment.

We call upon the Canadian government to guarantee the fundamental rights of the non-citizens in its upcoming amendment ruled by the Supreme Court of Canada. The gap between citizens and non-citizens should be reduced. Secrecy surrounding the pertinent evidence should be replaced by transparency; prolongation of the detention should be stopped and no one should be subjected to any kind of torture and unusual treatment in jails and detention centers. The condition of detention should be improved and Canada must ratify the Optional Protocol to the Convention against Torture sooner rather than later.

IMMIGRATION AND REFUGEE PROTECTION ACT

In applying Article 1 of the Convention against Torture, Canada has gone beyond the CAT definition of torture by protecting survivors of torture and those who might be subjected to torture upon their return to their countries of origin. On June 28, 2002, the Immigration and Refugee Protection Act was implemented in Canada. This act has provided protection status to people who might be subjected to the "risk of torture or cruel and unusual treatment or punishment" in other countries.

Canada has also accepted gender-related persecution as grounds for claiming refugee status. The Immigration and Refugee Board (IRB) has issued guidelines on dealing with cases of female refugee claimants fearing such persecutions. Examples of gender-related persecutions include rape, domestic violence, female genital mutilation, and persecution due to nonconformity with gender-discriminatory, religious and cultural laws.

Another positive development within the Immigration and Refugee Board is the implementation of the Guidelines on Child Refugee Claimants since August 1996. These Guidelines recognize the vulnerability of children, especially those who have experienced the scourge of torture and atrocities of war. They also propose ways to deal with the problems that may arise in processing children's claims and in assessing the evidence they present with special attention to the "best interests of the child." These Guidelines have so far helped many unaccompanied minors and separated children.

Of particular attention to CCVT is the Guideline on Procedures with Respect to Vulnerable Persons Appearing before the IRB. The Procedure provides guiding principles for adjudicating and managing cases of vulnerable refugee claimants including

those who are survivors of war and torture. It is based on the Section 159(1)(h) of the *Immigration and Refugee Protection Act* that provides statutory authority for the Guidelines.

Although acting as a good tool dealing with vulnerable people appearing before the 3 divisions of the IRB, the above guidelines are not mandatory.

They only provide directions to decision-makers to apply them or provide a reasoned justification for not doing so. In our assessment, IRB guidelines have referred to torture in a

haphazard manner. They have considered the

trauma resulting from the scourge of torture the same way as dealing with other sources of trauma – physical or mental health and age. It is important to note that torture is different from other types of trauma. The crime of torture leaves profound physical and psychological impacts on its victims. Guidelines should pay special attention to the victims of torture, war, genocide and other crimes against humanity. We, at CCVT, expect the guidelines to contribute towards our efforts to promote the coping capacity of our clients.

It is important to note that torture is different from other types of trauma. The crime of torture leaves profound physical and psychological impacts on its victims. Guidelines should pay special attention to the victims of torture, war, genocide and other crimes against humanity.



First Light

Winter 2008

We feel that apart from torture, the guidelines should recognize other cruel, inhuman or degrading treatment or punishment, although the definition of the practice is the subject of legal debate. There are usually two criteria for cruel and degrading treatment: 1) the act should be unusual to the extent that it shocks the conscience of humanity; 2) it is so excessive that it outrages standards of decency. Treatments such as insults, verbal abuse, deprivation, humiliation, demoralization and keeping in condition of uncertainty can be classified under this category. These should be considered at any stage of hearings by all 3 divisions of the IRB.

Implementation of the IRB guidelines will be ineffective if it is not combined with ongoing training by expert agencies like CCVT at the national level. Unfortunately, there is inadequate attention to the important requirement of training.

Canada can present its adversarial judicial system as an example to the international community and help other nations develop similar legal systems. In the Canadian system, the lawyer and the prosecutor (the Crown Attorney in Canada) contest the matter with each other in a courtroom. Truth is sought in this adversarial system and there is no place for forced confession. This is in contrast to other countries, where torture is often practiced in jails and detention centres by law enforcement authorities in an attempt to extract information or confessions.

However, it should be noted that this adversarial system should not be used during refugee hearings by the Refugee Protection Division of the Immigration and Refugee Board when they examine refugee claimants and survivors of torture. Refugee claimants should not be treated as criminal offenders. They have gone through persecution, torture and have fought for human rights. Canada has correctly decided to give them an opportunity to share their stories in a non-adversarial way, which is necessary because adversarial confrontation could easily lead to the re-traumatization of refugees and survivors of torture.

Unfortunately, some cases of refugee hearings in Canada have become adversarial as a result of inappropriate, aggressive intervention by panel members, Refugee Protection Officers, and representatives of the Minister of Citizen-

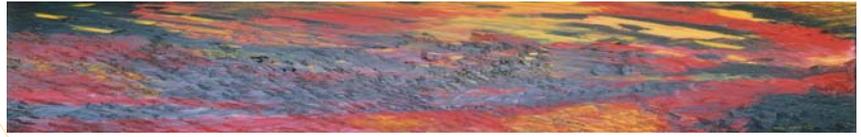
ship and Immigration who occasionally attend refugee hearings. We have documented cases of refugee hearings becoming adversarial and leading to re-traumatization of the clients of CCVT. We have shared our concerns with the Department of Citizenship and Immigration directly and indirectly through the Canadian Council for Refugees. Under the previous Immigration Act, the Minister's representative needed special permission by the Immigration and Refugee Board to attend refugee hearings. The present Immigration and Refugee Protection Act has waived such permission. Also, the present Act has provided the Minister with the authority to appeal the positive decision of the IRB that is respected as a prestigious Canadian quasi judicial body.

NON-CITIZENS IN LIMBO

Limbo is normally used to denote any place or condition of uncertainty, instability or being taken for granted. Limbo is used as an actual technique of torture by torturers, war criminals and perpetrators of genocide. While the psychological effect of living in limbo is hard on every human being, it is specifically fatal for survivors of torture and trauma. Based on our experience, almost all survivors of torture have suffered by existing in limbo in some form during their incarcerations.

Unfortunately, there are certain gaps in our Immigration legislation and practices that keep non-citizens in limbo. We, at the CCVT, have been serving survivors of torture living in limbo for up to the past 13 years – among them are vulnerable women and senior citizens. People are in limbo due to various reasons including lack of identity documents, government's security obsessions and alleged or real criminality.

One of the most tragic effects of limbo is the separation of families. There is double pressure on women, especially those with children. Women who flee with their children lack the familial support system that is crucial for the children's well being, and the well being and happiness of themselves. The impact of family separation is so devastating that its consequences could continue years after the family separation is over.



First Light

Winter 2008

Limbo creates a situation that cripples the hopes of its victims. There is also the loneliness of living in limbo and the feeling of being excluded and rejected which in turn can lead to feelings of apathy, hostility, isolation and the feeling of being a "nobody." It leaves a negative impact on refugees' endeavors to empower themselves.

We have learned from our experiences at CCVT that limbo is particularly devastating for any family or individual who has experienced war and/or torture. With the prolongation of limbo, it becomes very difficult for organizations like CCVT to help victims effectively due to the fact that survivors of torture are forced to experience it all over again. This makes the healing process extremely difficult and in some cases virtually impossible.

The main problem is a powerful bureaucracy with vested interests that works behind closed doors and prolongs the process. There is also the problem of unjustified discretionary powers for immigration and visa officers, and a total lack of accountability of these officials. The absence of face-to-face contact between people in limbo and immigration officials often results in a lack of compassion and absence of attention to special individual needs and emergency situations.

There are also problems dealing with the lack of correct information and the inexperience, inadequate training and sheer ignorance on the part of Immigration or Visa officials.

ABSOLUTE PROHIBITION OF TORTURE

Canada has legally complied with Article 2 of the Cat and the principle of absolute prohibition of torture. Section 12 of the Canadian Charter of Rights and Freedom guarantees the right of everyone "not to be subjected to any cruel and unusual treatment or punishment." Section 269 of the Criminal Code of Canada has made torture illegal and a

punishable offence in this country. Canada is one of the few countries in the world that has incorporated the Rome Statute of the International Criminal Court into its legislation by passing and implementing the Crimes against Humanity and War Crimes Act. In this magnificent legal instrument torture is considered as a war crime and crime against humanity.

PROTECTION AGAINST REFOULEMENT

Article 3 of the CAT is one of the most important tools of support in favor of torture survivors. Article 3 explains the principle of non-refoulement, i.e. that, under no circumstances should a person be returned to a country in

which he/she will be at risk of torture. This is regarded by human rights and torture rehabilitation centres as an

absolute that cannot be balanced with such considerations as danger to the public or risks to national security.

Unfortunately, we have serious concerns regarding Canada's compliance with this very important article. We have recorded cases of CCVT clients who have been deemed a danger to the public (on the basis of criminality) and as national security risk.

They have ended up with deportation and removal orders. What is disturbing is the prolonged inaction and indecision. There are cases that non-citizens are not easily removable due to war or generalized violence in their countries of origin. In such cases non-citizen survivors of torture remain in a tormenting state of limbo, with retraumatizing impacts.

In its ruling of January 11, 2002, (Sursh Vs. Canada) the Supreme Court of Canada ruled that, "to deport a refugee to face a substantial risk of torture would generally violate Section 7 of the Charter" and is therefore "unconstitutional". To all intents and purposes, this gen-

Unfortunately, there are certain gaps in our Immigration legislation and practices that keep non-citizens in limbo. We, at the CCVT, have been serving survivors of torture living in limbo for up to the past 13 years – among them are vulnerable women and senior citizens. People are in limbo due to various reasons including lack of identity documents, government's security obsessions and alleged or real criminality.



First Light

Winter 2008

eral rule fails to recognize the absolute nature of Article 3 of the UN Convention against Torture: "Determining whether deportation to torture violates the principles of fundamental justice requires us to balance Canada's interest in combating terrorism and the Convention refugee's interest in not being deported to torture." (Suresh vs. Canada, section 47)

The Supreme Court's ruling is a matter of grave concern to us with regards to Canada's compliance with Article 3 of the CAT. We are concerned that in its task of enforcing immigration legislation, enforcement authorities may apply the Suresh exception (under which removal to torture is permissible) in an overly broad fashion, and that we have already had some indication in our work that this trend is starting.

Based on our experience, there is inadequate attention to Article 3 in Immigration and Refugee Board hearings, Pre-Removal Risk Assessment (PRRA), and in Humanitarian & Compassionate (H & C) applications.

DIPLOMATIC ASSURANCES

In recent years, we have witnessed a growing trend among Western governments – Canada is not excluded – of seeking diplomatic assurances of humane treatment in order to deport undesirable non-citizens to countries with records of gross human rights abuses including the practice of torture. In almost all cases these assurances are nothing but empty promises that can never be considered as safeguards against torture. It is a well known fact that torture is surrounded with denial and secrecy and governments that are involved in systemic torture always try to hide their practice. Therefore, their 'assurances' can never be trusted.

It should be acknowledged that the threshold of torture under tyrannical regimes is very high and their interpretation of the term "severe pain or suffering" in Article 1 of the CAT can fundamentally be different from that of democratic governments. There are many countries in the

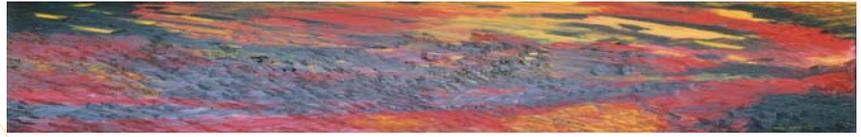
world that never consider their sordid crime of torture as such. On the contrary, tyrannical regimes and their professional torturers use soft words when they refer to their horrendous acts of torture and human butchery. In Greece under the military rule, severe torture was called "tea-party". "SAVAK", the notorious secret police of the Shah of Iran, used "caressing" ("navazesh" in Farsi), instead of torture. SAVAK members used "preparing room" instead of "torture chamber". Under the present clerical regime of Iran, torture is replaced by such terms as "guiding punishment" or "divine penalty" (Ta'azir). We also have terms like "dance" or "football games" used by other dictatorial governments.

The main problem of diplomatic assurances is the total lack of monitoring system after a person is removed to a country that is notorious for the perpetration of the crime of torture. We, at the CCVT, have witnessed the unfortunate removal of our clients to their countries of origin. Our efforts to monitor their situation after removal through sister organizations have always failed due to the lack of solid foundation for civil society in these countries. Under despotic governments, NGOs are very weak and in some countries are fully controlled by the state.

A close look at the states that use diplomatic assurances reveals that they include such abusive governments among the family of nations as Syria, Egypt Uzbekistan, Sri Lanka, Iran, Yemen, Morocco, Tunisia, Algeria, Russia, and Turkey. Diplomatic assurances are unjustified justifications for transferring non-citizens to torture. It is a utilitarian shortcut that takes away responsibility from host governments that are pre-occupied with deportation and removal. It erodes the global ban on the practice of torture.

INDEPENDENT OVERSIGHT OF LAWENFORCMENT

Despite heavy emphasis of the Immigration and Refugee Protection Act on removal and detention and an ever-increasing number of Immigration detainees in Canada, torture is not used in Canadian jails and detention centres as part of a systematic, political strategy of repression and



First Light

Winter 2008

we feel lucky and proud in this regard. The issue of violence by police and other law enforcement officials, however, is an increasing concern in Canadian society.

We have received complaints from clients about physical as well as psychological violence by police and enforcement officials while in custody. What is at stake here is people's civil and political rights. Lacking in Canada is an effective complaint mechanism against excessive measures and violence committed by police and other law enforcement officials. An internal committee from the police or the relevant law enforcement department looks into the complaints against individual offenders. While it is important to have an effective and powerful police force in country, that power must be subject to independent civilian oversight.

IMPUNITY

Canada has always been at the forefront of the global campaign against impunity for torturers and other perpetrators of international crimes. From the very beginning, Canada played a significant role in efforts that led to the adoption and later enforcement of the Rome Statute and establishment of the International Criminal Court (ICC).

Canada took practical steps and contributed to a United Nations trust fund enabling poor countries to participate in the negotiations about ICC. Canada signed the Rome Statute for ICC on December 18, 1998. On June 29, 2000, Canada became the first country in the world that incorporated the Rome Statute for ICC through its comprehensive Crimes against Humanity and War Crimes Act. The adoption of this Act paved the way for Canada to ratify the Rome Statute on July 7, 2000. Canada is among the few countries in the world that has legally accepted universal jurisdiction in the prosecution of perpetrators of torture, war crimes and crimes against humanity.

While Canada should be credited for its leadership towards

the establishment of the ICC, it should also be noted that Canada is not perfect in terms of addressing the problem of impunity. We expect the government to go with utmost vigilance in this area.

We are also concerned about the preference demonstrated by the Canadian government for an immigration remedy rather than a judicial one with regards to perpetrators of international crimes. This is partly due to the technical difficulties involved in gathering foreign witnesses for a criminal trial, as well as in obtaining permission to enter the offending country to conduct investigations.

With the establishment of the War Crimes Unit in 1996, the Canadian government chose the path of deportation rather than criminal prosecution against perpetrators of international crimes. Lack of attention to criminal prosecution is justified by its high costs, the difficulty of finding evidence and bringing witnesses to Canada. We are concerned that deportation of perpetrators of torture and other international crimes, may lead to their further impunity.

We ask that Canada works with international law experts and non-governmental organizations to take practical steps in the prosecution of torturers, war criminals and people who have committed crimes against humanity.

