Creating Human Insecurity:
The National Security Focus
in Canada's Immigration System

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Abstract

This paper explores the processes through which Canada's immigration system creates human insecurity for newcomers to Canada. With a focus on the new Immigration and Refugee Protection Act and post-September 11 security measures such as the Safe Third Country Agreement, I argue that the immigration system draws on and reaffirms national security discourses. Measures designed to create national security, in turn, create human insecurity for migrants and refugees. Using a feminist approach that explores how gender, race, and class oppressions intensify experiences of in/security, this paper suggests that the new national security measures within Canada's immigration system will likely have a disproportionate impact on classed, raced, and gendered asylum seekers.

Résumé

Cet article examine comment les processus utilisés par le système d'immigration du Canada créent un environnement d'insécurité pour les nouveaux arrivés au Canada. Me concentrant sur la nouvelle Loi sur l'immigration et la protection des réfugiés et les mesures de sécurité mises en place après le 11 septembre, tel que l'Entente sur les tiers pays sûrs, je soutiens que le système d'immigration se fonde sur les discours de sécurité nationale et contribue à les avaliser. Les mesures destinées à renforcer la sécurité nationale créent à leur tour des conditions d'insécurité pour les immigrants et les réfugiés. Utilisant une approche féministe qui explore comment les abus d'autorité basés sur des considérations de sexe, de race et de classe

intensifient les expériences d'insécurité, cet article suggère que les nouvelles mesures de sécurité contenues dans le système d'immigration du Canada auront un impact hors de toute proportion sur les demandeurs d'asile victimes de discrimination basées sur ces mêmes considérations de classe, de race et de sexe.

Over the past year, Canadians have witnessed a dizzying array of changes to the laws, policies, and practices aimed at policing and regulating "foreigners." In the interests of national security the Canadian government has initiated a series of measures designed to police borders and restrict access to Canada, especially for those from the developing world. An overhaul of the Immigration Act represented the first of these reforms, and constitutes major changes to Canada's immigration policies. The new Immigration and Refugee Protection Act (IRPA or Act) was introduced to Parliament prior to September 11, and received Royal Assent on November 1, 2001. While the Act itself wasn't *directly* influenced by the terrorist attacks in New York City and Washington, it nevertheless contained reforms interested in curbing the potential dangers that refugees allegedly pose to Canada. The accompanying final Immigration and Refugee Protection Regulations (Regulations) for the new Act were released on June 11, 2002. Post-September 11 jitters have also resulted in several new national security measures aimed at newcomers, including the proposed Safe Third Country Agreement, which will go even further in limiting the rights of asylum seekers to meaningful representation, due process, and protection.

In this paper I argue that as Canada draws its borders tighter in the name of national security the human security of asylum seekers is being put at risk. As Canadian immigration practices and policies illustrate, "nationalism as an ideology and the national interest as an objective of state policy are often opposed to the satisfaction of *general* human needs."[1]

Defining Human Security

Security concerns of Western states have traditionally focused on the primacy of territorial security and sovereignty and on the belief that a state can achieve security through arms and deterrence. This external security focus heavily relied on military security and the activities of the state's intelligence community.[2] During the Cold War security policy was based on the assumption that international politics were a threat to peace and welfare. Communism, in particular, was seen as a threat to the nation and capitalist economic interests.[3] This point is well illustrated by the actions of the RCMP during the Cold War, as they kept tabs on about eight hundred thousand Canadians thought to be communist or sympathetic to communism.[4] In response to the perceived threat that communism posed, a militarized conception of state security was entrenched in the West[5] that was concerned with nuclear deterrence, military strength, power blocs, and interstate relations.[6]

However, recognizing that traditional security concerns did not create peace or stability in the world, public interest groups, non-governmental organizations (NGOs), and activists transformed the concept of security into a concern with *human* security. In Canada, human security entered the vocabulary of the Liberal government in the mid-1990s[7] and would soon become the central focus of Canadian foreign policy.[8] However, the state approach to human security differs widely from the definition of advocates, activists, and academics.

