



## **Canadian Friends Service Committee (Quakers)**

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### ***CFSC Discussion Paper:***

## ***Rethinking Security: Refuge, Power & Privilege***

### ***Questioning Security Priorities***

In recent years concerns about security have been prioritised worldwide. Security challenges sit at the centre of much media reporting and government policy making. But who, and what, defines security?

Security is not a neutral concept that exists independent of power struggles. There is increasing concern about the use of security discourse to advocate for political agendas, to sensationalize for strategic purposes, to marginalize “the other,” and to foster a culture of fear and xenophobia. Security politics and priorities are also frequently used by rich countries to preserve economic privilege and current power structures.

In the interconnected and interdependent contemporary world, security threats cross national borders - no matter how well those borders are defended. Threats are also compounded by global poverty and inequality.<sup>1</sup> Human security, an approach that places people at the centre of security policy and action, includes safety from both violent and non-violent threats and highlights the need to address the root causes of insecurity. Such human-centred views prioritise safe access to food, water, land, education, and health services over the fortifying of national borders.

Advancing human security, closely linked with human dignity and human rights, makes far greater practical sense than current mainstream notions of protective walls and military might. Regardless, in 2005 rich countries were spending \$10 on military budgets for every \$1 invested in development assistance. The amount wealthy countries spend on combating the HIV/AIDS pandemic represents just three days’ expenses on military hardware.<sup>2</sup>

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<sup>1</sup> The United Nations Secretary General has emphasized that humanity will not enjoy security without development, development without security and neither of the above without respect for human rights. “In larger freedom: towards development, security and human rights for all.” U.N. Doc. A/59/2005.

<sup>2</sup> Human Development Report. (2005) “International cooperation at a crossroads: Aid, trade and security in an unequal world,” p 8.

This briefing paper urges readers to examine the negative impacts security agendas that focus on territory and borders have had on the movement of vulnerable people. So-called “migration management” schemes, implemented by rich countries like Canada, make it increasingly difficult for refugees and asylum seekers to come to safe countries and fail to protect the rights of those who do arrive. These migration management measures disregard long-established refugee protection regimes and the importance of people-centred security approaches.

### ***Movement to Export Borders and Bar Access***

Countries of the Global South receive the vast majority of the world’s asylum seekers and refugees. Comparatively, a rich country like Canada receives less than 1% of the world’s refugees yearly. Since wealthy countries cannot legitimately argue that refugee systems place a disproportionate financial burden on them, alternate reasons are used to deny access and preserve privileges for select people. National security is one such justification. While restrictive migration policies existed well before the attacks of September 11<sup>th</sup> 2001, the subsequent fear of “terrorism”<sup>3</sup> has fostered a political climate where restrictive migration policies meet little resistance. The facts that refugees had nothing to do with the September 11<sup>th</sup> attacks and that asylum is not a security threat are given little press.

**“Today’s security strategies suffer from an overdeveloped military response to collective security threats and an underdeveloped human security response.”**

**United Nations Development Programme.  
Human Development Report 2005.**

International human rights law states that nobody shall be subjected to cruel, inhumane or degrading treatment. Complementary provisions in international refugee law oblige states to provide surrogate protection to persecuted people when their home country no longer can or is willing to do so. The principle of *non-refoulement* forbids states that are party to the 1951 Convention Relating to the Status of Refugees from returning asylum seekers to places where their lives or freedoms would be threatened. States, however, undertake no analogous duty to assist asylum seekers in arriving at their territory. Recent years have thus seen a global movement to export borders and bar asylum seekers from arriving at rich countries’ territory. Examples of these interdiction (also known as interception) practices include the use of offshore processing centres,<sup>4</sup> maritime interdiction,<sup>5</sup> and designated “international zones.”<sup>6</sup>

Imposing visa requirements for nationals of major refugee-producing countries is another way in which states like Canada restrict access to their territory, even though people fleeing persecution often do not have the time, funds, personal identity documentation or connections to obtain travel documents. Embassies, consulates and high commissions are also less likely to issue travel documents to suspected asylum

<sup>3</sup> “Terrorism” is a highly politicised term with no single agreed upon definition in international law.

<sup>4</sup> Australia, for example, has set up what is known as the “Pacific Solution”: offshore processing facilities in Nauru and Papua New Guinea. Offshore processing allows Australia to circumnavigate its refugee protection obligations by sending potential asylum seekers to other nearby countries.

<sup>5</sup> Returning Haitians and Cubans interdicted at sea, or alternatively detaining them at Guantanamo Bay, remains a key migration issue in the United States.