EXTRADITION

We believe that the bilateral and multilateral agreements to which Canada is a party provide for the extradition of perpetrators of torture and other crimes of international law. The UN Convention against Torture could also be used as a basis for extradition. The fact that Canada has not taken practical steps in the extraction of torturers is not surprising to us. In the interests of fighting impunity, we endorse our government's caution in any discretionary extradition. It is crucial for Canada to see if the subject of extradition would receive a fair trial upon extradition. It is a fact that there is hardly any functioning judicial system or a viable

Canada is among the few countries in the world that has legally accepted universal jurisdiction in the prosecution of perpetrators of torture, war crimes and crimes against humanity.



First Light

Winter 2008

witness protection program in place in countries that suffer from war or generalized violence. Another problem is the close connection between the judiciary and executive powers in these countries. Politicians as well as police and bureaucratic authorities can assert influence over the outcome of particular investigations or prosecutions. Given these limitations, we ask that torturers, war criminals and those who have committed crimes against humanity be prosecuted in Canada rather than being extradited to other countries.

PROTECTION OF CANADIAN CITIZENS AGAINST TORTURE

Article 9 of the UN Convention against Torture is about the cooperation of the state parties in the process of prosecution of torturers. We believe that it will be against the spirit of this article if states parties to CAT refuse to protect their citizens against torture by other states or, even worse, facilitate torture against their citizens under any guise or excuse. We are deeply disturbed by attacks against the fundamental human rights of the Canadian citizens overseas. We were shocked by the tragic death of the Canadian photo-journalist Ms. Zahara Kazemi under torture in Iran on July 12, 2003. This was followed by the testimony of Mr. William Sampson about his experience of abhorrent tortures during his 31 months of imprisonment in Saudi Arabia. Following that Mr. Maher Arar testified that despite being a Canadian citizen, he was deported to Syria by the U.S. authorities to face torture and other cruel, inhuman or degrading treatment there. Both Mr. Sampson and Mr. Arar mentioned the inadequate support from the Canadian government to protect them as Canadian citizens. Mr. Arar mentioned about possible collaboration between the Royal Canadian Mounted Police (RCMP) and the Canadian Security and Intelligence Services (CSIS) on the one hand and U.S. and Syrian authorities on the other.

The Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar was established in February 2004 under Part I of the *Inquiries Act*. In September 2006, the Commission released its final report on the matter, entitled *Report of the Events Relating to Maher Arar*. The Report consists of two parts, the first of which presents the Commissioner's analysis and recommendations, and the second of which summarizes the factual findings of

the Commission.

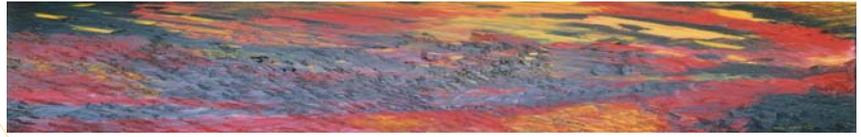
In his *Analysis and Recommendations*, the Commissioner summarizes his conclusions under four main headings: first, information sharing prior to Mr. Arar's detention, second, Mr. Arar's detention in New York and removal to Syria, third, his imprisonment and mistreatment in Syria, and fourth, the period after his return to Canada.

The Commissioner finds that there is no evidence to suggest that Mr. Maher Arar committed an offence or that he at any point constituted a threat to Canadian national security. He concludes that the RCMP provided American authorities with information about Mr. Arar that was inaccurate and which portrayed him in an unduly negative fashion, notably by suggesting that he was an Islamic Extremist and that he had links to Al Qaeda. The Commissioner concludes that it was highly likely that the American officials relied upon the information provided by the RCMP when making their decision to detain Mr. Arar and to deport him to Syria. However, he notes that Canadian officials did not directly participate in or acquiesce to the American decision. Finally, the Commissioner finds that upon Arar's return to Canada, the government acted in ways to damage Mr. Arar's reputation and to downplay the mistreatment that he suffered.

The *Factual Background* contains information taken from the testimony of over 70 government officials and some 6,500 government documents that were entered as exhibits. It details the events that occurred before, during and after Mr. Arar's detention in New York and his subsequent deportation and imprisonment in Syria. The report also endeavors to explain the organizational and policy contexts in which these events occurred, with particular emphasis on the contexts that shaped the actions of Canadian officials.

The public version of the report is a thorough, but occasionally vague and incomplete account, as it does not include evidence that the Commissioner and the Government of Canada have determined to be confidential due to reasons of national security.

From the very beginning, the Canadian Centre for Victims



First Light

Winter 2008

of Torture (CCVT) supported the cases of Mr. Sampson, Mr. Arar and Ms. Kazemi by various means including direct contacts, press release and letter writing. We are encouraged by some constructive measures taken by the Canadian government in the cases of Ms. Kazemi and Mr. Arar. The consistent and effective Canadian protests forced the Iranian government to initiate a preliminary investigation into Ms. Kazemi's death under torture.

On March 31, 2005, the Iranian medical doctor, Mr. Sharam Azam, who had examined Kazemi just prior to her death, said he was shocked by the extent of her injuries, and felt she had been tortured and possibly raped. He reported scars and mutilation consistent with torture, such as flogging, wounds on the back and missing fingernails. A female nurse told him of "brutal" genital injuries. Azam fled Iran to Canada with the intention of sharing his story.

Ms. Kazemi's suspected torturer, Mr. Mortazavi was never officially charged in Iran for his involvement in Kazemi death. Instead, in a move of open defiance, the fundamentalist government of Iran sent him to Geneva, as a member of Iran's delegation, to participate at the meeting of the U.N. Human Rights Council. Canada called for Mortazavi's arrest in his way back, in Germany, due to his suspected complicity in the illegal arrest, rape, torture and murder Ms. Kazemi in 2003. The Canadian Prime Minister Mr. Harper reassured the world that "Canada has not dropped this matter". Foreign Affairs Minister, Mr. Peter MacKay, promised that "If there is any way that Canada can bring this person to justice, we'll do it".

Despite these statements, the Government of Canada has not yet indicated its intention to initiate a criminal investigation against Mr. Mortazavi in Canada with the intention of pressing charges against him. This should be done immediately as a matter of principle, ensuring that Mr. Mortazavi cannot again leave Iran without facing arrest. We expect Canada to send a strong the message to the world that impunity is not tolerated.

We have learned fruitful lessons from the cases of Mr.

Simpson, Mr. Arar and Ms. Kazemi. Canada is a country of Immigration and there are hundreds of Canadians with double citizenship. The CCVT is presently serving clients with family members, who are Canadian citizens, languishing in jails overseas. In one case (a Canadian citizen in Turkey) consular visit was provided with undue delay. This was done despite the fact that the detained citizen was at risk of refolement to torture. In another case (a citizen detained in USA), we witnessed apathy from the part of responsible officials at the Canadian Department of Foreign

Affairs in Ottawa. This citizen has not so far given a consular visit. We recommend that an effective system be established for the protection of the Canadian citizens against torture both in Ottawa and at visa posts overseas.

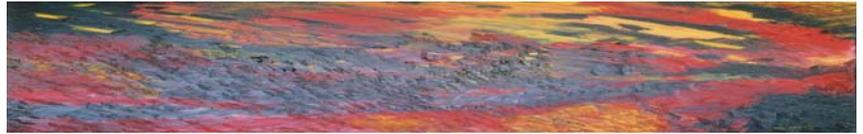
Despite the recognition of universal jurisdiction in the prosecution of torturers, Canada has failed to take effective measures in this respect.

TRAINING

The Canadian Centre for Victims of Torture (CCVT) provides training for panel members (acting judges) and Refugee Protection Officers at the Immigration and Refugee Board (IRB). In these training sessions, we have focused on torture as an international crime, its impact on survivors and the need for its prevention. We have shared our expertise on problems related to the testimonies of survivors of torture in their refugee hearings. We are willing to provide training for all levels of personnel in Canada involved in enforcement and interrogation. In particular, such training is very much lacking for staff in enforcement centres, the police and prison authorities. Unfortunately, we have not been approached by these sectors and there remains a gap in education and training with regards to the Article 10 of the CAT.

PROVISION OF COMPENSATION TO VICTIMS

Despite the recognition of universal jurisdiction in the prosecution of torturers, Canada has failed to take effective measures in this respect. There are people who have been tortured in their countries of origin and in the course of time have become permanent residents or citizens of Canada. It is almost impossible for these torture survivors to



First Light

Winter 2008

ask for compensation from the governments responsible for their torture. The case of Dr. Houshang Boozari is a manifestation of the Canadian failure in this area of struggle against impunity.

Dr. Bouzari experienced horrible tortures in Iran in 1993. He arrived in Canada in 1998 and in the course of time became a Canadian citizen. The Ontario Court of Justice dismissed his lawsuit against the Iranian government in 2002. Rejection of Bouzari's claim was based on a provision in the State Immunity Act that has granted immunity to foreign states from the jurisdiction of the Canadian courts. Mr. Bouzari argued at the Ontario Court of Appeal (December 2003) that the Canadian Charter of Rights and Freedoms carved out an exception to the State Immunity Act for torture. The court refused his argument.

The UN Committee against Torture has criticized Canada for "the absence of effective measures to provide civil compensation to victims of torture in all cases." The Committee has recommended that Canada ensures "the provision of compensation through its civil jurisdiction to all victims of torture." We believe that the State Immunity Act needs a specific exemption for torture.

DETENTION OF NON-CITIZENS

The awkward condition of non-citizens in Immigration detention is an area of grave concern in Canada. People are detained in Canadian Immigration detention centres for different reasons:

- Refugee claimants who are suspected of not reporting to immigration officers.
- Refugee claimants who come to Canada with no "appropriate identification document."
- Visitors who are suspected of posing risks for Canada upon their arrival, or later, those whose visas are expired.
- Rejected refugee claimants who have exhausted all legal remedies to stay in Canada and are under removal order.
- Refugees and immigrants who have been found inadmissible to Canada as "danger to public" or "national

security risks".

- Stateless people who are not removable to any country.

Depending on the cases and the discretion of the official of Citizenship and Immigration or the Canadian Border Services Agency, immigration detainees are taken to immigration detention centres or jails. There is a detention review after 48 hours of the arrest of the detainee. One week later s/he will have the second review, and following that, detention reviews take place once a month. If there is no change in the situation of detainees, detention reviews could continue, as a formality, for months. In Canada, we have had cases of people languishing in Immigration jails or detention centres, solely for immigration-related issues, for up to four years.

There are reports about maltreatment of detainees by prison guards and their lack of access to medical and psychiatric care. The situation was so bad that a few years ago a detainee from Nigeria called Michael Atkin died because he did not receive adequate treatment for his diabetes.

Following the death of Michael Atkin and complaints to immigration authorities, the situation was somewhat improved in immigration detention centres. Still, there remain problems. Immigration detention centres are decentralized and located far from the main cities. This has made access extremely difficult. Detainees do not have meaningful access to counsel; they suffer due to improper and meaningless detention reviews (they are done once a month as a kind of formality); they have hardly any psychological and psychiatric care and there is no social worker who could prepare the detainees for future participation in social life. Detention as such, can be very harmful for vulnerable groups like women and children as well as for survivors of war and torture. It can lead to their retraumatization and irreparable life-long mental damage.

Immigration adjudicators are reluctant to release detainees even if there is no reason for the continuation of their detention. In such conditions, they agree to release the person in detention on bail. The Bail Program or friends and relatives who put cash or performance assurances up for them usually bail out detainees. After release, some of the



First Light

Winter 2008

Ruling on Safe Third Country

Leigh Salsberg

The Federal Court has struck down the Safe Third Country Agreement, the pact between Canada and the United States that blocks claimants from entering Canada across the US land border to apply for refugee status.

The Safe Third Country Agreement, which took effect December 29, 2004, was challenged in court by the Canadian Council for Refugees, the Canadian Council of Churches, and Amnesty International, as well as by John Doe, a Colombian living in the United States who intended to come to Canada after his asylum claim was refused in the US. In a powerful 124-page decision, Justice Michael Phelan quashed the Agreement, finding that the United States did not meet the conditions required in order to be certified as a “safe country”.

The Agreement will cease to operate on February 1, 2008 unless the government convinces the Court of Appeal to stop Justice Phelan’s order from taking effect pending the outcome of the government’s appeal. In other words, the next few weeks may see the reopening of the Canada-US land border to refugee claimants who can only reach Canada by traveling through the US, as well as those who for many reasons were unable to obtain protection in the US.

The Court found that Cabinet should not have certified the US as a “safe” country because of the many ways that American laws and practices prevent people who are genuine refugees from getting recognized. For example, the “one-year bar” excludes from protection those claimants who did not make their claim within one year of arriving in the US, with some exceptions.

The Court found that this one-year bar has a disproportionately negative impact on gender claimants and LGBTTT claimants, because they tend not to know that their cases could qualify them for protection when they arrive in the US, and because they face a higher stigma against revealing their personal circumstances to government officials in a new country.

The Court also found that the Agreement violates section 7 of the Charter to refuse to admit people to Canada when it is foreseeable that they won’t be protected by the US asylum system, and so will likely be deported to the countries they fled. It also found that the Charter’s equality rights are also in play because of the disproportionate impact that some US practices have on certain groups, such as women and Colombians.

The examples of the ways the US system violates international human rights law came from affidavits that a series of top US experts provided to the Court. The experts included law professors, directors of law school immigration clinics, and representatives of human rights organizations. The government’s evidence on the functioning of the US system came from an affidavit from a law professor and former senior Immigration and Nationality Service official. On contentious points, the Court decided that the evidence of the Applicants’ experts was more credible than the evidence filed by the government.

On the issue of refoulement to torture, Justice Phelan found that the US has made assurances that it does not deport people to countries where it knows that torture is reasonably likely – assurances that he has “serious cause to doubt”, in



First Light

Winter 2008

light of the findings of the Arar Commission.

He states: "It may be that the assurance is based on a narrow interpretation of Article 3 but it would be an interpretation which is at odds with Canadian understanding of the obligations under CAT [the Convention against Torture]."

Justice Phelan also criticizes the Canadian government's failure to keep up an on-going review of human rights conditions in the US. The regulations related to the Agreement required the government to review conditions in the US after one year and then provide an on-going review. But the government was able to provide no specific evidence that these reviews were taking place.

The Court found this especially disturbing: "[T]he Arar Report and the circumstances examined should have at the very least caused a thorough and comprehensive review of U.S. practices and policies. It is difficult to understand how or why the obligation to have a continuing review, mandated by s. 102(3), was not immediately put into operation on an urgent basis. There is no evidence of any such thing occurring."

Refugee and human rights activists have viewed the decision quashing the Safe Third Country Agreement as a major victory. Our attention now turns to the Court of Appeal, which has been asked to hear the appeal on an expedited basis. In the meantime, the Court of Appeal has to decide before February 1 whether to suspend the effect of Justice Phelan's decision temporarily. The government has once again raised the specter of floodgates of refugees overwhelming Canada's land border. But to accept this argument would mean barring the entry of people whose rights we know are being violated, merely to avoid the administrative difficulties of having more refugee claimants enter Canada.

Leigh Salsberg is a refugee and immigration lawyer practicing in Toronto.





First Light

Winter 2008

Where We Are Now? A brief survey on woman's condition

Monireh Mohammadi

Throughout history, women have been objects of contempt and subjected to discrimination. Women's struggle for equality, justice, and human rights has come a long way. Though this struggle has been fruitful in some parts of the world there are still many countries in which governments continue to institutionalize gender apartheid. Today it has become banal to merely note the historic prejudice against women – it is, to be sure, humanity's oldest prejudice. Governments, religious institutions, and culture have all been recognized as perpetrators, and their actions have provided ample barriers to the advancement of women in almost every human exercise.

A quick look at the current condition of women around the globe will reveal that at one end of the spectrum there are countries where appropriate measures are taken to ensure a relatively high degree of equality between women and men. On the other end, we see countries in which basic rights of women are deliberately denied and prejudice against them is systematically promoted. Nevertheless, no matter where our point of focus is, apparent violence toward and discrimination against women manifest itself in different forms across continents.