For the latter, the human security approach "involves replacing the state as primary reference and giving primacy to human beings."[9] The starting point "is understanding security in terms of the real-life, everyday experience of humanity embedded within global social and economic structures."[10] In particular, human security takes into account structures that lead to poverty, unequal gender relations, and other inequalities.[11] A focus on social and economic factors that threaten the security of human beings necessitates a look at the "quiet killers": hunger, epidemics, internal violence, environment, prenatal defects, malnutrition, repression, pollution, etc. As many of these quiet killers manifest themselves within the so-called private sphere of family life,[12] they are of special importance to women and the in/security they experience.

As so much human insecurity[13] is experienced in the "private sphere," and as violence, sex, and gender oppressions perpetuate human insecurity for women, a feminist approach that focuses on unequal power relations of gender, race, and class is necessary to understand how women experience human insecurity. This approach asks: how do institutions and organizations design unequal power relations? How do they perpetuate these relations? How do unequal social relations make human insecurity?[14]

Human Security and the Canadian State

The concept of human security is central to Canada's foreign policy and Canada's humanitarian image at home and abroad.[15] However, official understandings of the concept are quite different from the feminist and/or activist oriented understandings that I have outlined above. Under former Canadian Foreign Affairs Minister Lloyd Axworthy, it was recognized that poverty and inequity caused human insecurity. However, responses to that insecurity were based on neo-liberal economic policies. More recent conceptualizations of human security explicitly combine the human security agenda with national security interests. Within these approaches to human security, there appears to be no attention paid to the specific ways in which women experience human in/security.

During his tenure as Foreign Affairs Minister, Axworthy argued that the Cold War approach to security was not able to bring about peace or security. Thus, he conceptualized human security as "much more than the absence of military threat. It includes security against economic privation, an acceptable quality of life, and a guarantee of fundamental human rights."[16] He noted the importance of addressing economic need and poverty abroad in order to eradicate human insecurity, and seemed to recognize that inequity between people is a cause of insecurity. Axworthy even identified factors that lead to external and forced migration, such as conflict and disaster. But a closer look at Axworthy's conceptualization of human security shows its roots in neo-liberal assumptions about economic development.

For example, Axworthy argued that Canada's foreign policy meets human security challenges through rules-based trade and multilateral trading systems, as well as through programs such as peacekeeping and peacebuilding. Further he suggested that: "rules-based trade creates a stable trade environment and counters those protectionist tendencies which often result from cyclical downturns. Rules, in short, level the playing field."[17] For Axworthy and the federal Liberals, encouraging a neo-liberal approach to development in the South leads to economic, political, and social stability. This approach to human security relies on

institutions such as the International Monetary Fund and World Bank to prevent and manage economic crises, and often results in the imposition of structural adjustment programs. And, as Neufeld points out, this approach is imbedded in traditional notions of security, as the goal is to use finance as a means to prevent and manage crisis in other states.[18]

What this approach fails to appreciate is that economic globalization often creates conditions from which asylum seekers flee. In her study of human security and development, Caroline Thomas argues that two-thirds of the global population have not benefited from economic growth generated by globalization. It is the highly skilled and those in management who are reaping most of the benefits. Precarious workers, such as those employed under conditions where businesses are offered incentives (e.g., low labour costs), may gain temporary benefits from globalization but remain vulnerable to the marketplace. And it is the marginalized, those most at risk of human insecurity in the first place, who suffer under globalization. For example, with economic restructuring the poor must absorb the costs of formerly public, but now private, services.[19]

Thus Axworthy failed to recognize the costs of globalization to the poor and marginal. His conceptualization of human security also had no understanding of how gender relations, gender roles, and oppression perpetuate human insecurity for women. Before assuming that human security can be reached through neo-liberal economic policies, questions about women's experiences of neo-liberalism must be asked. For example: How do neo-liberal economic policies affect women's work in the home and in the workplace? How do they affect women's standard of living and ability to feed themselves and their children? Despite obvious gender concerns, the Liberal government seemed unable to formulate, or not interested in formulating, a gender analysis.

Within the last few years Canada's approach to human security has shifted. Canada continues to promote market-based strategies and its own economic interests abroad,[20] but the cursory nod to poverty and privation (however problematic) has been replaced by concern for market upheavals. In the 1999 "Speech from the Throne," the government prioritized conflict, disease, upheavals (economic and political), and environmental disasters. In particular, Canada has "chosen to focus its human security agenda on promoting safety for people from threats of violence."[21] In 2002, major threats to human security are further being defined as terrorism, drug trafficking, and the illicit trade in small arms. The Foreign Affairs website claims that: "this new generation of threats shows no respect for national borders and inevitably becomes the source of our own insecurity."[22] Thus, protection of Canada's borders is understood to be both a human security and national security concern.