<sup>6</sup> France, for instance, has an “international zone” where passengers disembark from planes at Charles De Gaulle airport. As this zone is not considered part of the country, France does not see itself bound by its human rights and refugee obligations in this space.

seekers. Carrier sanctions are a main method of enforcing these visa requirements: stiff fines penalise carrier companies for transporting people without acceptable documents. Carrier sanctions shift border enforcement away from the refugee-receiving state into the often insufficiently trained hands of carrier personnel.

“Safe country” arrangements also make it increasingly difficult for outsiders to access specific countries within regions like Europe and North America. Under the Safe Third Country Agreement between the United States and Canada, for example, asylum seekers are obliged to make their refugee claim in the first country they reach, despite the differences between the Canadian and American refugee systems. This agreement denies asylum seekers the choice of where they will make their claim, without any consideration for a claimant’s language abilities, community connections or prospects for integration/economic survival, and is of special concern for groups whose claims are accepted at a much higher rate in one of the two countries.<sup>7</sup> Asylum claims at the border have dropped 50% since this agreement came into force in 2004.<sup>8</sup> In addition to their human security costs, these third country agreements contravene the Refugee Convention, which does not allow for blocs of states to fulfil their protection obligations as a group.<sup>9</sup>

Obtaining reliable data on how many asylum seekers are prevented from making refugee applications in countries like Canada is very difficult. The United Nations Committee Against Torture has, however, noted with concern the Canadian government’s unwillingness to release information and statistics that would allow for a human rights assessment of Canada’s interdiction program.

### ***Resettlement***

This paper has so far focused primarily on asylum seekers who make their own way to refugee-receiving countries. Security policies are, however, also impacting the more than 10,000 pre-selected refugees<sup>10</sup> Canada resettles each year. In regards to privately sponsored refugees, NGO workers and refugee advocates are reporting longer processing delays, often attributed to vaguely defined concerns on “security grounds.” Security clearances are taking longer to obtain and required medical clearances often expire while the applicant waits for security clearance. Little or no information is provided on the reasons for delay or specific security concerns the applicant is considered to pose. More cases are also being rejected overall, but the majority of the rejections are not based on security grounds. One might draw from this the conclusion that the delays, allegedly on security grounds, are not actually about legitimate security issues.

Delays in processing refugees outside Canada increases the amount of time vulnerable people remain at risk of violence, extreme poverty and/or persecution. As many refugees waiting to be resettled have family members already in Canada, excessive

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<sup>7</sup> The acceptance rate for Columbian claimants in Canada is, for example, about double that in the United States. Additionally, while both the United States and Canadian systems include Gender Guidelines, in practice the Canadian system has been more sensitive to gender-based persecution claims.

<sup>8</sup> Canadian Council For Refugees. (2005) “Closing the Front Door on Refugees: Report on Safe Third Country Agreement,” p i.

<sup>9</sup> Art. 39, 1951 Convention Relation to the Status of Refugees.

<sup>10</sup> “Immigration to Canada 1979-2004.” Canadian Council For Refugees.

delays go against the Canadian Immigration and Refugee Protection Act's objective of reuniting families. Long delays that keep families apart cause tremendous emotional stress and can strain family relationships.

### ***Irregular Migration***

When legal migration options narrow, people desperate to change their circumstances resort to irregular migration methods. People may pay money to a smuggler to transport them across a border or fall prey to traffickers, who exact their fees through forced labour.<sup>11</sup> Both these irregular modes of migration are dangerous, with high human security costs. Smugglers, more concerned about their earnings than the well being of people, often transport people in overcrowded, unventilated, unsanitary and unsafe conditions. If smugglers fear they will be caught by authorities, they may abandon the people they are smuggling, leaving them without supplies on waterways, deserts or mountainsides. Traffickers, on the other hand, may maintain control by withholding identity documents, threatening the trafficked person's family members or using physical or sexual violence.

The above risks are compounded for women, who often are charged with caring for dependents and have less experience with the formal economy and travel. Women and children are also more frequently harassed by police, border guards, and fellow migrants.

As with interdicted persons, it is very difficult to obtain accurate data on trafficked and smuggled persons. The United Nations, however, estimates that globally up to one million people are trafficked every year<sup>12</sup> and women are disproportionately represented among trafficked persons. While international conventions against trafficking and smuggling<sup>13</sup> have been developed, these instruments have to date focussed more on criminalizing traffickers and smugglers, than protecting vulnerable migrants.

### ***Barriers Inside Borders***

The impact of security agendas on persecuted people does not end once they have reached a refugee-receiving state. Though human rights are meant to be universal, in most countries the rights package that accompanies asylum seeker, refugee or migrant status includes far fewer and less respected rights than that of full citizen.