For instance, Sweden's approach toward establishing equality for men and women and proper enforcement by its parliament has relatively equalized the gender role on almost all levels. This has put Sweden at the top rank among all countries that have the highest number of women who hold public office, serve as cabinet ministers, graduate from universities and hold jobs (70 percent rate of employment for women and 40-50 percent of women representation within Government, Parliament, City Council, and

Municipalities). Yet, it was shocking when a report by Amnesty International in 2005 shed light on the unspoken domestic violence against women in Sweden, an issue that Swedish government was more inclined to cover up than to lay out plans in order to protect women from violence.



Although North America and in particular Canada is viewed as a place where women have equal rights and status, gender-wage gap is an existing prevalent issue of concern and violence against women is still rampant. According to Statistics Canada the average earnings of employed women are still substantially lower than those of men. Furthermore, women make up a disproportionate share of the population with low incomes. The situation becomes worse for immigrant women, women in the visible minority communities and Aboriginal women. Statistic Canada also states that even though, on the average, women from visible minority groups are better educated than other Canadian women they are less likely to be employed. Therefore, in Canada women are subjected to discrimination both on gender and ethnicity grounds.

The issue of violence against women in Canada is also one that requires attention. According to the United Nation Declaration on the Elimination of Violence against Women, violence is defined as any act of gender-base 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 deprivation of liberty, whether occurring in public or in private life of a woman. In Canada violence against women, especially among indigenous and immigrant communities is widespread. Study shows that violence has a profound impact on women's mental and physical health which in turn affects the social and eco-



First Light

Winter 2008

conomic equality; hence it is one of the most persistent obstacles to the achievement of equality, development and well being of women in Canada and North America at large.

To this day, women are considered second class citizen in countries such as Iran, Saudi Arabia, Bahrain, Syria, Pakistan, and scores of other countries. For instance, the government's attitude towards and its discriminatory laws against women in the areas of divorce, child custody, witness testimony, inheritance, dress code, right to higher education, right to participation in sports, and right to travel has made Iran one of the most misogynistic governments in the world. The Sharia based laws in Iran are used as instruments to humiliate and subordinate women. Women in Iran have very limited access to divorce procedures. According to family law there are only a limited number of reasons that provide the grounds for women to file for divorce. Moreover, the final decision is made by a judicial cleric who decides whether a woman is permitted to get out of her marriage contract. In most cases, unless child custody is voluntarily given up by a husband, the wife's emotional attachment to her children is used to blackmail her into either remaining in an undesirable marriage or giving up her financial rights that were included in her marriage contract. The same laws are relaxed for men on many grounds; a man can easily get a way with murdering his wife should he accuse her of having an extra marital affair. Iranian police and the court system turn a blind eye to women's complaints about their abusive husbands and male relatives.

As social conditions for women in Iran continue to deteriorate, the struggle for women and human rights in and outside of the boarder intensifies. This struggle has manifested itself in the women's rights activisms such as the most recent campaign called One Million Signature Demanding for Change in Iran. The growth of women participation in higher education and work force in Iran is another indication that women are determined to stay in public spotlight rather than sustaining the traditional role of home making. More than 60 percent of university students in Iran are female students. However, the Iranian government has established quotas to limit the number of female students entering universities. The newly appointed Minister of Education, in one of his first news conferences in 2008, stated

that the education system should base its policies and decision makings on the differences between the genders. Given what gender differences have meant to the Islamic Republic of Iran, the statement by the Minister of Education can only translate into more misogyny and injustice for women.

In countries like Iraq and Afghanistan, violence and intimidation against women is significantly higher than elsewhere. Reports on the bodies of raped and brutally killed women left on the street of Basra, Baghdad, and other Iraqi cities make a travesty of even the mildest sense of humanity. The high probability of girls becoming targets by extremists has thrown Iraqi families to a state of intense fear for sending their unveiled daughters to universities or work places. In Afghanistan, although the post-Taliban constitution speaks of equality for men and women, in reality not much has changed. Still more than fifty percent of girls, under sixteen years of age are forced into marriage. Afghan women parliamentarians are under constant harassments and threats. No improvement toward elimination of domestic violence has been made either. Iraqi and Afghan women who exhibit no conformity to conservatism are paying high price with their lives. Schools for girls are targeted by armed extremists. Study shows that women are most vulnerable in conflict zones and war-torn countries; thus, conflict and instability in Iraq and Afghanistan not only has pushed back the issues related to women but also has worsen their conditions many times more in many different areas of concern.

The worsening of women's condition around the globe requires international earnest and conscientious efforts intended to promote and enforce justice and equality for women. Governments and international institutions must facilitate communication, collaboration, education, and necessary funding toward this urgent issue. Otherwise, in a world where women's rights and freedom are scarce, democracy and human rights become no more than fancy words on papers.

Monireh Mohammadi is a freelance writer/translator and human rights activist residing in Toronto . She is also a member of the editorial board at the Canadian Centre for Victims of Torture.



First Light

Winter 2008

IRPA Five Year's Later: A Reflection on Refugee Rights

Tom Clark

The short history which follows will show that the Immigration and Refugee Protection Act (IRPA 2002) was the last step in a sweep of over 15 years of largely rights-restricting measures since April 1985. Rights and due process relating to entering or remaining in Canada have ended up as unpredictable discretionary procedures in the hands of authorities. Those helping refugees to enjoy their right to seek asylum face criminal charges. Boats, aircraft and trucks found bringing asylum seekers face fines. Equal treatment, an important notion in human rights thinking, has never become a feature of the procedures governed by Immigration Act or IRPA 2002. Nothing since IRPA 2002 came into force has pushed back significantly on the accumulated restrictions on rights and related due process for asylum seekers which the Act embodies. However, there are one or two promising initiatives.

In 1982 a Charter of Rights and Freedoms came into force in Canada. At that time, the Immigration Appeal Board (IAB) was a Canadian tribunal which could hear an appeal of decisions on a wide range of immigration matters, including an appeal of a negative refugee status decision by leave. A negative IAB decision could be reviewed before the Federal Court of Appeal by leave of the court. Until 1989, Canadian Immigration Officers interviewed asylum seekers. A transcript was sent to a Refugee Status Advisory Committee of the Minister of Employment and Immigration. The Committee examined the transcript and advised the

Minister whether the person was a refugee. The Minister decided. The Supreme Court of Canada in the Singh Case

of 4 April 1985 used the new Charter of Rights to change this, holding that refugee claimants should have at least one hearing on the matter of refugee status before the decision maker. The court struck down the "leave" condition. Every refugee claimant had a hearing as of right before the IAB. With hindsight, this created a short golden era between 1985 and 1989 in which Canada complied with a major part of the Inter-American and other human rights obligations. The US system of the day also largely complied. At that time there were 5,000 – 7,000 asylum seekers arriving in Canada each year.

The January 1989 revisions to the Immigration Act 1976 modified the IAB to create a body which included a tribunal to hear refugee claims, the Immigration and Refugee Board, IRB. However, the new process restored administrative discretion and did not ensure individual rights of all asylum seekers. Only those asylum seekers who passed screening tests carried out by immigration authorities, including an earlier "eligibility" screening, went before IRB. There was now no appeal body following a refugee hearing. Access to the courts was by leave to the Federal Court Trial division on points of law only. Further access to courts was restricted, requiring the lower Federal Court Trial judge to certify a legal question for the Federal Court Appeal Division to consider.

The numbers of asylum seekers peaked shortly after around 40,000 per year and then slowly fell to around 25,000 – 30,000 per year during the later 1990s. These annual numbers placed Canada as a serious player among larger Western European countries. The recognition of Canada in resettlement of Vietnamese refugees in 1979 and

Rights and due process relating to entering or remaining in Canada have ended up as unpredictable discretionary procedures in the hands of authorities. Those helping refugees to enjoy their right to seek asylum face criminal charges. Boats, aircraft and trucks found bringing asylum seekers



First Light

Winter 2008

1980 by the Nansen Award in 1986 by the UN High Commissioner for Refugees plus the new contribution in asylum granting allowed Canada to take on a leadership role in international refugee and migration management initiatives of the West.

The "Immigration and Refugee Protection Act," IRPA 2002, which arrived in 2002 is little more than a cosmetic rearrangement of the old Immigration Act 1976 as amended since 1989 to add further limits on the rights of non-citizens and asylum seekers. The one significant potential improvement was the proposed creation of a paper review appeal body for those not found to be refugees. Even this inadequate appeal in IRPA 2002 has never been implemented. Meanwhile, the initial refugee hearing in Canada, which until IRPA 2002 used to depend on the best decision from a panel of two decision makers hearing a refugee claim, now, under IRPA 2002, relies only on a single decision maker's decision. Appointees to the IRB which makes these decisions are still finally determined by the Prime Minister's office.

IRPA 2002 contains more grounds which an official may use at more points in the refugee procedure to prevent a person from being heard before the IRB. We suspect some people are discreetly put on the next flight back at airports. We are aware of some others being detained and then deported. The possibility of sending people back to a designated safe country from a land border continued into IRPA 2002 and was implemented by an agreement reached with the United States. A harsh US time limit of one year for claiming asylum and US categories which exclude individuals from refugee status make the US refugee protection procedures unable to recognize some asylum seekers as refugees. Canada was an obvious place for these persons to seek protection. A favorable Federal Court decision on the case Canadian Council for Refugees, Canadian Council of Churches, Amnesty International and John Doe of November 2007 found it unreasonable to conclude that the USA complied with the Convention against Torture and the UN Refugee Convention. The decision resulted in certified issues for the Federal Court of Appeal in January 2008.

IRPA 2002 introduced additional criteria for enabling immigration detention, but there were no related additional

safeguards. Fewer protections remained in the process surrounding the "certificates" which can be issued for individuals by Ministers on basis of secret "security" information. In February 2007 the Chartaoui 2007 decision of the Supreme Court of Canada gave the government one year to change the detention aspects of the procedures so as to allow an individual to know and test evidence against him or her and to provide a prompt review of detention when a certificate is issued. Prior to IRPA 2002, non-citizens could appeal security issues before the Security Intelligence Review Committee more or less like everyone else. IRPA removed this protection. Instead of simply allowing equal treatment by providing this appeal again, the government proposed to introduce a discriminatory approach for non-citizens using specially approved lawyers. This approach, originally used in the UK, is currently discredited there. The IRPA 2002 restrictions removing the appeal and adding criteria for detention were in the face of contrary advice from the Inter-American Commission on Human Rights whose Report on Canada had urged changes to improve even that due process as well as the long terms of imprisonment. The Chartaoui case has begun another area of change to due process rights restrictions in IRPA 2002.

IRPA 2002 lacked changes to ensure refugees and other "protected persons" enjoy speedy reunion with immediate family. Family members must satisfy the long permanent resident process. Similarly, there were no measures to ensure it would be rare for a long term resident to be deported and no measure to protect families when deportation would threaten family break up. IRPA 2002 introduced a further obligation requiring a refugee being resettled to disclose all family members prior to resettlement. Errors or misunderstandings are not meant to be changed. The only recourse provided in all of this remains the Minister's unpredictable discretionary powers through a "humanitarian and compassionate" application - by fee. To crown it all, IRPA 2002 removed the last remaining appeal as of right to the Federal Court relating to sponsorship. In the area of family rights IRPA 2002 incorporated an earlier modest change which required the best interests of the child from the Convention on the Rights of the Child to be one factor among many in the discretionary decision making of the authorities. This remains unchanged.



First Light

Winter 2008

The layout of IRPA 2002 in 5 sections called a “Part” with “Divisions” is the really new but largely cosmetic feature. This layout made the more restrictive Act easier to use. The balance between immigration and refugee protection implicit in the title was not carried into the body of the text.

Part III of IRPA 2002, Enforcement, provided for new excessive fines and new excessive powers and new “ticketable” ways of collecting fines for immigration offences. The penalty for smuggling fewer than 10 persons went up to 10 years in jail - clause 117 (2)(a). This is a typical life sentence in some civilized countries. For trafficking, the penalty is life imprisonment. This sentence is similar to that expected for murder. There are “General Offences” with very large fines for persons who employ someone in a capacity not authorized set out in clause 124 - a Canadian form of the infamous “employer sanctions” in the US. The new “Ticketable Offences” were provided for in clause 144 and can be set out in Regulations yet to come. So things could get even worse than they are!! These Offences seem intended to work a bit like a parking ticket. Yet unlike other offences and the parking ticket there is no direct appeal to a provincial court. IRPA 2002 provides for “the Minister”, which in practice means any level of immigration official delegated, to collect any “debt due” directly (clause 146), or out of a pay check from the employer (clause 147(2)). Discretionary ticketable offences are not compatible with respecting rights of a vulnerable population. The threats hang in the background.

As if to show that these threats are real, September 26, 2007 the government arrested Janet Hinshaw-Thomas at Lacolle border point and charged her with organizing, inducing, aiding, or abetting persons without the required documentation to come to the border. Her ecumenical refugee assistance agency has been operating since 1983. Hinshaw-Thomas dropped asylum seekers at the border so they could cross and present refugee claims to the Canadian authorities. Although the charges were dropped by some public sympathy, the law remains unchanged. There is little incentive for the government to change anything.

The biggest disappointment of IRPA 2002 was the limited extent to which the Act complied with Canada’s clarified human rights obligations with respect to Refugee Protec-

tion. Even when the Act appends a part of the 1951 Convention relating to the status of refugees it appends only the “exclusion” sub-sections, part article 1, the refugee definition – just one article.

It fails to mention the “inclusion” sub-sections, the rest of article 1. One has to wonder why an Act purporting to protect refugees refers to part one article of the relevant 1951 Convention - an instrument which contains at least 40 articles of international obligations on the matter. In particular, articles 31, 32 and 33 which deal with expulsion are hugely relevant. Also, why quote only part of the definition? Logically, and according to the advice of UNHCR, this definition is to be applied as a whole in determining refugee status. “Exclusion” is intended to be exclusion from the complete status as defined. It is not meant to be exclusion from a fair hearing about the complete status as defined.

The definition of torture, article 1 of the Convention against Torture, is the sole direct reference to a Convention of some 16 relevant articles. Article 3 is particularly pertinent. It prohibits the expulsion or return of a person to any country where there are substantial grounds to believe the person would be in danger of being subjected to torture. Yet article 3 is not cited as an article to be implemented in Canada. This article is cited to decide which other countries qualify as “safe” under article 102.1!

Although IRPA 2002 contains an allusion to the Convention on the Rights of the Child and the notion of “best interests of the child” from CRC article 3, presumably as a consequence of the Supreme Court Mavis Baker 1999 case, there is no citing of any other article of this Convention of some 40 articles and, in particular, no reference to highly relevant articles 9 & 10 (child and family visits), article 12 (hearing views of a child for example about refugee status), article 20 (child separated from family), 21 (adoption) and 22 (child seeking refugee status).

Recommendations to Canada about international obligations and refugees or non-citizens came from the entire range of UN human rights treaty committees between 1994 and 2000. Certainly NGOs raised these recommendations before parliament in their submissions. It is therefore remarkable that parliament avoided discussing or making

First Light



First Light

Winter 2008

reference to these many international treaty body suggestions, recommendations and views. More specific technical recommendations were provided in 2000 in the "Report on the situation of human rights of asylum seekers within the Canadian Refugee Determination System" by the Inter-American Commission on Human Rights. This Report in particular was referenced and quoted in NGO submissions, but, again, any reference to its very existence was avoided in parliamentary discussion and reporting. The UN High Commissioner for Refugees also gave some cautious but specific advice with respect to the earlier Bill C31. This advice was put on the record, but then politely ignored. The UNHCR advice remains pertinent. There has been little or no serious public discussion of the body of international human rights suggestions and recommendations. It is difficult to see how to generate any interest. The Inter-Church Committee for Refugees (ICCR) proposed a National Symposium to generate understanding of the human rights obligations in its submissions in 2001. The problem for NGOs, then, becomes how to generate interest in having a national symposium. Perhaps NGOs can make appeals to various international bodies to hold one so that an international symposium might in turn ask Canada to hold one?