This change in direction for human security is not simply a response to the terrorist attacks of September 11. As far back as 1999, the Foreign Affairs website explained that a focus on violence "is where the concept of human security has the greatest value-added as a complement to existing international agendas already focussed on promoting national security, human rights, and human development."[23] Thus, we can see, over the past few years, a movement away from broader human security concerns to a narrower definition. The renewed "human security" priority of violence and security threats seems to be tacked on to foreign policy already prioritized by the government. And, for the government, national security concerns frame how they chose to conceptualize human security. Thus, human and national security are understood by Foreign Affairs to be complementary:

> . . . people are made safer by an open, tolerant and responsive state capable of ensuring the protection of all of its citizens. At the same time, enhancing human security reinforces the state by strengthening its legitimacy and stability. A secure and stable world order is built both from the bottom up and the top down.[24]

Within this paradigm there is no discussion of the ways in which national security interests can negatively impact human security (let alone any thought to how this process may be raced, classed, or gendered), and at the same time some important human security concerns are removed from the agenda.[25]

National security agendas and human security needs are not compatible in the lives of those seeking asylum, as national security measures can in fact contribute to human insecurity. IRPA and the proposed Safe Third Country Agreement are meant to boost national security and protect Canada's borders. But, as I argue in subsequent sections, these national security measures negatively impact the human security of asylum seekers in Canada. The Canadian government understands human insecurity as something to be gained in other places, as something needed by "other" people. In the domestic context, human insecurity is thought to be under threat from "other" people and other places. However, I contend that the Canadian government needs to recognize and address the human insecurity it causes for asylum seekers in its domestic refugee and border control policies.

The Refugee Crisis as the Refugee 'Threat'

Successive Canadian governments have tended to argue that immigration is good for business. It brings cheap labour into the country, boosts consumption of Canada's goods and services, and creates employment. Immigration policy relating to economic immigration serves nation-building and capitalism, and often those chosen for citizenship meet the vision of Canada.[26] Within this paradigm, independent or economic immigrants are seen as good for the country, and are the privileged class of immigrants within the system.[27] But, if economic immigrants are wanted, those in the family and refugee classes are merely tolerated. They are viewed as benefiting from our humanitarianism, rather than benefiting Canada. Refugees in particular are understood to be "charity cases," rather than human beings *entitled* to protection.[28] And, in the West's darkest fears, they are imagined to be a threat to the body politic.

In fact, since the emergence of the nation-state, refugees have been seen as a threat to the identity of the nation and its security.[29] In Canada, concerns about national security have historically been used against refugees, particularly those from non-white and/or working class origins. For example, in the years between the World Wars, communists, socialists, and unionists were deported as a means to silence social dissent and political organizing.[30] During the Cold War, however, Canada (and the West) had a different relationship to refugees, a time that Reg Whitaker refers to as the "golden era."[31] During this period, refugees were chosen on the basis of their ideological backgrounds, in order to add support to the ideological stance of the state. The influx of refugees from communist countries highlighted the superiority of capitalism and the inferiority of the politics and policies of the Soviet Union. Refugees from the political left who would question state ideology were admitted in small numbers. With the collapse of the USSR and the increased flow of racialized peoples from the Third World, states realized that refugees no longer provided ideological legitimacy.[32] In Canada, the refugee discourse has since shifted to the security of Canadians and the need to protect ourselves from false claimants and those who "abuse" the system.

It is within this context that refugee advocates, academics, and bodies such as the United Nations High Commissioner for Refugees (UNHCR) have noted the growing tensions between the "language of protection and the reality of rejection."[33] In this new "closing doors era,"[34] the discourse has turned to the "refugee crisis." However, the crisis of concern isn't necessarily that crisis experienced by refugees, but rather the crisis that refugees allegedly pose to receiving states. This sense of crisis has many causes. Among them are: (1) asylum seekers who bypass the system are viewed as a challenge to the sovereignty of states; (2) the conflicts that the Cold War held in check are now brewing or boiling over, thus displacing more and more people; (3) there is a widening gap between the North and South, causing many to flee the South in search of a better life; (4) security is being redefined to include the protection of national and cultural identities based on the assumption that migration threatens such identities;[35] and (5) it is feared that refugees bring with them the conflicts and instability they are fleeing.[36]