The use of immigration detention illustrates this point. The frequent use of detention and the conditions of detention are both problematic. Canadian law allows for people to be detained on identity grounds, even though it is widely recognized that people fleeing persecution may have to lie about their identities or use false documents to

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<sup>11</sup> Trafficking is "the recruitment, transportation, transfer, harbour or receipt of persons, by means of the threat or use of force or other forms of coercion... for the purpose of exploitation." United Nations Convention against Trans-national Organized Crime's Protocol to Prevent, Suppress and Punish Trafficking in Persons (Protocol against Trafficking).

Smuggling is the "procurement... in order to obtain a financial or material benefit, of illegal entry of a person into a state party of which the person is not a national or a permanent resident." United Nations Convention against Trans-national Organized Crime's Protocol Against the Smuggling of Migrants by Land, Sea and Air (Protocol against Smuggling).

<sup>12</sup> Cited in Chute, Tanya. (2005) "Globalization, Security and Exclusion." York University Working Paper Series.

<sup>13</sup> See n.11, above. Protocol Against Trafficking & Protocol Against Smuggling.

save their lives. Moreover, any detention experience can be inhumane for refugee claimants, rekindling trauma and memories of persecution.

Refugee claimants who are detained in Canada are held for process reasons—not because they are criminals. However many detainees, such as those held in provincial short-term facilities, have less access to services than people serving sentences for convicted crimes. Minors are also held in immigration detention, which goes against the rights of the child.<sup>14</sup>

The most dramatic use of immigration detention in Canada involves security certificates. Security certificates give the Minister of Public Safety and Emergency Preparedness and the Immigration Minister the right to detain non-citizens without time limit, using secret evidence. Some detainees have been held for years on these certificates.<sup>15</sup> If these detainees are truly a threat to national security they should be tried and brought to justice - not detained indefinitely or deported to countries where they may either be tortured or, conversely, find impunity. Detainees held on security certificates have recently gone on hunger strikes to draw attention to their plight. After visiting Canada in the spring of 2005, the Human Rights Commission's Working Group on Arbitrary Detention expressed specific concern about the use of security certificates in Canada.

A further violation of due process centres around the right to appeal. Although Canadian law includes the right to appeal a refugee determination, the Canadian Government has repeatedly postponed implementing this appeal process. The current Minister has said outright that he will not implement the appeal. States are required to uphold the human rights of people on their territory, regardless of citizenship status. In Canada the 1985 Supreme Court *Singh* ruling recognized that non-citizens are protected by the Charter of Rights and Freedoms. This means that refugee rights are human rights. Why then is immigration detention not treated as a serious breach of the right to liberty?<sup>16</sup> Rights systems in refugee-receiving countries that create an “underclass” out of vulnerable people must be seen as contravening the very spirit of protection systems.

#### Key Messages

- **Human security places people at the centre of security policy and action.**
- **Refugees are neither terrorists nor criminals. Asylum is not a security threat. Refugees are vulnerable people - not perpetrators.**
- **Crossing an international border does not negate a person's human rights. Refugee rights are human rights.**

<sup>14</sup> The Convention on the Rights of the Child is the most universally accepted human rights instrument in history: the treaty has been ratified by every country in the world, except two. Canada ratified the Convention on the Rights of the Child on December 13, 1991 and has since submitted two country reports to the treaty monitoring committee.

<sup>15</sup> Mohammad Mahjoub has, for instance, been detained on a security certificate since June, 2000. Homes not Bombs, Campaign To Stop Secret Trials in Canada.

<sup>16</sup> “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.” Article 9(1) International Covenant on Civil and Political Rights.

### ***Significance For Canadians***

Canada enjoys an international reputation as a rights-protecting country. Canadians need to ask whether their country's treatment of refugees and asylum seekers warrants such a standing. Canadians should also ask rigorous questions as to what actions they will accept in the name of their security. How necessary are increased police, immigration and security intelligence powers? What are the human costs of these increased powers? Given the power relations between Canada and the United States, what does the harmonizing of refugee policy between the two countries mean for independent Canadian policy making? What implications do laws and policies that erode the liberties of vulnerable groups have for the larger society?

Though the United Nations recognizes promoting equality and human security as the best means of tackling the root causes of global security threats, rich countries like Canada continue to allocate disproportionate resources to strengthening borders. Protectionist migration agendas deny persecuted people access and rights. Canadians need to demand that efforts to make the world safer uphold human rights. Security policy should not be immune from critique: Canadians should hold accountable those people and programs professing to work for their security interests. Canadians, as some of the world's most privileged people, should use their privilege to help the world's most vulnerable, instead of perpetuating the trend of denying persecuted people even surrogate protection.

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*\* The views expressed in this paper do not necessarily reflect the policy of Canadian Friends Service Committee, but rather are presented to provide education on the issue and to provoke discussion and consideration.*