Efforts to begin Canadian public discussion and renewed discussions around international forums should focus on the international suggestions and recommendations, the IRPA and the growing experience of problems. The key international advice relating to refugee protection calls for:

- allowing every person claiming refugee status to be examined before the agency with expertise in that matter – in Canada the refugee division of the IRB
- allowing an appeal of a negative refugee division decision and for a reopening of a file for significant new information
- ensuring prompt proactive family reunification and ensuring safeguards against deportation of long term residents with family connections with Canada
- better due process for those in security and danger cases and related detention
- the international standard to protect a non-citizen from expulsion when there is a serious probability of torture;
- simple effective court protection for all important

rights at issue prior to expulsion.

I would add "Equal treatment". These are not wild out of reach dreams. Most of the due process advice was being satisfied by the law as practiced in the United States and Canada in 1985. The government was made well aware of these needs leading up to IRPA 2002. Successive governments in Canada have simply refused to deliver on the protection measures for non-citizens and refugees in treaties binding on Canada. The Supreme Court has deferred to the executive on fundamental rights like protection from torture in a security context. Moreover, Canada has been a leader in international efforts to make such human rights restrictions a recurring feature of Western democracies.

Important developments in favour of asylum seekers go un-noticed in Canada. These include almost all treaty body recommendations and case reviews relating to non-citizens. The 2003 "Refugee Protection in International Law: UNHCR's Global Consultations on International Protection" is surely pertinent for IRPA 2002. The book is about experts and governments and UNHCR's global conclusions about exclusion from refugee protection, about fair and efficient asylum procedures and about family unity. Somehow, this kind of insight doesn't get reported. Disturbing cases of people facing expulsion or having been expelled to a risk of torture have been ruled on by the UN Committee against Torture almost every year since IRPA 2002. Amongst them are violations of the Convention against Torture for expulsion, for inadequate due process, and for expulsion in the face of an express request from the Committee not to do so pending its examination of the complaint. In December 2004 the expulsion in *Falcon Rios v Canada* would have violated the Convention. In a silent punitive response, at the end of 2007 *Falcon Rios* had indeed remained in Canada. But this torture victim was in limbo with no status and with no clear right to work or social security. In November 2007 the case of *Bachan Singh Sogi v Canada* is about a person expelled by Canada in violation of the Convention and in the face of an express request not to expel from the Committee. Cases of expulsion to torture are no longer news but a fact of life for the media in Canada.

There are no accidents in a well run Western state. The

First Light



First Light

Winter 2008

government facilitates public consensus on policy issues – a process unkindly but accurately described as Manufacturing Consent in the National Film Board documentary of that name. Governments in Canada have had a perverse “success” in ignoring solid international advice on refugee protection and on international human rights obligations. They have had “success” in getting courts sympathetic to their discretion in detention and deportation. Part of this has been the result of an effective “public education” program. With the brief exception of persons from Kosovo whom we were told were all “real refugees” in 1999, refugees have been presented in a series of tableaux with negative contexts. In 1987 and 1988, hordes were reported flowing into Canada from the US. There was lack of control and “abuse” of the refugee process was rampant. Then there was danger from non-citizens who were serious criminals after the killings in the Toronto Just Desserts@ restaurant in the early 1995. Small matter that O’Neil Grant, the non-citizen involved was found in November 2000 to be not guilty on all charges. In the 1998 came reports of refugee youth involved in drug trafficking in Vancouver: “Another 14-year-old Honduran youth also working as a ‘runner’ at Hastings and Abbott streets was turned over to the ministry of children and families.” There was a danger of health epidemics like TB when refugees came to Canada in the later 1990s from New York City. As a medical journal reported in 2000 “Refugee claimants who have already arrived in Canada may be at particularly high risk of tuberculosis and may not have undergone a medical evaluation before their arrival. Delays in both making the refugee claim and performing the medical evaluation required before a claim can be processed may result in local transmission of disease.” Somehow refugees were blamed rather than the lack of accessible public health services in the US. Refugees were the object of anger about trafficking when boats arrived off the BC coast in 1999. There were rights restrictions. Some rights restrictions documented in

2000 by the UN Special Rapporteur on the Human Rights of Migrants.

After most of these public spectacles, restrictive changes were added to the old Immigration Act 1976. In 2001, at the end of the “public education program,” the government simply put all the remaining restrictive changes into Bill C11 which became IRPA 2002. No further changes for IRPA 2002 were proposed in October 2001 immediately after the 9/11 events in New York. No further changes were necessary. However, the “public education” goes on. In February 2006, a former government official wrote a

Frazer Institute Report which created an impression of connection between inadequacies in IRPA 2002 and terrorist activity. The article proposed a need to change IRPA 2002 to facilitate expulsion and detention of refugees by Canada without ever quite showing any connection between terrorism and the refugee procedures. The Frazer Institute enjoys a wide corporate readership.

Governments in Canada have had a perverse “success” in ignoring solid international advice on refugee protection and on international human rights obligations. They have had “success” in getting courts sympathetic to their discretion in detention and deportation.

“Discretion” in the law can result in the familiar Canadian charitable response when a Minister or officials are persuaded to do the right thing in a politically convenient situation. It can be helpful in generating a bit of publicity favouring the particular refugee situation. But charity is not to be confused with justice or a rule of law. Discretion makes the right to equal treatment hard to respect. Ultimately, courts must take on the role of protecting an individual’s rights. They need to do so whether the person is attractive or unattractive or whether the circumstances are politically convenient or inconvenient.



First Light

Winter 2008

The fact that IRPA 2002 with its administrative discretion has prevailed in the courts does not mean that charity is the way to go. Moreover, changing IRPA 2002 is not an adequate solution for ensuring rights. Ensuring rights requires more than tinkering with one bit of legislation by one of the governments in Canada. To ensure rights requires the Canadian Charter of Rights and Freedoms, backed by all governments in Canada, to ensure promised international treaty rights, to require the courts to apply the Charter and to require the courts to set a premium on hearing cases which involve an individual's rights and a premium on protecting the individual's rights in cases before it.

Advocating with government officials has limited value. Advocating with other political parties and more than one government in Canada could be more helpful. Writing letters which the Globe and Mail may or may not publish with or without editing can be helpful. But a short letter inside the paper is seldom any real response to a front page article or a major editorial piece misrepresenting a refugee situation. In short, ensuring rights in Canada cannot come from lobbying within Canada alone. The government facilitates public consensus in Canada as governments do in countries around the world. Outside influences are what can make some difference to a government's internal control - around the world. Any solution to the predicament of refugees and asylum seekers in Canada must involve some collaboration with rights promoting bodies in the wider world in ingenious ways. Chatting deferentially with our ever-genial Canadian diplomats at international meetings will not help. With international bodies, we must explore ways of getting governments to begin rolling back the restrictions on rights of non-citizens. Diplomatic niceties must not weaken a challenging message. To my mind, the geographic and political situation of the world region of the Americas makes it a possible place to expect governments to take some lead. In 1985 North America was more or less in line with international rights obligations at least on paper.

Tom Clark is a life-long refugee advocate living in Toronto. He is the former coordinator of the Inter-Church Committee for Refugees.

Toward the horizon **Ahmad Shamlu**

*One day we will find our pigeons once more,
kindness will take the land of beauty*

*A day when the smallest song is a kiss,
and every man
a brother
to every other man*

*A day when they
no longer close the door of their houses; when
locks
are a myth
and hearts
enough for life
A day when the meaning of every speech
is loving
so that you need not follow every speech
to catch the last word
is life,
so I no longer have to search for rhymes
for the sake of the last poem*

*A day when every lip
is a song
so that the smallest song
may be a kiss*

*A day when you will come,
come forever,
and kindness
will be one
with beauty*

*A day when, once more,
we scatter grain
for our pigeons*

*I am waiting for that day
even if it is a day
when I no longer am.*



First Light

Winter 2008

2007 CCVT First Light Celebration

Thanks to the hard work of CCVT staff and volunteers, the 2007 First Light Celebration was a resounding success! This year's event was held at the Grand Hotel, which is located across from the CCVT's downtown office at Dundas and Jarvis. More than 200 people were in attendance, including honoured guests Gordon Pinsent, his daughter, Leah Pinsent and Peter Kelleghan.

The evening was hosted by CBC Radio's Jian Ghomeshi, host of the national arts and entertainment program Q. Comedian Sabrina Jalees, jazz musician Kevin Barrett, Burundi Drumming group UMURISHO, and the vibrant dance troupe, Nouvel Expose also lent their talents for the prestigious gala event.

This year, two longtime CCVT supporters were honoured for their contributions to the organization. Douglas Lehrer received the Trevor Bertram Award, which is named after the founding member of CCVT. Dr. Joan Simalchik was the winner of the Amina Malko award. The award is given to a woman with significant experience in settlement services for newcomers to Canada.

Olivia Chow, MP for Trinity-Spadina, led the exciting live auction for the fourth year in a row. Items included dinner for two with Oscar nominated director and actress Sarah Polley and award winning actress Wendy Crewson; dinner with Chow and her husband, Jack Layton, leader of the NDP; beautiful pieces of art and a 1987 Jaguar donated by the magnanimous Gordon Pinsent! Lucky winner of Jaguar was Rick Zytaruk and Susan McGrath - Congratulation Rick & Susan! At the end of auction, Jian Ghomeshi and Sabrina Jalees spontaneously offered another item up for bid – an exclusive dinner at a Persian restaurant, accompanied by both Ghomeshi and Jalees! Once the auction ended, the guests got on their feet and danced the night away, thanks to great music from DJ Roots Redemption. CCVT wishes to thank everyone who helped make First Light Celebration 2007 a success! *(this article was taken from CCVT March Newsletter).*



MC, Jian Ghomeshi and Auctioneer, Olivia Chow



Gordon Pinsent (Right) and Jaguar winners - Susan McGrath & Rick Zytaruk!



Jian Ghomeshi (left) and Sabrina Jalees (Right) with the winner of dinner with Jian and Sabrina



Entertainers of the night

Right: Nouvel Expose

Left: UMURISHO





First Light

Winter 2008

2007 CCVT AWARD RECIPIENTS

TREVOR BARTRAM AWARD: Trevor Bartram was a founding member of the Centre and remained an integral part of its life throughout the years. As the founding member and legal advisor, Trevor undertook the tedious and unglamorous tasks that a developing organization requires. He wrote (and rewrote) the agency's bylaws, negotiated leases, contracts and other related agreements. He served as the secretary, Chair of International Committee and as a member of the Fundraising Committee. He was a jack-of-all-trades. Over the years, Trevor contributed much to the organization and befriended newcomers and invited his many new friends into his active social life. He traveled to Africa, Latin America & Europe attending international conferences on behalf of CCVT. The Trevor Bartram Award is given to individuals who have made a significant achievement in organizational development, particularly in setting up new community based organizations, consistent with the human rights mandate of CCVT having experience in developing programs and policies, structures and success with funding initiatives.



2007 Trevor Bartram Award

Douglas Lehrer (Barrister & Solicitor) has been affiliated with CCVT since the mid 80's and has actively participated in diverse activities at CCVT. He has been an enthusiastic member of the Legal Committee, the Legal Network, Fundraising Committee, and the Board of Directors for many years. He has contributed greatly to the development of the "CCVT Medical Legal Documentation

of Torture Survivors Resource Binder." which has been instrumental in the training of newly recruited Lawyers and Doctors at CCVT and continues to be an important training tool for CCVT. Over the past 20 years as a lawyer, Mr. Lehrer has helped many hundreds of refugees and newcomers, many of them torture survivors. He continues to allocate a significant amount of time on a regular basis within his busy schedule to assist CCVT staff on legal issues and questions concerning our clients. CCVT is thankful to Mr. Lehrer for his commitment and for his continued availability as a legal resource person to the staff.

AMINA MALKO AWARD: Amina was one of the first CCVT staff to be hired and was Office Manager for over 5 years until she moved to OCASI. Amina was an extremely hard working, tireless and committed staff member. Her particular interest was in improving the lives of refugee women and she did indeed have a positive impact through her dedication and perseverance. She advocated on behalf of women refugees, worked for policy changes at the local, national and international level and was a key member in organizing Refugee Rights Day.

Amina undertook to organize a conference "African Women in the Community" with CCVT funding and support, in an effort to have women's voices expressed directly.

The Amina Malko Award will be given to a woman with refugee experience who has significant experience in policy, advocacy and settlement service for newcomers.



2007 Amina Malko Award

Dr. Joan Simalchik is a professor and coordinator of the Study of Women & Gender Program at the University of Toronto Mississauga campus, and former Executive Director of the Canadian Centre for Victims of Torture.

Dr. Simalchik was the first full time staff person hired as a coordinator at the Canadian Centre for the Investigation and Prevention of Torture (CCIPT was the former name of CCVT) in 1986. She played a crucial role in the early years of the centre and her contribution to the organization was paramount:

Dr. Simalchik's passion for refugees dates back to the times of the dictatorship in Chile when she was a young activist and co founded the Toronto Action for Chile and also served as the head of Canadian Committee for Solidarity with Democratic Chile from 1977-1983, strongly opposing and denouncing the human rights violations in that country.



First Light

Winter 2008

While a snow storm cancelled the original get together, the blustery winds weren't enough to keep people away from CCVT's second attempt at the annual general meeting and holiday party! Held on January 20, 2008 at the Bickford Centre, up to 200 people arrived to elect new members to the CCVT board of directors, collect belated holiday gifts and enjoy a nice heaping plate of Sri Lankan food.

This year, we bid farewell to several long term supporters and board members - Hari Lalla, Dr. Donald Payne and Ima Madadi. CCVT is very grateful to their dedication and support and they will be greatly missed. New board members include Susan McGrath, Tina Lopes and Renee Ferguson. Welcome aboard and we look forward working with you. During the AGM, two guest speakers were featured, Anthony and Iman Namara. They both shared their stories of struggle and success after coming to Canada, and described their experiences as members of CCVT.

CCVT also took the opportunity to officially congratulate Berhane Gezahagne Amare, a LINC 4 student at CCVT, for winning third place at the ESL adult spelling competition in November 2007. Finally, three CCVT staff members were recognized for their years of service to survivors of torture: Teresa Dremetsikas (20 years), Ezat Mossallanejad (10 years) and Delfina Vega Paiz (10 years).

The AGM then gave way to plenty of food and fun! Guests stood in line for a delicious lunch, while the children raced around the crafts tables, making everything from reindeer antlers to ladybug magnets. The kids then formed a line to get their long awaited presents, which they ripped open and started playing with immediately!

CCVT would like to thank the following volunteers for their help at the AGM & Holiday Party:

Ron Chernysh, Adil Ahmad, Louise Lee, Olena Yonenko, Curtis Puncher, Saime Coskun, Toma Shamani, Hanna Caplan, Shirley Camia, Ali Bangi, Mara Herscovich, Ian Pady, Barbara Yealland, Monireh Mohamad, Vasu Sivapalan and John Faustmann.

Without the help of these volunteers, the 2007 AGM & Holiday Party would not have been possible!