These concerns about the threats that refugees allegedly pose rest on many assumptions. First is the assumption that asylum seekers challenge state sovereignty. (This assumption itself is based on the belief that states have the right to determine who enters their borders, or that borders should even exist.) Yet it is clear that "participation in the refugee regime does not imply an open door policy nor an abrogation of [that] sovereignty."[37] On the contrary, the Canadian state has consistently used its authority to develop restrictions on who may and may not enter the country. Thus, while sovereignty is used as a reason for cracking down on "illegal" migrants, I suggest that the crackdown itself reinforces (the legitimacy of) state sovereignty.

Refugee crisis discourse also positions asylum seekers as posing a threat to the cultural security of receiving countries, as citizens fear being culturally and politically taken over.[38] Despite Canada's official multiculturalism policies, such concerns are clearly manifested here as new Canadians are expected to practice a neutral form of "difference." Cultural differences are tolerated when they are unthreatening – for example in the form of "saris, samosas and steel bands."[39] However, if a group makes political demands,[40] or if its members define their own experiences of difference and resist hegemonic understandings of their "otherness,"[41] they may be seen as a threat to the nation and the white culture. These concerns about the cultural and political threat posed by migrants are rooted in racism, and specific ideas about what constitutes the "self-citizen" and the "other." Concerns about the increasing "flood" or "tidal wave" of asylum seekers from the South are informed by the urge to protect national (white) culture. What those who espouse this discourse fail to appreciate is that colonialism was a crucial factor in the development of the North/South divide,[42] and that the North profits from the continuing exploitation of the South. Ultimately, it is these economic inequalities and resulting societal instabilities that create conditions from which people must flee.

But perhaps the greatest risk associated with asylum seekers is the threat that they allegedly pose to the security of the nation, specifically through acts of terrorism. The question that needs to be asked is whether or not asylum

seekers actually pose a serious risk to Canada on terrorism or security grounds. And is this risk greater than that posed by the nation's own citizens? We now know that the terrorist acts of September 11 were not perpetrated by asylum seekers.[43] In fact, domestic terrorism has proven to be as much a threat to nations as international terrorism. Further, terrorists do not need access to Western nations in order to enact terrorism against those nations; they can simply target embassies or military bases abroad.[44] Thus, immigration and refugee controls cannot stop or prevent terrorist acts against the nation. Yet, despite the lack of terrorist activity perpetrated by asylum seekers, nations are choosing to crack down on refugees, framing them as a security threat.

Many scholars also argue that such fears are real. Nazare Albuquerque Abell, for example, suggests that potential threats are exaggerated, but "not without foundation as long as terrorism continues to be a global phenomenon."[45] Whitaker also suggests that pleas on behalf of refugees will not be taken seriously if they do not take into account the arguments put forward by those concerned with national security.[46] However, at the risk of not being taken seriously, I do not find arguments that focus on the threats that asylum seekers pose to national security to be compelling reasons to close our doors. Certainly, not as long as definitions of terrorism and security threats are informed by the political motivations and needs of receiving states, and in the racist attitudes of the West. Nor can I accept that my rights as a citizen of Canada should supersede the rights of asylum seekers to apply for and receive protection. I suggest that security measures such as interdiction, the imposition of eligibility criteria on asylum seekers, and inadmissibility provisions, which I discuss below, are rooted in fear (and fear-mongering) rather than in danger.[47] And, in turn, these strategies of exclusion pose a risk to the human security of asylum seekers.

Technologies of Exclusion in Canadian Refugee Policy

Within Canadian refugee policy, concerns about the threats that asylum seekers pose have manifested in various strategies to prevent them from gaining access to Canada. The 1976 Immigration Act, for example, maintained the state's ability to be *selective* in choosing refugees for resettlement by including those in "refugee-like" situations. (This also allowed the state to chose refugees with ideological value, as I discussed above.) By combining Convention Refugees and refugee-like classes we can be selective – take the "best" of an unwelcome lot, as it were. An outcome of this policy has been that most humanitarian intake is selected from areas with the least number of refugees and where the majority of

those chosen are economically active men,[48] despite the fact that 80 per cent of the world's refugees are women and their dependent children.[49]