**This article was taken from CCVT March Newsletter.*



Some board members and Mulugeta Abai (E.D.- right)
From left, Hari Lalla, Tony Boston, Richard Wazana, Caleb Mabano, Dr. Marlinda Freire, Regine King

CCVT 2008-2009 Board members:

**Caleb Mabano
Aberra Makonnen
Hilary Evans Cameron
Richard Wazana
Dr. Marlinda Freire
Tony Boston
Regine King
Susan McGrath
Tina Lopes
Renee Ferguson
Seema Saadi
Nancy Slamet**



First Light

Winter 2008

In his own words...

- AGM guest speech -

My name is Anthony. I am originally from Nigeria. The 26th of December will complete a year for me in Canada. I came to Canada because I had gotten into trouble in my country because of my political opinion. I was wrongfully arrested and tortured in prison by government agents. Days and nights I was subjected to various tortures. The things I went through in prison, I never thought there are people who could do that to other people. I mean, those were the kind of things you read about in books, newspapers, or seen on TV. I never thought I would experience such. I had given up all hope. I thought I was going to get killed. But my mother and my uncle were able to get me out and I was sent here.

But getting here, the struggle to adjust to life here in Canada and trying to forget my experience in prison almost overwhelmed me. I found myself in a state of depression, paranoia especially against people from my country. I also had no appetite for food. Sleeping was also hard because of nightmares. At this point I was having suicidal thoughts. After overcoming the shame and embarrassment, I finally revealed my problems to my lawyer. She sent me to CCVT for counseling. When I got to CCVT, I received counseling from Counselor Selamawit. This is a person I had never met, but her pleasant and cheerful attitude was a key factor in telling her my problems. I felt I could trust her and I told her everything including my thoughts of suicide. She gave me good counseling which has been vital to my rehabilitation. Every single thing she told me has been put into practice and has helped me in healing emotionally. She also went as far as introducing me to a friend with other areas of adjustment to life in Canada. Although I still suffer bouts of depression and flashbacks, I understood through counseling that only time can heal all wounds especially emotional wounds. I have to be patient and live each at a time. Selamawit also told me that at anytime I need help or someone to talk to, she or other CVT counselors would be there to assist me. This has filled me with gratitude and hope, because this counselor was a total stranger but has done so much for me. For this, I want to use this opportunity to show my gratitude by thanking her and other CCVT staff from the bottom of my heart. Selamawit, I thank you very much for your counseling. I also thank the entire CCVT staff for everything.



LINC/ESL Coordinator, Abdul Abubaker (left) and Adult ESL Spelling Contest 3rd place winner Berhane Gezahagne Amare



Guest Speaker: Iman Namaran



Happy with holiday gift...



First Light

Winter 2008

The Refugee Appeal Division: People not Paper

Gloria Nafziger

Alvaro Orozco, a young gay man from Nicaragua, was found not to be a Convention refugee by the Canadian Immigration and Refugee Board, (IRB) because the board member did not believe that he was gay.

Alvaro was 13 years old when he fled his abusive father in Nicaragua. After hitchhiking through Central America he was eventually cared for by Christian charities in the United States. While he was sheltered and clothed, he was not living in a gay friendly environment. As he became more aware of his sexual identity, he knew that he needed to go to a place where he could live openly as a gay person. He came to Canada in 2005 and made a refugee claim.

Alvaro's case is one of many which demonstrate a fundamental flaw in Canada's refugee determination system; he was never able to appeal his negative decision on the merits of the claim. The 2002 Immigration and Refugee Protection Act provides for the Refugee Appeal Division. However, successive governments have failed to implement this provision of the Act. The Refugee Appeal Division provides a place where refugee decisions can be reviewed. This is important because refugee decisions are made by a single person, and even the best decision maker sometimes can make a mistake. When the decision maker is wrong, there is no tool to correct the decision.

Had it been believed that Alvaro was gay, his refugee claim should have been straight forward. Article 204 of the Nicaraguan Penal Code establishes the crime of "sodomy". When homosexuality is criminalized LGBT people are vulnerable to extortion, arbitrary detention, and rape. It is impossible for LGBT people to turn to the state for protection as their identity is 'criminalized.' Countries in which same sex activities are criminalized often reflect an institutionalized culture of serious discrimination or hatred and persecution towards LGBT individuals. The Refugee Appeal Division would have provided an opportunity to review the information about Alvaro's sexual orientation, overturn the previous decision, and find that he was at risk of persecution in Nicaragua.

The lack of an effective appeal has been criticized by both the Inter-American Commission on Human Rights and the UN High Commissioner for Refugees. The UNHCR considers an appeal procedure to be a fundamental and necessary part of any refugee status determination process.

Efforts have been made to correct this wrong. In December 2004, the Standing Committee on Citizenship and Immigration unanimously adopted a motion which called on the Minister of Citizenship and Immigration to implement the Refugee Appeal Division or advise the Committee as to an alternative proposal. The Appeal Division was not implemented and no alternative proposals have been introduced.

In 2007, Bill C-280, a private member's bill was introduced in the House of Commons calling for the implementation of the Refugee Appeal Division. The Bill passed 3rd reading in the House of Commons in June 2007, and is now before the Senate. The Senate needs to be encouraged to adopt Bill C-280.

Letters to and meetings with Senators may help the Bill pass in the Senate. Presenting Senators with information about



First Light

Winter 2008

failed refugee claimants such as Alvaro may help them understand that Bill C-280 is more than just a piece of paper. The adoption of Bill C-280 can mean the difference between life and death for a failed refugee in Canada.

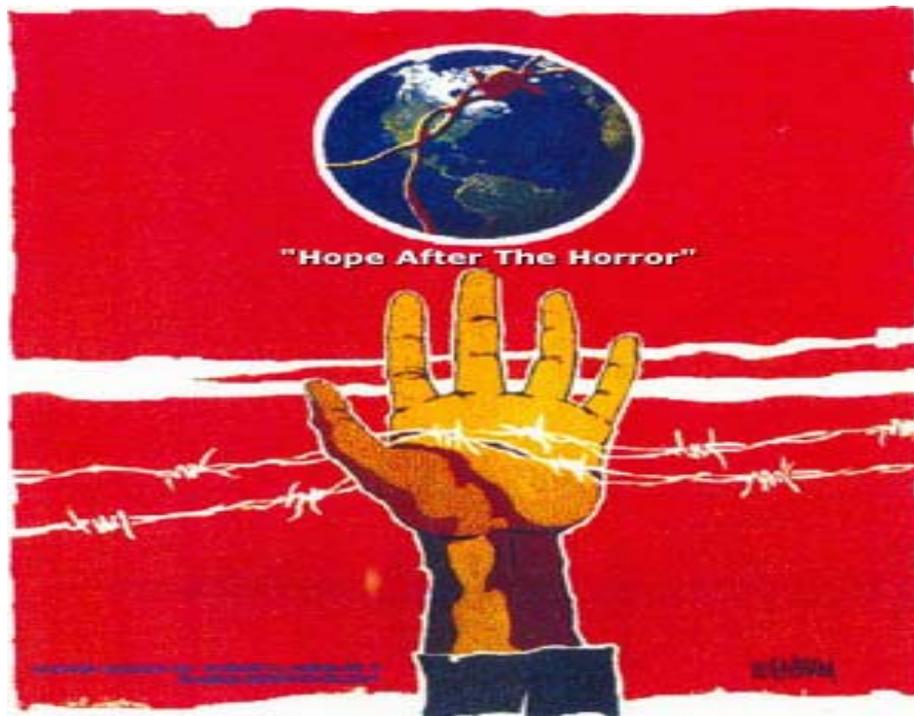
It is too late for Alvaro to benefit from the Refugee Appeal Division. He must now rely on the Minister of Citizenship and Immigration, Diane Finley, to allow him to remain in Canada on humanitarian and compassionate grounds. Minister Finley needs to know how the lack of an appeal has an impact on real people like Alvaro. She also needs to be encouraged to implement the Refugee Appeal Division, and give Alvaro permission to remain in Canada.

The lack of a meaningful appeal has an impact on the lives of people. Let's be sure to give a human face to our advocacy as we call on our government to correct a wrong and implement the Refugee Appeal Division.

For more information about Alvaro's case please see: <http://www.orangehabitat.com/alvaro/>

For information on contacting Senators regarding Bill C-280 please see the Canadian Counsel of Refugees at: <http://www.ccrweb.ca/eng/campaigns/RADaction.htm>

Gloria Nafziger is working with Amnesty International as a Refugee Coordinator.





First Light

Winter 2008

Family Separation: Problems of the CCVT Clients

Mulugeta Abai

The Canadian Centre for Victims of Torture (CCVT) is very much concerned about the delay and the time it takes for families to be reunited. For survivors of torture family separation is a permanent reminder of past trauma and is a constant source of re-traumatization. Family support is an integral component of the CCVT mandate and family reunification is the basic foundation of successful resettlement and facilitates survivors of torture to move toward being active community members.

As a centre aiding survivors of torture and their families coming to Canada from across the globe, the CCVT is well familiar with the dilemma of family separation. It is usually the result of one or more members of a family being entrapped in one country, while the other members are unable to travel and join them due to a number of obstacles, including lack of entry into Canada.

Canada is a land of immigrants and has many compelling reasons for promoting and facilitating speedy family reunification. Canada's Immigration and Refugee Protection Act (IRPA) makes a commitment to family reunification by giving a Canadian citizen or permanent resident the right to sponsor a family member. The Act is supposed to support the self-sufficiency and the social and economic well-being of refugees by fa-

ilitating reunification with their family members in Canada. Historically, family class immigrants comprised a significant portion of the overall immigrant population in Canada. Since the early 1990's, when the current government came into power, the percentage of family class immigrants coming to Canada has declined. For the past few years, the government has imposed a rule that 60% of immigration should be economic and 40% non-economic (i.e. family and refugees). By limiting admissions in these classes, this government has put all those who wish to be reunited with family into an intolerable situation, despite Canada's obligations, stated priorities and clear interests in promoting these admissions. This has especially negatively affected individuals, such as refugees, who may have no other family in Canada.

Despite all evidence to the contrary, it is unfortunate that only wealthy business people and entrepreneurs, described as the "best and brightest" in our immigration policy, are perceived to be of greater economic benefit to Canada than family class immigrants. Long-term family separation, as we have observed in cases of many of our clients, has a very destructive emotional impact on all family members. It has led to family disintegration in Canada before or after family reunification has taken place. Under the Immigration and Refugee

Protection Act, reunification of non-citizens with their spouses and children is tied to permanent residence status. Non-citizens who are not landed immigrants cannot normally bring their families to Canada.

Refugees are permitted to sponsor their immediate family members as soon as they obtain their Protected Status. Refugees' applications in Canada and those of their families overseas are processed simultaneously and any delay in either country will postpone landing for the members of separated families. There is a structural problem in the fact that in some countries there is no Canadian embassy or visa post. In Africa for instance, there are only four visa posts; furthermore, sponsorship applications for Middle Eastern Countries are processed by the Canadian Visa Post in Damascus, Syria.

Applicants who have to travel extensive distances to reach a visa post have to bear the additional cost of travel, often for more than one interview with the visa officer or to provide documentation and other proof. Applicants sometimes have to travel to another country to reach a visa post and then face the challenge of crossing a border with all the accompanying difficulties.

In one anecdote, an applicant living in El Salvador was required to travel



First Light

Winter 2008

on 5 separate occasions to the nearest visa post which was in Guatemala to satisfy the visa officer that she was in a 'bona fide' relationship with the sponsoring spouse, and once because the visa office had lost her file with all the documentation. The applicant had to spend enormous amounts of money for travel, overcome barriers to cross the border and try to replace all of the original documents.

We expected that with the implementation of IRPA, there would be less red-tape in processing applications for family reunification. This dream, however, did not come true. Unfortunately, we still face with a highly bureaucratic system lacking adequate sensitivity toward human suffering. Blind implementation of Immigration rules is the sole preoccupation of some Immigration officials.

An obsession with security has become a hindrance towards family reunification for some of our clients as well. Let me share the story of a client who is a victim of war and torture from a war-ravaged country. She escaped to Canada at the age of 28 and received her Convention refugee status a year later and immediately applied for family reunification with her husband and three children who live in her country of origin. Citizenship and Immigration Canada prolonged her application due to her husband's alleged affiliation with a group which had fought for her country's independence some thirty years back. Her country became independent a few years ago and this particular group is now the ruling party and Canada has maintained full diplomatic

ties with this country. Meanwhile our client received landed status after living in limbo for almost 15 years, however she has become chronically ill in the process.

It is unfortunate that our client's new status has not led to her family reunification. Her husband is inadmissible to Canada and this has greatly affected their children. They have grown up with no hope of seeing their ailing mother.

Another client of the CCVT received his Convention refugee status in the early 1990s. In his application for landing he included his wife and four children. In early 1996, he received a letter from CIC asking him to provide separate information regarding his children and a month later he sent the required information. Two years passed and he received another letter from CIC informing him that the needed requirements "had not been met". No further advice or instructions were given until CCVT intervened and activated his file. Before leaving Toronto in 2004, the CCVT wrote frequently to the local CIC and to different ministers and the client in question was repeatedly interviewed by the CIS/CSIS. Despite all these efforts, he continues to live in limbo.

Children are among the most vulnerable clients, and perhaps the most affected by family separation. We have served Jasmine, an 8-year old client who escaped to Canada along with her mother who is herself a torture survivor; she is the youngest of a family of five children. While in their home country, the family lived

under daily threats of death and violence. They escaped from this misery, although the father did not. They had not seen him for five years.

This child had suffered psychological torture due to her parents' activities. We have provided counselling to the entire family and have always found Jasmine to be a dedicated and talented child who has worked hard with her family to adapt to life in Canada. We were impressed by her endeavor to cope with the ongoing after-effects of persecution and family separation, definitely not an easy or pleasant journey to embark upon.

Jasmine and her siblings faced many difficulties in Canada. Their mother was extremely fragile and found it was very difficult for her to care for her children. Although they attended school and did well academically, the anguish of being separated from their father and the responsibilities related to caring for their mother, placed them under great stress. Financial difficulties were also a cause of worry. Much of the time the entire family has lived in a one-bedroom apartment.

The stress the family endured was compounded by extremely long delays in the family reunification process. Their first obstacle concerned their identification documents and when this problem was finally resolved they learned that the father had escaped to Europe.

The family experienced a devastating blow when, after three years of waiting to be reunified, the father



First Light

Winter 2008

attempted to travel to Canada with a false passport. This is an alternative to many refugees when no other option is available. He was arrested in a European country, charged and detained for a number of days. It took more than a year for the local Canadian visa officer to investigate his charge. Finally, the Visa officer deemed the father inadmissible to Canada, even though he had not committed any crime.

During this time, the family went through an agonizingly stressful period. The eldest child became suicidal, and numerous emergency interventions on the part of CCVT staff and medical professionals were necessary to save his life. The elder sister could not continue with her university education due to the lack of landed status. The mother continued to suffer in silence. Finally, after five years of separation, the family received good news when a court overturned the father's conviction. The Immigration section of the Canadian embassy subsequently provided him with a visa and the family received their landed status. A year later, he arrived in Canada and visited us at the CCVT.

The difficulties for the family, however, did not end. As the family struggled to rebuild what had been lost, all family members, particularly the youngest child, began to show signs of serious stress. In the course of such a prolonged separation they all developed different values and we are presently trying hard to bridge the gap among family members. The case of this young client demon-

strates the long-term and far-reaching impact limbo can have on families. At a young age, she endured prolonged separation from her father and took on great responsibilities involving her own rehabilitation and that of her family. When the stress of adjusting to a new culture is magnified by separation from a parent and continuous uncertainty about child's well-being, the effects can be devastating.

We are presently helping a torture survivor from Iraq. Mirak came to Canada in September 2006 as a government assisted refugee from his first country of asylum, Syria. He left his wife and 3 children in Iraq. He spent 6 year in Iraqi jails due to his work as a journalist and for composing poems against the regime of Saddam Hussein. One entire year he spent in a dark solitary cell – the death row. While in jail, his torturers subjected him to terrible psychological tortures. Every Thursday, prison guards took a number of prisoners for execution and told him that he would be next. This technique leaves devastating impacts on victims. At CCVT, we have heard terrible stories from some clients who have experienced this kind of torture. Our client's torturers mutilated his right hand and made him permanently handicapped. They also broke his leg.

Mirak was referred to CCVT by the Costi Reception Centre (a shelter helping government assisted refugees) so he could benefit from the holistic services of our agency. Our first step was to refer him for a full physical examination. This was fol-

lowed by a referral to a CCVT-affiliated psychiatrist. We have maintained close contacts with both the physician and the psychiatrist and have provided him with face to face counselling in an attempt to address his urgent psychological needs. He eventually moved out of the shelter and into a dark small room that reminded him of his jail cell. We contacted the Ontario Housing Connections and brought to their attention the tremendous psychological tension he was under.

Mirak's next step was to bring his family over to Canada. Government-assisted refugees, who come to Canada as landed immigrants can sponsor their families within their first year of arrival. This is called "one year window of opportunity." Our client was under the impression that the government of Canada would automatically reunite him with his family. When he was informed by the CCVT about the numerous requirements, he was too vulnerable to use this opportunity. He was on the verge of missing his deadline when CCVT became involved.

CCVT's intervention has so far provided an incentive to Mirak to continue receiving our holistic services. We are monitoring his condition on an ongoing basis. He is physically and psychologically better. We will continue working with his doctors, befriender, Immigration Canada, and housing authorities towards his rehabilitation, but an effective and complete rehabilitation will not happen until and unless he reunites with his family. We still face a big challenge

First Light



First Light

Winter 2008

ahead.

The CCVT is also highly concerned about an African client who is a terminally ill woman. She lives with her 9 year old daughter who is also very fragile. She was severely tortured due to her husband's political activities. The military forces later found her husband and murdered him. The woman escaped to a neighbouring country and gave birth to her daughter. Civil war escalated in her first country of asylum and she and her new born child went through the atrocities of war again. She attempted to escape to a safe place with her baby, but nowhere was safe. In a sudden raid by the local police against asylum seekers she was arrested, raped, or possibly gang raped by the police. We were unable to obtain more details about her horrendous experience due to our concern that she might be retraumatized. Against great adversity, she escaped to another African country from where she escaped to Canada and was accepted as a Protected Person. She and her daughter have recently received permanent resident status in Canada. She is, unfortunately, counting her last days since she was infected with HIV during the rapes in her first country of asylum.

This vulnerable survivor of torture and war was referred to CCVT by her hospital's social worker. Our first step was to get a full picture of her health condition by contacting both her family doctor and the specialist who is treating her for AIDS. We were informed by the latter that her "health

is such that it is important that she be in a close proximity to friends who can care for her daughter...[her] life expectancy is less than two years and consequently it is important that her stress level be reduced as much as possible."

When the stress of adjusting to a new culture is magnified by separation from a parent and continuous uncertainty about child's well-being, the effects can be devastating.

With no husband or relatives in Canada, this client is fearful of what the future will hold for her child. Her daughter does not know about her mother's illness and impending death. The little one is too vulnerable to be told, and she has no other relative in Canada. Her mother's sister back home has agreed to come to Canada and help care for her niece. It is a great sacrifice for the aunt but a less expensive option for the Canadian government which would otherwise be left with the responsibility of arranging for the protection and well-being of the child. In addition, being cared for by a relative serves the best interest of the child.

Regrettably, the sister's application for a visa was denied by the Canadian Embassy. Our client is not able

to pursue family sponsorship, and even if she was eligible, she will not survive the lengthy waiting time. She is concerned about how her death will impact her child who will have no one in Canada. As a result she is feeling terribly fragile and distraught. Her situation prompted us to contact the CCVT 250 volunteers as well as our sister agencies and AIDS support organizations. We have established an ad-hoc coalition of support for the mother and child. We have so far contacted members of parliament, the Minister of Citizenship and Immigration and the visa officer in Africa in an attempt to bring the sister to Canada. We have also waged a letter writing campaign and we still have seen no results.

Among the CCVT clients there are also senior citizens suffering from the anguish of family separation. She was referred to the CCVT by her English teacher at a community school and was escorted to CCVT by a friend whom she had known back home. The friend acted as interpreter, as Leila has not been able to learn English due to her Post-Traumatic Stress Disorder. Leila told us the story of her torture and escape. A few years back, her son had escaped their country of origin. Upon learning of his escape, the secret police began threatening the family. Security officials arrested her, her husband and two of their children repeatedly. They were taken into custody many times without anyone knowing their whereabouts. This continued for 5 years. They used various techniques of torture against them: beating, flogging, water, food and sleep deprivation, harassment,



First Light

Winter 2008

threats and intimidation.

Leila has 6 children. One daughter is still in the country of origin. Another daughter has recently escaped to a neighbouring country in the south. Leila's third daughter chose to become a nun and lived in Monastery until she migrated to the USA. Leila's husband escaped to a neighbouring country in the north with their two single and younger daughters who remained there while the father later escaped to Europe. Leila remained in her country of origin for few months where security forces detained her and took her through torturous interrogation sessions demanding information about her husband and daughters. Leila escaped and lived in many countries before reaching Canada and applying for refugee status. She was unfortunately, rejected by IRB. As she is unable to return to her homeland, she has applied to stay in Canada on Humanitarian and Compassionate grounds (H&C).

Her husband is seriously counting his last days and she has not seen her children for many years. Although accepted in principle on H & C grounds, she is not allowed to travel overseas. She cannot sponsor her husband because of lack of status. For all intents and purposes she will continue suffering in the limbo.

I would like to share problems of

family reunification regarding two more clients of CCVT. Both of them are women survivors of war and torture and both have come to Canada as government sponsored refugees. One of them declared her husband "dead" in her interview with the Visa Officer because her husband had gone missing and there was a wide-spread



belief that he was killed in the war. The other woman lived with a common law partner. She was under impression that she could sponsor her husband after becoming established in Canada and when she arrived in Canada she came to know that she was pregnant. We at the CCVT provided her with our holistic and all embracing support.

Nevertheless, none of these women can sponsor their spouses because

they did not and could not declare them in their application for resettlement in Canada.

The tragic stories we hear at the CCVT prompt us to appeal to the government of Canada to take its commitment for an effective and expedited process of family reunification seriously. There should be flexibility in terms of survivors of war and torture in cases where incorrect information is sometimes given. There is a need for providing special Ministers Permit (temporary resident's status) in emergency cases when families cannot wait to process their applications. Citizenship and Immigration Canada, as well as visa post overseas should closely collaborate with NGO's and care-giving organizations like CCVT. There is a need for an extension of the one year window of opportunity and the extension of the definition of family class. For a long time the CCVT and sister agencies have pleaded for a stronger link between human rights and Immigration. We strongly propose personal and face to face contact between Immigration officials and those who suffer from the plight of family separation. We need to protect the Canadian humanitarian and compassionate traditions like the pupil of our eyes.

Mulugeta Abai is the Executive Director of the Canadian Centre for Victims of Torture

First Light

Pain and Confusion

Padideh Hassanpour

I clutched my stomach achingly, my head throbbing and my pulse beating louder than ever. Broken ribs, twisted ankle, swollen eye, I was laying helplessly against the dry pavement. Something warm trickled down my face, and I wanted to touch it, but it seemed that my arm pained too.

I moved my head forward trying to catch a glimpse of the sky and my surroundings; I winced loudly at the sound of my neck cracking. I was damaged and broken and all I could hear was the steady rhythm of my heart going slower at every beat and growing more distant. I had been crouched in this uncomfortable position for the last two hours and now I was forgotten in a dirty, foul smelling alleyway. I thought about God, I thought about death, I thought about a possibility of an after life. Should I pray now? I heard that in hell there was no forgiveness. Maybe I didn't want to live after I die.



Couldn't I just rest in peace? But then again maybe there was no after life, maybe that was just a myth. I wanted to curl up and forget, forget about death, forget about pain, forget about life. But I couldn't. I could feel a dark shadow move across my eyes, probably the last set of clouds that

would ever be over my head. I couldn't move a muscle in my body, everything was stiff and loose at the same time. I moaned and screamed silently, tasting the dirt, blood, and salt on the ground. I closed my eyes and waited. My body lurched forward

halfway to rid itself of bile; I turned my head away and concentrated on something else. How did my body even have the energy to move? I lay back staring at the dark sky, not thinking of anything. Here I was drenched in blood, and vomit, drenched in memories, and somewhere between life and death. No pain, no darkness, no light.

Nothing.



First Light

Winter 2008

The FORGOTTEN AFGHAN REFUGEES in IRAN

Soraya Attai

Afghanistan is one of the most deprived nations of the world and the most forgotten one as well. Throughout history, Afghans have gone through catastrophic tragedies. Afghanistan is known for its rebellious freedom fighters, war-torn and most ravaged cities and villages. Afghanistan has the highest rate of refugees and displaced people in the world. It is a nation that has been beset by invasion, external pressure and internal upheaval since, and even before, the time of Alexander the Great until now with the Western invasion. Afghan people have suffered hardships beyond imagination. In fact, for many Afghans, nothing has changed except the weapons which have been used against them.

Afghanistan is located in Central Asia. The neighbouring countries are Pakistan, Iran, China and Russia. Since the Soviet invasion in December 1979, millions of Afghans have sought refuge in Iran, many Shit'tes from Hazarajat, the central, largely Shit'te district of Afghanistan which has been virtually autonomous since 1979. Afghan refugees include other ethnic groups such as Tajiks and Turkmen from the northern provinces of Afghanistan. The province of Herat is the neighbouring province to Iran. It is estimated that 1.5 to 2 million Afghan refugees have sought asylum in Iran and the UNHCR has estimated 600,000 Afghan refugees in the Iranian province of Khorasan, 15 km away from the Afghan border. The number of Afghan refugees in Iran continues to grow.

Afghan refugees live the worst possible situations deprived from receiving any kind of national relief or support. Refugee camps are located in deserts of Iran, with no access to basic food and clean water. The only assistance is through relief program of the UNHCR. Many live in poor health conditions with reported outbreaks of cholera, tuberculosis and dysentery. Currently, Afghan refugees face mass deportations to a country ravaged by war and suffer from abject poverty. Recently, 320 women and children have died from the extreme cold conditions in the process of removal. The lack of medical care, food and winter supplies in the refugee camps will increase the death toll.

Iranian government established a Council for Afghan Refugees (CAR) in 1979, which is affiliated with the Ministry of Interior. They are concerned that the growing Afghan refugees would cause major health and security problems. The UNHCR has appealed the Iranian government to relieve its violent approach and decrease the level of forced Repatriation. Earlier this year, Iranian Interior Minister, Mostafa Pour-Mohammadi, announced that Tehran planned to repatriate one million Afghans by March 2008. He warned "illegal" Afghans to leave the country voluntarily. Instead of supporting Afghan refugees, the CAR has acted as a tool for their deportation. This is unjust and against Article 33 of the UN Refugee Convention of 1951.

Finally, it is important that the government of Canada uses all bilateral, as well as multilateral means to protect Afghan refugees in Iran. Citizenship and Immigration Canada should pay a special attention to the resettlement of Afghan refugees at risk. The priority should be given to the family reunification of Afghans already living in the Canada.

Soraya Attai is Settlement Counsellor working at Canadian Centre for Victims of Torture

First Light



First Light

Winter 2008

Is Law Equal For All?

Elda Selfo

It was 1997. In the skies of Albania, birds were substituted by AK-47 bullets. Their songs were replaced with the sound of weapons. The future was bleak, the past had been forgotten and the present was unbearable. I wanted to move on with my life, and the only way to do this was to flee the country. However, the option of escape was shrouded by a curtain of lost hope and confusion.

My country Albania is not part of the European community, so getting a visa to study or work in foreign countries was difficult and in some cases impossible. Albanians were suffering through both a communist regime and a civil war, but outside countries were unwilling to grant temporary visa applications from people who wanted to flee their homeland forever.

I had believed that Italy was the soul of Europe, a symbol of the culture as a whole. It was also the birthplace of the great composer Giuseppe Verdi, whose masterpiece Nabucco held great meaning for me because of its central message of perseverance in the face of adversity. The struggle of the Italian people against Austrian rule was inspirational in my own personal struggle. "Va' il pensiero sull'ali dorate." It was my dream to travel to Italy to study and begin a new life of freedom. Fortunately, I was granted the education visa I required. I was blissfully happy but naively unaware of the many obstacles I had yet to face. I was determined to study law because justice was the fruit that the Albanian people craved.

I had to begin a new life in Italy with new traditions and a new mentality. My first step was to find a place to live, and the mentality of many Italians in the North resisted giving opportunities to foreigners. I had many doors slammed in my face and in the beginning I did not understand why. I soon realized when I introduced myself as Albanian that my background was a detriment. At that time in Italy we were often viewed as the Italians once were in America -- nothing more than criminals with Mafia connections. My dream of Italy as a welcoming democracy was crushed. I was very resentful that the actions of a few had

ruined my chances of acceptance here. As Albanians we shared the same blood, but we were not all of the same character.

In every country, the desire of new immigrants is the same: to find a job and to create a new life for themselves. However, the system of government-controlled documentation was particularly frustrating. The endless maze of red tape meant that various applications to both remain in and leave the country spent months being processed and could never be tracked down with any accuracy. Any questions were met with resistance and even scorn.

As I worked my way through law school at the University of Pisa, I met other immigrants who had faced the same adversity and were also determined to show Italian society what a third world immigrant could achieve despite these harsh conditions. Some Italian people were trapped inside the ignorance of their own traditions. For instance, in strictly legal terms, Italy is a model of human and democratic law. The third clause of the Italian Constitution states that all citizens have the right to dignity and are considered equal before the law without the distinction of sex, race, language, religion or political beliefs. The reality of life in the country does not reflect this ideal.

The influence of the media ensures that racist attitudes towards foreigners remain engrained in the minds of unquestioning people. Since my time in Italy, the attitude of suspicion has shifted from Albanians to Romanians and Muslim immigrants. It is a cycle that needs to be broken through education and exposure. As I reflect on the status of Italy now, I ask myself, "If Italy in the twenty-first century was the focus of Verdi's play, how would he write its conclusion?" If we do not work towards change, a tragic ending is certain.

Elda Selfo is a training lawyer living in Italy. She is affiliated with the CCVT through her family in Toronto, Canada.



First Light

Winter 2008

Question of Allegiance

Catherine Raine

A former United States soldier in his mid-twenties mesmerized me on a September night three years ago. I remember sitting in an auditorium seat which had hosted thousands of University of Toronto engineering students, the chair's built-in desk stacked with antiwar leaflets. My attention fastened on the speaker, Jeremy Hinzman, with fierce concentration because I craved an insider's insight into the War on Terror. As a fellow peace-loving American, I really wanted to understand why he had chosen to live in exile in Canada.

Previously, I had heard Jeremy Hinzman speak on a CBC radio program about Vietnam and Iraqi war resisters in Canada. The man's quiet voice had impressed me, especially when he told the story of his escape from the States after being deployed to Iraq. This command came after he had already completed one non-combat tour of duty in Afghanistan and received news that his application for Conscientious Objector status (filed in August 2002) had been rejected. Faced with the choice of fighting in a war he considered illegal or desertion from the US Army 82nd Airborne Division, he chose to flee to Canada with his wife and young son.