Another method the government has used to restrict access to Canada for asylum seekers is through its successful establishment criteria.[50] A refugee is accepted not only on her criteria as a Convention Refugee but on the basis of whether she will likely be able to establish herself in Canada. The Regulations for IRPA require the following for refugees, except those deemed vulnerable or in urgent need of protection: resourcefulness, presence of relatives or the sponsor in the community where they resettle, potential for employment, and ability to learn English or French.[51] Clearly, these criteria have nothing to do with one's status as a Convention Refugee. Rather they reflect the criteria used to select immigrants. And this determination process is not gender neutral. Citizenship and Immigration Canada's (CIC) own gender analysis finds:

> . . . current policy that includes an assessment of the ability to establish successfully has a negative impact on women at risk. Women claimants may be hampered by their responsibilities as primary caregivers, poor ability in either official language, lack of education or poor job skills, or a combination of these factors.[52]

The document goes on to suggest that the criteria should be gender sensitive, a suggestion that is clearly being ignored by CIC.

These practices now entrenched in the Regulations of IRPA clearly place the human security of asylum seekers at risk. For the CIC it is not enough to be a Convention Refugee; one must be a refugee most likely to find belonging and acceptance in Canada. Women, those from the South, and the poor in particular pay a price for these policies, as they are less likely to meet selection criteria and thus can be passed over for the more desirable asylum seekers. These policies marginalize the most marginal of refugees – women, the poor, and people of colour. Human insecurity – physical, emotional and psychological – is thus exacerbated by social relations of race, class, and gender. To purposefully attempt to exclude the most marginal of asylum seekers is to perpetuate and perpetrate human insecurity.

Exclusion and the Immigration and Refugee Protection Act

Canada's new Immigration and Refugee Protection Act continues to exclude those deemed to be a threat. CIC's website promises that the Act "strikes a balance between measures to address the security and safety of Canadians and Canada's

borders on the one hand, and our traditions of welcoming visitors and immigrants and protecting refugees on the other."[53] Further, they argue that it "allows us to say 'no' more quickly to those who would take advantage of our generosity and openness."[54] This all-too-familiar discourse reinforces problematic and widespread notions about the dangers that newcomers bring with them, the threat they allegedly pose to the security of Canadians, and the belief that asylum seekers abuse the system or jump the queue to get here.[55]

In Bill C-31 (the predecessor to IRPA) former CIC Minister Elinor Caplan said that one of her goals was to "close the backdoor to those who would abuse the system."[56] One of the ways in which CIC intends to do this is by continuing the practice of interdiction – stopping people without adequate identity papers from getting to Canada. Interdiction is based on the assumption that those without papers either abuse the system or pose a danger because they are not who they say they are. However, as advocacy groups such as Amnesty International (AI) and the Canadian Council for Refugees (CCR) point out, it may not be possible for some people to get to Canada with proper identity documents, as these documents must be obtained from hostile governments and situations from which asylum seekers are fleeing. Yet, increased interdiction practices, and announced increases in immigration control officers abroad, suggest that the CIC believes that the undocumented are not genuine refugees.[57]

Interdiction is particularly problematic for women. In yet another disregarded gender-based analysis performed on IRPA, CIC recognizes that:

> Women and children often have less access to documents because of prevailing traditions and cultural norms, the administrative inefficiency of source countries, remote geographical locations, overt discriminatory practices and persecution, or the destruction of documents through wars or armed conflicts. Proposals that place a priority on documentation, and that base credibility assessments on documentation, without weighing this kind of evidence against other forms of validation, could have disproportionate and negative impacts on women.[58]

Many of the same concerns can also be raised about the discriminatory impact interdiction has on racialized peoples from the South, as there is generally less infrastructure available to provide identity documents in poor nations. As interdiction disproportionately affects marginalized peoples, it is disturbing that the Act has no recourse or mechanism to allow exceptions and ensure that refugees are given access to the refugee determination system.

One of the ironies of interdiction is that freedom of movement is supposedly a universal human right,[59] even as states actively work against arrival. Thus, for refugees "who do not possess the means, and who do not have the skills required by affluent states, movement is far from free."[60] The Canadian state is interdicting people whom it simply doesn't want – self-selected asylum seekers. Why? Because once an asylum seeker makes a claim on Canadian soil, her case must be heard (with exceptions of inadmissibility, as I will discuss later). If the claimant is found to be a refugee she will be given status, and even failed claimants might receive permanent residence on humanitarian and compassionate grounds. Yet, these are not people that Canada chooses. While the state chooses immigrants, issues visas to temporary workers and students, and applies selection criteria to refugees applying from overseas, self-selected asylum seekers remain, to a very limited extent, outside the control and sovereignty of the state.[61] These asylum seekers often are racialized, poor people – undesirables in the eyes of CIC.

So, in the name of a sovereignty that is informed by raced, classed, and gendered notions of who belongs here, the human security of asylum seekers is put at risk through interdiction. Those who are intercepted before they reach Canada are unable to avail themselves of the protection needed to ensure physical safety and the emotional and psychological security that comes with escaping traumas and persecution faced in the homeland. In fact, those who are interdicted may even be at risk of being sent back to torture. Such an event is not unprecedented, as in 1998, 192 Tamils were interdicted on the seas, and returned to Sri Lanka where all were detained, and at least one was tortured.[62] Given this outrage perpetrated by the Canadian state against those asylum seekers, it is perverse that "Canada has boasted of preventing thirty-three thousand people from reaching Canada over a five-year period."[63]

With the difficulties that many asylum seekers face getting proper documentation and the risks of interdiction, human smuggling often becomes the only means by which to escape the home country. Yet, despite the danger that smuggling can pose, the section of the Act dealing with trafficking (migration involving force or coercion) and human smuggling (illegal entry into Canada organized by individuals or organizations) heavily emphasizes penalty as opposed to the protection of human rights for smuggled or trafficked persons.[64] But increasing the punishment for smugglers and traffickers may raise the cost of transportation and stop even more people from coming to Canada, making those who do more vulnerable to abuse.[65] Further, the Regulations will consider arrival through smuggling or trafficking when assessing the flight risk, and possible de-

tention, of asylum seekers. Despite the fact that Article 31 of the Refugee Convention prohibits punishing those who arrive illegally, the Regulations suggest that those entering in this manner would likely be detained.[66]

While the CIC would argue that the problem is people coming to Canada illegally, I suggest that the problem is that people are forced to adopt the services of smugglers to reach Canada. Being cornered into using the services of smugglers can also pose a huge problem for women and children who risk sexual violence and exploitation. Women and children are in fact in a double bind as they are systematically disadvantaged by the overseas refugee determination process and at a high risk of abuse from smugglers.

The Canadian state has put a lot of energy into preventing people from making refugee claims on our shores. It has also developed criteria that exclude certain people from making a claim, should they reach our borders. In the new Act a permanent resident or foreign national is considered inadmissible to Canada under five major grounds:[67] security grounds, human or international rights violations, serious criminality, criminality, and organized criminality. Those found to be inadmissible will not receive a refugee hearing, nor a determination of risk in the event of deportation. In this next section I briefly outline some of the problems with the inadmissibility provisions regarding security.

In 1992 (under the federal Conservative government), Bill C-86 instituted "terrorism abuses" into the Immigration Act. The changes introduced a new form of criminality based on past or present membership in a terrorist group, thus labelling the member of the group a terrorist. In IRPA terrorism remains a grounds for inadmissibility. Under s. 34 of the Act security grounds include:

> (a) engaging in an act of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada; (b) engaging in or instigating the subversion by force of any government; (c) engaging in terrorism; (d) being a danger to the security of Canada; (e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or (f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b) or (c).[68]

Terrorism is not defined in the Act. However, "terrorist activity" and "terrorist group" are defined in the Anti-Terrorism Act (of 2002), and these definitions will likely be applied to the determination of inadmissible persons under s. 34 of IRPA. Under the Anti-Terrorism Act, the Criminal Code will be amended to define "terrorist activity" as an action that takes place either within or outside of Canada that:

> ... is an offence under one of the UN anti-terrorism conventions and protocols; or is taken for political, religious or ideological purposes and intimidates the public concerning its security, or compels a government to do something, by intentionally killing, seriously harming or endangering a person, causing substantial property damage that is likely to seriously harm people or by seriously interfering with or disrupting an essential service, facility or system.[69]

Groups whose activities meet the definition of terrorist activity will be designated as "terrorist groups." Thus, under IRPA anyone who has engaged in such activity, or anyone who there are reasonable grounds to believe is or was a member of a group that engages, has engaged, or may engage in such activity, is inadmissible to Canada.