Across the auditorium's aisle to my right, a student with a shaved head and nose stud was listening as fervently as I was. The student kept nod-

ding, especially when Jeremy described the Army's methods of desensitizing its soldiers. Jeremy's comrades at boot camp learned to shout "Trained to Kill! Kill We Will!" while they vied to display the blood enthusiasm their superiors demanded. Then Jeremy detailed how rifle targets began their life as neutral black circles but gradually grew torsos, legs, then entire human bodies. He told us that the mili-

tary de

hummed with indignant energy, waiting to pounce upon his prey's honour. He managed to wait until the end of the talk, but then emitted several rapid-fire moral judgments disguised as questions: "Why didn't you just go to jail? Why didn't you file for Conscientious Objector status at an earlier time?"

How could you let your fellow soldiers down?" The heckler finished his interrogation with a final question that wrung the dregs of a deep well of contempt. With bitter doubt soaking every word, he asked, "Do you love your country?"

Until that question came, I hadn't taken the critic's scorn personally, though I felt sympathy for Hinzman having to defend his private decision to a hostile stranger. When he asked "Do you love your country?" I became more intensely aware that Jeremy Hinzman and I come from the same country and have adopted Canada as our home. Like a searchlight of incrimination, the question sought to expose the Americans in the Toronto audience and scorch them with shame. At least one other listener felt targeted, as he later commented on how painful it is to have someone question your love for your country. After all, who has the right to probe such a sensitive topic except our own expatriate selves? Here was a morality policeman who dared to judge our collective consciences and hint at treason,

...how painful it is to have someone question your love for your country. After all, who has the right to probe such a sensitive topic except our own expatriate selves?

finer killing an enemy as "target acquisition."

A much less sympathetic listener sat five rows in front of me. He had short hair, glasses, and a pressed cotton shirt. Thanks to his rigid, self-righteous posture, he would have felt right at home at a McCarthy hearing. Throughout Jeremy's talk, the man's body



First Light

Winter 2008

but who gave him the authority to arouse my guilt at leaving the States?

"Do you love your country?" he had demanded. I was angry at the heckler because his question disturbed me, mainly because part of me agreed with him. He made me wonder if my residence in Canada somehow invited, even legitimized the criticism of people like an old school classmate of mine who once told me, "You're not even a legal US citizen any more." Faced with such (false) accusations, must a citizen prove her love by planting her life firmly in the soil of the motherland? Are love and proximity the same thing? And if you take away my Missouri residency, my US dollars spent, local taxes paid, what is left in me that is American? My own questions began to multiply from the original one from the Hinzman talk: "Is my American passport just a jumble of visas and entry stamps? Isn't this travel document evidence of poor commitment to the republic for which it stands?" Indeed, my passport testifies to seven years in the UK and almost six in Canada. Does this dilute my essential Americanness like a glass of weak cherry Kool-Aid on the Fourth of July?

Hinzman's challenger unwittingly set off an avalanche of introspection when he asked Hinzman, "Do you love your country?" I wanted to tell the heckler that I do love the United States, but not for which it stands at the moment. I contest, protest that my identity is American, even if I must tease out the fragile web of memory and family myth that defines it. The reality is that my grandfathers, grandmother, and father are buried in earth which lies

within the United States' political borders. This mortal fact, in addition to reluctance to renounce my birthplace, is why I would not exchange my US passport for another, even though I would welcome dual US-Canadian citizenship. I don't fancy pledging loyalty to Queen Elizabeth, but I am fond of the pretty Canadian flag. The red maple leaf seems more life-affirming than militant stars and stripes, like a choice to pitch your tent in the forest instead of polishing your rifle at ROTC boot camp.

I am certain my father loved his country, and equally certain that his patriotism was less conflicted than mine. What hurts me is that his service in the US Navy from 1957 to 1961 almost certainly caused the cancers which earned him an Old Glory at his funeral in 1995. At his grave on a leafy hill in Memphis, Missouri, funeral staff carefully folded the flag into a patriotic triangle and handed it to my mother, who hugged it. I'm not sure how she felt about this federal gift, but for me the red, white, and blue shroud was both sweetly poignant and a bitter symbol of what killed my father. In 1959, Dad witnessed a high altitude atomic blast from a control tower on Midway Island. The bomb was Hardtack 1, part of the United States' nuclear testing program in the Pacific Proving Grounds. Our family strongly suspect that this exposure to radiation (he wore no protective gear) caused the cancerous tumor which started to develop in his brain in 1968 but was not diagnosed until 1981. Non Hodgkin's Lymphoma followed in 1992 and returned in 1995. Lymphoma combined with Astrocytoma and Malignant

Pleural Effusion caused his death on November 3, 1995 at a Veterans Administration Hospital in Leavenworth, Kansas.

How can I love a country which destroyed my father and symbolizes imperial and corporate greed to most of the world? What's to love in an arrogant nation which has sacrificed soldiers and civilians alike in a suicidal arms race and now feeds the flames of religious conflict with every new invasion? To answer these painful questions, I have to turn from foreign policy to the land and the American people themselves. I love the expanse of fields, friendly Midwest greetings, the porches, elm trees, lightning bugs, and even the pickup trucks. While I despair over the blight of strip malls, billboards, and the brutal supremacy of parking lots, I can't hate the quiet green place where my father's remains lie, which I pray never loses its pastoral beauty. To hate the United States is to hate part of myself.

Every time I fly back to Missouri, I look down at the patchwork of farmland and reflect on what draws me there, and for me the magnet is both my father's actual grave and the symbolism of the motherland, not to mention cherished family who live in Missouri near both of its mighty rivers. Not surprisingly, the Memphis graveyard in rural northeastern Missouri means a lot more to me than Pine Hills Cemetery near my house in Ontario. Beautifully forested as Pine Hills is, nobody I love lies there. When I see miniature Canadian flags marking veterans' graves, no memories haunt me. I only think how stylish the maple leaf is, how boldly



First Light

Winter 2008

innocent.

On the other hand, I associate the US flag with a thousand mornings at Benjamin Franklin Elementary School in Liberty, Missouri. Right hand on heart, we chanted to a flag secured to a tall brown wooden pole which rose from a gold stand: "I pledge allegiance to the flag of the United States of America, and to the Republic, for which it stands, one nation, under God, with liberty and justice for all." The flag accepted our homage without comment or ripple. For my part, I accepted the pledge as the most vocal opening ritual of a school day, its significance on a par with sharpening pencils and consuming my carton of USDA milk. I never saw the pledge as a commitment, one which I have tested by supporting war resisters, participating in peace rallies inside and outside the States, and spelling honour with a u.

At Franklin Elementary, we learned how to fold our flag into triangles, never allowing one bit of sacred cloth to touch the ground. After the flag had been folded as many times as possible, you had to insert the leftover flap just right to prevent the indignity of protruding tufts of fabric. We learned to respect the flag in both its flapping and folded state, for it consecrates mourners and patriots alike. When bodies return from combat zones like Vietnam or Iraq, coffin-sized flags proclaim louder than a death certificate why these lives were stolen. But when we were kids at Franklin, red, white, and blue were innocent colors, free of morbid associations. It was thrilling when the principal appointed us to raise the

flag on its white rope pulley. Then we could admire how it rose to a billowing height above the miniature Statue of Liberty that guarded the school. On a bitter February morning in 2003, I helped carry a different flag, the purple and white Society of Friends banner at a Toronto rally that protested the imminent war in Iraq. I was one of an estimated 80,000 people who shouted dissent, proclaiming it with songs, floating cloth doves on sticks, Uncle Sam and Death figures on stilts,

Every time I fly back to Missouri, I look down at the patchwork of farmland and reflect on what draws me there, and for me the magnet is both my father's actual grave and the symbolism of the motherland ...

and posters that asked "How did our oil get under their sand?" I loved the thrill of mass resistance, the singing, the artistry, but when I saw a US flag with a swastika appliquéd where the stars usually go, I felt visceral anger and hurt. My feelings surprised me. Was my long-buried allegiance, repeatedly pledged at Franklin Elementary, now awakening in a time of crisis? Or did my anger go deeper than indoctrination challenged?

I felt wounded again when a group of

students sailed by with a banner of US flags redesigned to show corporate logos this time instead of swastikas. But their banner didn't bother me as much as their song. Smiling like leads in a high school musical, they belted out the tune of The Star Spangled Banner, only replacing "land of the free" with "land of corporate greed." Until that moment, I didn't realize I had invested so much personal loyalty in this song, but now I hated people associating my anthem with Nike and the Gap.

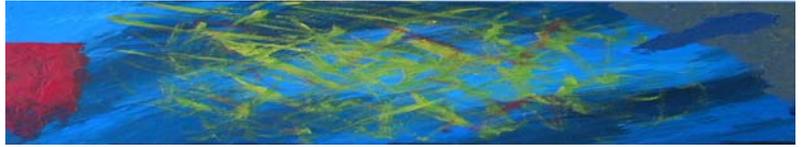
Nevertheless, I have the students and Jeremy Hinzman's heckler to thank for helping me discover my limits, the love I have for a troubled country I criticize but still hold sacred. Maybe if our bombs stopped bursting so much, our flag would earn more respect. Maybe if my father hadn't suffered from Cold War fallout for twenty-six years, my allegiance to America would feel less vulnerable.

Catherine Raine is a LINC Instructor working at Canadian Centre for Victims of Torture

"Our country is not the only thing to which we owe our allegiance. It is also owed to justice and to humanity. Patriotism consists not in waving the flag, but in striving that our country shall be righteous as well as strong."

- James Bryce - British politician, diplomat, and historian

First Light



First Light

Winter 2008

CCVT Participation at ExCom

Ezat Mossallanejad

On behalf of the Canadian Centre for Victim of Torture (CCVT), I traveled to Geneva last September and participated at the annual consultation meeting of the Executive Committee (Excom) of the United Nations High Commissioner for Refugees with non-governmental organizations. The CCVT's main intention was raising the voices of millions of victims and survivors of torture around the globe who have lost their roots due to or as result of torture. Some of them languish in jail or detention centre, some others live in refugee camps and majorities are living underground or semi-underground in their own countries. We serve a few of them at CCVT as our clients and they are sources of inspiration for all of us to continue with our difficult job.

The major theme of discussion this year was partnership. The High Commissioner, Mr. Antonio Guterres, raised hopes in strategic partnership among UNHCR, the Red Cross, the Red Crescent, and NGOs. In his speech of September 28th he reiterated the UNHCR's 5 principles of partnership:

1. Transparency
2. Equality
3. Goal oriented approach
4. Complementarily
5. Accountability and responsibility

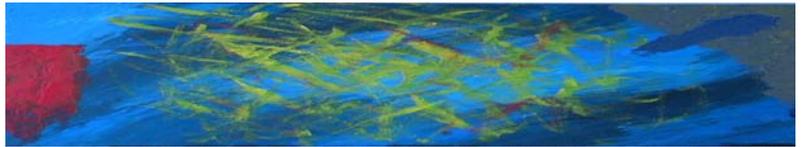
Civil society representatives raised serious concerns about their unequal partnership with the UNHCR. While NGOs are wonderful sources of compassion and creativity at the frontline levels, they are considered as junior partners; they are judged by their size and power. The UNHCR considers them as sub-contractors. Another concern was Ex-Com meetings themselves that according to some NGO partners seemed pre-determined with their little impact on agenda and the Conclusions. The UNHCR has recently designated a special staff member as EXCOM rapporteur to receive NGOs feedback, but her role is limited and she lacks resources to reach individual NGOs.

Similar to the previous year, NGOs were debriefed about the broader mandate of the UNHCR in the context of the

global asylum-migration. According to the High Commissioner, the 21st century should be considered as the century of people in move. While some people move for better opportunities, others move against their will for reasons like war, generalized violence, persecution, environmental degradation, etc. They mostly move for reasons beyond 1951 refugee Convention. All UNHCR officials including, Mr. Guterres himself, reiterated their organization's commitment to protect those who need protection in this mixed flow. They mentioned that the existing level of protection should be maintained. It would be up to the international community to find a solution for this complicated problem of our epoch.

The broader mandate of the UNHCR has prompted it to pay special attention to the Internally Displaced People (IDPS) and stateless persons. In the lack of any binding international legal instrument for the protection of IDPS, the UN system has provided the UNHCR with the mandate to provide humanitarian relief to IDPS in special circumstances. Given the fact that IDPS are at the mercy of their national governments, the UNHCR is unable to play a major role towards their protection. It relies on the local and international partners for fundraising, IDPS Protection and their relief. The plight of IDPS in many areas including Sudan, Iraq, and Colombia has been exacerbated in recent years and with the outbreak of new wars and generalized violence. This was a prevalent theme at this year's meeting and according to the High Commissioner we might have this problem for the years to come.

Similar to the previous year, UNHCR officials, raised their utmost concerns about stateless people. It is estimated that there are between 7 to 12 million stateless persons around the globe. There are still many countries, including Canada, that have not acceded to the 1954 UN Convention on the Protection of Stateless Persons. The High Commissioner congratulated Nepal for the naturalization of 2.6 million stateless people. He mentioned that the government of Bangladesh would soon grant citizenship to Bihars' stateless people. It is promising that the governments of Tanzania and Zambia have started looking into the local integration of protracted refugees.



First Light

Winter 2008

In May 2006, the UNHCR provisionally released Guidelines on the Formal Determination of the Best Interests of the Child. These provide specific guidance to UNHCR and partner staff around the procedural safeguards and documentation needed when making any decision that has a fundamental impact on the life of children of concern to UNHCR, in particular unaccompanied and separated children (e.g., making decisions about complex care arrangements, providing a durable solution, removing a child from parents). The ability of UNHCR field offices to effectively implement these Guidelines has been questioned frequently by non-governmental partners. It has been dependent in part on the extent to which current systems and resources address child protection and best interest considerations. The big challenge has been whether field offices are able to identify what the best interests of the child are and when formal best interest determination procedures are required.

Despite the fact that one of the major EXCOM conclusions this year was about children at risk, this important issue was not given due attention at the pre-EXCOM meeting. There was a side meeting about ensuring protection and durable solutions for unaccompanied and separated children during the lunch time on September 26th that should have been part of the main agenda. However, NGOs raised concerns in the course of discussions at other meetings about children's lack of protection in border areas, non-availability of legal counsel for them and their frequent detention. They also raised concerns about non-availability of secondary education for refugee children due to lack of funding. Despite the High Commissioner's reiteration on education as a UNHCR top priority, officials mentioned about their failure to get information about border areas. At the positive side, the UNHCR has improved its communication with UNICEF to narrow down the gap.

Discussions were made about the challenges of the cluster approach to refugee protection and relief. It has been for quite some time that the UNHCR has used a cluster of other intergovernmental and NGOs in the field to help uprooted people. The lack of staff, resources and coordination among different players were posed as great barriers responsible for the inadequate balance between the cluster

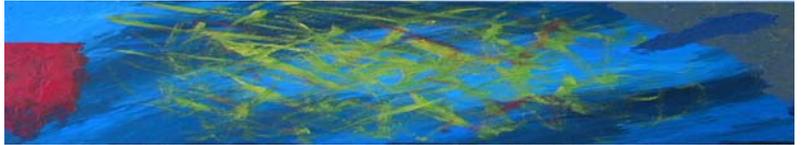
and non-cluster regions. The Mexico Plan of Action (MPA)

was praised as a viable and promising project. It was approved in Brazil in the year 2002 with the intention of dealing with the massive migration flow in Latin America. Since its three years of operation, the MPA has undertaken 1000 projects in 350 border communities with the budget of 5 to 7 million dollars. It is helped by 25 cities of solidarity in 7 countries. There are well-knitted programs in Argentina, Chile and Brazil. Palestinians will be resettled in Brazil and Chile under this plan.

In the mid-day of September 27th, there was a well attended meeting about the plight of Iraqi refugees in the Middle East. Dr Abul Rahman Al-Atter, Director of Syrian Red Crescent, spoke about the ever-increasing number of Iraqi refugees in Syria. At present, Syria hosts more than 1.5 million refugees from Iraq. They live with people rather than refugee camps. They have put excessive burden on Syrian health and education system. In an attempt to restrict refugee movement, the government of Syria has recently imposed visa requirement for Iraqis. So far, there has not been any deportation, but refugees have to comply with residency regulations. A major concern is the waiting time for registration that is now 5 months in Syria (compared with 15 days in Jordan). Registration is being done only in Damascus and there are few registration centers in this city.

Discussions were also made about the plight of Iraqi refugees in other parts of the Middle East. Around half a million refugees live in an awkward condition in Jordan. Concerned about its stability, Jordanian government has restricted refugee movement and has frequently detained them. There are also 487 Iraqis in Lebanese detention centers. Forcible return is also reported from Lebanon. There are around 20,000 Iraqi refugees in Turkey, with 7000 as registered refugees. They are not welcomed there and there have been cases of detention and deportation. There were 52000 Iraqi refugees in Iran before the war. After the war, 1500 Iraqis escaped to Iran. In a nutshell, Syria, Jordan, Lebanon, and Egypt are facing serious problems regarding hosting Iraqi refugees. There is an utmost need for international assistance.

First Light



First Light

Winter 2008

On Thursday 27 September, along with the president of the Canadian Council for Refugees and a colleague from London Diocese of Ontario, we attended a special and informal meeting with the Assistant High Commissioner for Protection, Ms. Erika Feller and her close colleagues at the UNHCR headquarters.

We discussed about the major issues of global refugee protection with special focus on Canada: statelessness, the lack of refugee appeal at the IRB level and introduction

of the Bill C280, people in limbo (specially those from moratorium countries), detention, and security certificate, interception and interdiction. We do hope that the UNHCR will have a close look at our concerns and convey them to the Canadian government.

Ezat Mossallanejad is a Settlement Counsellor, Policy Analyst and Researcher at Canadian Centre for Victims of Torture

As a survivor of torture, if you feel that you have suffered for a cause you loved, you can deal with your trauma in the context of love and understanding. Love opens up a vast horizon before your eyes. Love provides you with a generous gift that can heal most wounds. Saint Paul is right when he declares that

Love is always patient and kind; it is never jealous; love is never boastful or conceited; it is never rude or selfish; it does not take offence, and is not resentful. Love takes no pleasure in others people's sins but delights in the truth; it is always ready to excuse, to trust, to hope, and to endure whatever comes ... There are three things that last: faith, hope and love; and the greatest of these is love.

Based on my experience in jail and exile and as a frontline worker helping refugees and survivors of torture, all the components of love mentioned by Saint Paul have healing impacts: hope, faith, forgiveness, patience, compassion, gentleness, devotion, trust, peace of mind and stoicism.

You cannot have healing without hope. After twenty-eight years of hard work and frontline experiences, the Canadian Centre for Victims of Torture (CCVT) has made it an essential part of its mandate to provide its clients with "hope after horror."

Loving others and being loved by them have frequently saved my life. When, for example, I lost my son in India, I received support from many Indian and Iranian friends who went far out of their way to show my wife and I their love and affection. Without that genuine love we would probably not have survived.

From the book Torture in the Age of Fear by Ezat Mossallanejad, Serphin Editions , 2005

First Light

Winter 2008

Book Review: Refugee Sandwich - Stories of Exile and Asylum (2006)

Peter Showler, McGill-Queen University Press
CAN \$27.95

Reviewed by John Faustmann

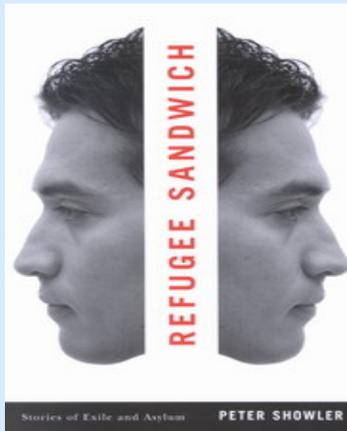
It would be hard to imagine a better introduction to Canada's refugee system than [Refugee Sandwich](#) - a recent book by Canadian lawyer and former member of the Immigration and Refugee Board, Peter Showler. Borrowing techniques normally used in fiction, Showler writes short stories based on his years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

Thirty thousand refugee claims are settled each year in Canada, and although this figure is somewhere in the middle of developed nations, (annual flows of refugees to Germany, the U.S. and the U.K. are 160,000, 126,000 and 57,000 respectively), Canada can be justly proud of its refugee determination system. According to Showler: "Many of the Canadian interpretations (of the UN Convention Relating to the Status of Refugees) that were seen as ground-breaking in the 1990's have become standard for the industrialized countries." And the Canadian method, often called the "Cadillac of refugee systems," has come in for frequent praise from the UN High Commission for Refugees.

That said, [Refugee Sandwich](#) demonstrates all too clearly how often the system fails. On the one side you have genuine refugees, who, by great fortune, or through the services of professional people smugglers, have miraculously escaped their home countries and landed in Canada. In many of these countries, as Showler barely needs to remind us, people "do such terrible things to one another." At the same time, the world has more than its share of undeveloped places, that produce uncounted millions of people for whom Canada represents a chance for a better life. Canada's refugee system exists to

save people from future harm. It is the job of the IRB to admit people whose lives would be in danger if they were returned to their countries of origin, and to keep out economic exiles and outright imposters.

That we do this in a faintly haphazard way -employing a cast of often unprepared, overworked, at times woefully unqualified people who are expected to render life-or-death decisions in a short time frame- will come as no surprise to anyone familiar with Canadian federal government bureaucracy. Throughout [Refugee Sandwich](#) there is a manic, cynical, theatre-of-the-absurd tone to the IRB hearings. Refugee Claims Officers, on the basis of three weeks' training, prepare cases for the Board. Young, inexperienced immigration lawyers do damage to their refugee clients' cases by failing to do their homework. Poorly-paid, at times not-entirely-fluent translators stumble over their words, making everyone wonder about the



quality of communication. And throughout the average three hours it takes to hear a refugee claimant's case, the presiding IRB member, (a patronage appointee whose political connections to the federal cabinet count more than competence), may well decide a claimant's fate based on little more than their own flimsy, preconceived prejudices; personal scheduling conflicts, or the reaction of their digestive system to their latest meal. Showler attempts to be fair and even-handed in this: [Refugee Sandwich](#) has more than its share of competent translators, well-prepared lawyers, and informed, intelligent, compassionate IRB Members. Clearly, though, he has seen the

system at its worst, and he is determined to mend it. To that end, the Afterword section of his book suggests four much-needed reforms. First, IRB Members need to be chosen for their capability, not their close ties to the party in power. Second, there needs to be direct federal funding for claimants' legal counsel. Third, there needs to be a better appeal process. And fourth, refused refugee claimants need to be promptly removed from Canada. Failure to do this, Showler suggests, opens the system to abuse.

According to the UNHCR, the UN Refugee Agency presently has 6000 staff in more than 110 countries helping 30 million refugees.

This makes [Refugee Sandwich](#) a small book about a big problem. A nicely written uncommonly useful small book.

Mental Health and Immigrants

Selamawit Yohannes

Mental health is an important issue which is part of our life and our community. It is important that we acknowledge the existence of mental illnesses, particularly amongst newcomers. Many do not seek help due to lack of knowledge and the stigmatization attached to these illnesses. The support they received back in their home countries from family members or from elders in their communities are not accessible here in Canada. There are many untreated sufferers of mental illness and we must recognize that it is not only the illness of others but ours too. In order to tackle this problem effectively we must be sensitive and aware that it exists in our society. People with mental health problems should be encouraged to speak openly about their ailment, and should also be reminded they are not alone.

There has been a large number of refugee exodus from the Horn of Africa starting in the early 80's to the mid 90's - Sudan, Ethiopia, Eritrea, and Somalia. Most of them are women and children who have left everything behind and have been forced to live in refugee camps in Sudan or Kenya where life was filled with suffering, misery, hunger, rape, and war. Back home they enjoyed the support of an extended family and communities where children were raised by the whole village.

Coming to Canada alone is obviously a great obstacle in itself. One of major problems faced by these newcomers is language, which becomes a barrier to integrating into Canadian society, searching for employment, getting an education and to socialize. Another problem is that the public services are not accessed by newcomers, especially among Africans, due to cultural values and lack of awareness. In addition, the lengthy process of family reunification and delays in immigration procedures may put the person in a state of limbo for many years, thus contributing to a stressful existence.

Numerous immigrants find themselves working different jobs to make ends meet and it then becomes a challenge for parents to provide a stable home for their children. Children are often left with no mother or father figure. Fortunately, most children learn the language fast; more often than not they act as translators for their households leading to a clash of values and conflict within the family.

Issues of rape and/or domestic violence go largely ignored. Although what happened to them was not their fault, many survivors experience both guilt and shame after being sexually assaulted. Victims may feel that she/he has brought a shame to herself and their family. The feeling of guilt and shame prevents victims from sharing her experiences, especially within the community she belongs to. Keeping all these problems inside may lead to chronic depression.

Some newcomers may approach mental illness as a problem of western nations. But it should be acknowledged that people from all cultures and countries are prone to suffering from mental disorders. We all have a role to play in understanding others, gaining cultural sensitivity, becoming aware that mental illnesses exist in our community. We need to show respect towards those with mental health problems.

Selamawit Yohannes is a settlement councilor working at the Canadian Centre for Victims of Torture

BLACK HISTORY MONTH: "African perspective"

Jean Paul "Ainsaba" Gahunde

Greetings to all. 3 Years ago, when I first thought of writing about February's Black History Month, I felt browbeaten. I had not spent time engaged in any formal study, nor could I grasp the idea of what it meant. As an un-educated on it in Canada, fresh from the African continent, who was I to tackle the subject?! Still, I had a hard time emaciating that train of thoughts from my head. After reading about Dr. Carter G. Woodson (the founder of the black history month) and after long periods and long nights reading about other Pan-Africanists such as Dr. W.E.B Dubois, Dr. Cheikh Anta Diop, Marcus Garvey, Emperor Hailé Selassié as well as Henry Sylvester Williams; the prospect of writing about Africa and her Diaspora appealed to me. I felt compelled to talk about my version and series of thoughts of Black History Month. With so much trepidation and excitement, I embarked on a journey that unfolded this article. I was thirsty to understand deeply, the nature and character of this part of history I never fully learned about In Africa besides slavery, colonization, my extended family out of Africa and the pain that never seem to end on the continent.

To get back to the African topic, these elders all shared the vision, dreams and ideas of uniting all Africans from home and aboard. As an important reference, the pan-African movement viewed Africa as one and whole entity, combining the descents of the Diasporas and the natives Africans. This movement bore later an even bigger range of movements of return to the motherland. They hailed from the US, the Caribbean as well as Brazil in the 19th Century. Marcus Garvey, the head of the pioneers of return, was among the leaders that will call for the Abolition of colonialism in Africa; stirring the main idea of Africans governing themselves with the consent of all Africans. Emperor Haile Selassie of Ethiopia abundantly called for the Unity of Africans, after realizing that the nefarious reasons of the independence might later trigger tribalism on the continent. Therefore, he would later along with other African leaders create the African Union.

As you can see, we have much more to link us to one another during the "Black History Month" than enlarge the fictional gap between our communities. We'd definitely gain from our diversity and sophisticated cultures, and from being united than apart... We have our share of long painful centuries filled with trials and tribulations-There are no doubts about that! We need to teach each other about our struggles to better prepare for the future and avoid the past mistakes. We should also remind our recent achievements and those of our forefathers. Our history does not have to reveal

itself! The African history and experience has a lot to be taught. A lot of us hearing about Africa's turmoil, the echoes of slavery and colonization, would neglect the Africans that resisted slavery to name a few reasons...For example we hear about the genocide in Rwanda and the Burundian tribal war. One should also know that these East-African countries refused to submit to the will of the slave-traders by welcoming them with Archers and spears. Very little is known about the Ethiopia (the oldest country in the world) that fought relentlessly against Britain and Italy respectively. If we (descendants and native Africans) do not share, we are doomed to an everlasting deep ignorance.

Whatever its flaws, I hope this reflection strengthen our sense of awe and enlarge our knowledge of Africa. May it be an open gate for meeting her in a fresh and deeper way, by helping us to do more research and spreading her social, cultural and historical facts and values. I can certainly hope that (good or bad), our experience serves as additional and resourceful tool to our future exciting discussions between the Native Africans and the African Diasporas in the world- Lastly the ones who share the interest of this great continent I humbly call GRACIOUS MAMA AFRICA. Blessings.

Jean Paul "Ainsaba" Gahunde is an African freelance writer and human rights activist residing in Toronto.

Reference:

Dr. Carter G. Woodson: The miseducation of the Negro

Dr. W.E.B Dubois: *The Souls of Black Folks*

Dr. Cheikh Anta Diop: *The African Origin of Civilization: Myth of Reality*

Marcus Garvey: *Man know thyself*

Emperor Hailé Selassié: *Important Utterances of H.I.M Emperor Haile Selassie I*

Henry Sylvester Williams: *men and women of African blood and descent*

CCVT Programs and Services

1. Mental Health

- **Counselling**
- **Individual and Group Therapy, Mutual Support Groups**
- **Crisis Intervention:** suicide attempts, breakdowns, family problems, etc.
- **Art Therapy**
- **Coordinated professional services:** doctors, lawyers, social service workers provide treatment, documentation and legal support

2. Settlement Services

- Includes information/orientation, interpretation/translation, counselling, employment-related issues and referrals to resources relating to the economic, social, cultural, educational and recreational facilities that could contribute to the initial settlement of the client.

3. Children/Youth Program:

- Intake/assessment, settlement services, mental health services, recreational and empowerment activities that incorporate conflict resolution, mentoring, peer support and story-telling

4. Volunteer Program

- **Befriending** to assist survivors in rebuilding their connections to others as well as to the greater community.

- **ESL Tutoring and Conversation Circles** to help students learn and practice their English.
- **Escorting and interpreting** for survivors at different appointments (medical, legal, social).

5. Public Education

- responds to numerous requests for information, assistance and consultations on torture and the effects of torture as well as regularly producing resource materials

6. Refugees in Limbo

- Providing services to refugees in limbo that include counselling, assisting in sponsorships, family reunification and other immigration-related issues.

7. Language Instruction and Training

- LINC/ESL classes specially designed to address the needs and realities of the survivor of torture (concentration, memory, depression, triggers)
- Computer training: basic and intermediate levels

8. International Projects: CCVT is associated with a coalition of Centres which support victims of violence, repression and torture, in exile or in their own countries

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and we'll do our best to publish them in the next issue. We reserve the right to shorten any letters due to space requirements.

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First Light



A planet with no refuge

Ezat Mossallanejad

Their first
"clean-up" operations
Forced me to flee from my village.
*

Army occupation of the city
And its following House-to-house search
Made my clandestine life impossible.
I escaped my homeland.
*

Extraditions and assassinations
Left me with no option but to leave
my first country of asylum.
*

"Go to Canada! The sky there is not
blur.
Respect for human rights is high.
People suffer by the suffering of others."
*

In Canada for seven years!

With no job, no identity, and no status
Waiting and waiting and waiting
No answer to my claim.
*

Affectionate words have come from IRB:
Status for a refugee?
Alas for illusion:
"Your claim is rejected. You have only
Seven days to leave the country."
*

A wretched, uprooted, and outcast fellow
As am I. Left with no choice
But to flee again.
Where to go this time?
To the Moon? To Mars? Or Jupiter?
The entire earth has turned

A planet with no refuge