There are many problems with these attempts to define terrorist activity and terrorist groups, and with the inadmissibility restrictions on security grounds outlined in the Act. First, any definition of terrorist activity or terrorist groups is an inherently political one. This definition is also constantly changing. Take the much cited example of the African National Congress (ANC), a group that engaged in acts of violence against apartheid South Africa but is now the ruling party of that country. The ANC, under the definitions outlined in the Anti-Terrorism Act, would be declared a terrorist group, and thus anyone who was or is a member would not be admissible to Canada under the provisions in IRPA.[70] But was the ANC a terrorist group, or was it an organization that, among other activities, engaged in armed struggle against an oppressive state? What is the line between armed struggle and terrorism? There are many groups in the developing world that engage in violent struggle, and do so against violent and repressive regimes. Often such groups also provide services to local communities, and may in fact be a quasi-state. To label a group "terrorist," when it has other important functions in its community, is too simplistic.[71] Further, there are some groups that are not engaged in terrorism, but have wings or factions that do engage in such activity.[72] Under the IRPA inadmissibility guidelines, such distinctions will likely not be made.

This example of the ANC also leads to the question of what constitutes a "member." Is a member of a terrorist group someone who pays dues to the organization, a volunteer in a local Canadian community centre sponsored by the group, a member of the executive leadership of that group, etc?[73] Clearly, there are problems here with guilt by association. It is unreasonable to punish a person for simply being a member of a group if that person was not respon-

sible for terrorist activity. The Supreme Court of Canada in its recent decision in *Suresh* v. *Minister of Citizenship and Immigration* argues that those who "innocently contribute to or become members of terrorist organizations," should be able to apply for an exception to the inadmissibility rules.[74] Yet, there is no guarantee that such exception would be granted under IRPA. While *Suresh* may help protect those unaware of a group's activities, it does not protect those who have a general knowledge of those activities but do not take part in them. Such people will, without regard to their specific experiences, actions, or the context in which they lived, be denied access to Canada and protection as refugees.

It is also important to recognize that "legal and policy discourse on 'terrorism' [is]…informed by a moral panic."[75] Part of this panic is currently grounded in anti-Muslim rhetoric. Research by the CCR indicates that those currently inadmissible or in limbo on terrorism-related grounds include a significant number of Iranians, Kurds, Sri Lankans, Tamils, Sikhs, Algerians, and Palestinians.[76] Thus the wide scope of the terrorism provisions in IRPA will likely continue to disproportionately affect racialized peoples, particularly those of Muslim descent

There are alternative ways that the state can exercise its sovereignty and exclude those who have committed violent terrorist activities. Aiken has suggested, with regard to the former Immigration Act, that inadmissibility on security and terrorism grounds is not necessary as inadmissibility for criminality covers unlawful acts that include terrorist activity. This approach would also remove exclusion provisions for members of organizations classified as "terrorist." While this seems a more fair approach, I would also caution that we remain sceptical about the criminality inadmissibility provisions in IRPA. If a person has been convicted of a terrorist offence in another country, Canada must remain cautious about the justice system in that state and its rules of evidence and law, as well as possible motivations underlying such a conviction, such as racial and ethnic hatred and political repression.

Clearly, inadmissibility provisions will impact on the human security of asylum seekers as they could be prevented access to Canada and the refugee determination system. The United Nation's Refugee Convention does have provisions outlining those not eligible for or entitled to protection as refugees under Section E (those not in need of protection) and F (those who have committed crimes against peace, humanity, war crimes, serious non-political crimes in home countries, or are guilty of acts contrary to purposes/principals of the UN) of Article 1.[77] However, in the interest of human security and Canada's commitment to protection, I believe that it is crucial that all claims are

heard, and that any allegations of criminality, security violations, etc. be considered within the context of a refugee claim. Claimants must be allowed to have their claims heard by the Refugee Protection Division, so that Convention Refugees and protected persons are identified and offered the protection to which they are entitled.

Another possible outcome of the inadmissibility sections is that a claimant could be deported to her home country to the threat of torture or death, without being granted a hearing. The international law about *refoulement* (return to death or torture) is somewhat contradictory. Under the Convention against Torture, which Canada signed in 1987, Article 3 prohibits *refoulement*. However, those excluded by Canada under sections E or F of Article 1 of the Refugee Convention are not believed to be in need of protection and could risk *refoulement*.[78] But the UNHCR holds that such exceptions should be applied restrictively and that the principles governing exclusion are supposed to reinforce the obligation to *non-refoule*.[79] The Canadian court, in *Suresh*, also agreed that the "better view is that international law rejects deportation to torture, even where national security interests are at stake." But the court also suggested that "there is a limited exception to the prohibition against removal to torture under the Canadian Charter of Rights and Freedoms."[80] Yet, despite these cautions against *refoulement* and our commitment to the Convention against Torture, IRPA allows for return to torture. In s. 115 (2) an exception to *non-refoulement* can occur if the claimant is (a) found to be inadmissible on serious criminality grounds and the Minister believes she is a danger to the public, or (b) if she is inadmissible for security reasons, for violating human or international rights, or participation in organized crime, if the Minister believes the claimant should be removed on the basis of the severity of the act or because she is a danger to the public.

Return to torture or possible death would obviously cause human insecurity – physical, emotional and psychological – to the person at risk. Torture is one of the worst abuses that can be perpetrated against the human body and mind. It is unthinkable that a country that claims to have a commitment to human security and protection against violence could even entertain the possibility of deporting someone to face that kind of terror, particularly as we have seen that determinations of inadmissibility can be informed by politics, racism, and problematic criteria.

Exclusionary Security Measures – Post-September 11

As an extension of the security measures undertaken in IRPA, Canada is also tightening security at the border to make it harder for asylum seekers to make claims here. On December 3, 2002, Canada and the U.S. announced they

would be working together on "common security priorities" and the "deterrence, detection and prosecution of security threats, the disruption of illegal migration and the efficient management of legitimate travel."[81] They plan to accomplish this goal by: reviewing their separate lists of countries requiring visitor's visas with hopes of harmonizing that list;[82] placing more overseas officers to interdict those without documents; establishing biometric identification; and creating a Safe Third Country Agreement.

The Safe Third Country Agreement, also called the None Is Too Many Agreement by refugee advocates,[83] is based on the belief that an asylum seeker should seek asylum in the first safe country in which she lands. Under the terms of this agreement, a claimant seeking asylum at the border of either Canada or the U.S. would not be allowed to make that claim if she arrived through the other country. For example, if a claimant fled Afghanistan, arrived in the U.S., and then made her way to Canada to claim asylum, such an agreement would allow Canada to deport her to the U.S. to be processed by their system. Under Article 4 of the draft agreement, there are some exceptions for people with family members in the country of choice.[84] Such an agreement, if reached, will have a huge impact on asylum seekers wanting to come to Canada, as anywhere from one-third to one-half of refugee claimants in Canada enter from the U.S.[85]

This agreement is being sold as an attempt to cut down on false claims and "asylum shopping," and as a way for Canada and the U.S. to "burden-share." However, this agreement will likely add to the insecurity of claimants in several ways. First, it limits the agency and right of the asylum seeker to chose where she wants to live. In the case of the U.S. there may be many good reasons why claimants don't want to make claims there: our system is perceived to be more fair; asylum seekers may fear the racial tensions and violent crime that are more prevalent in the U.S.;[86] or they may have friends or a larger more established community in Canada.

The question of the fairness of the American system is particularly important, as advocates are asking: is the U.S. really a safe third country? A quick look at the facts suggests otherwise. The United States has a habit of detaining child migrants, many of whom are kept in either juvenile or adult jails. In Canada, the detention of a minor is supposed to be a "measure of last resort," under s. 60 of IRPA. The U.S. also refuses to ratify the Convention on the Rights of the Child.[87] The American state has disregarded international law with a policy to detain all Haitians who make a claim, as a means to deter other Haitians from doing so. They engage in expedited removals for those without documents, except for those with a "credible fear." However, the deci-sion of what constitutes a "credible fear" is made by immigration officers, and the claimant has no right to counsel.[88] And, in the U.S., those who are in the country illegally have no constitutional right to appointed counsel in deportation hearings. Children are also not entitled to free representation because deportation hearings are a civil matter.[89] Finally, advocates are concerned that women making gender-based claims[90] of persecution will have a better chance of getting a fair hearing in Canada.[91]

Despite all of these concerns about the American system, Canada is willing to risk the security of children, women facing gender persecution, and all asylum seekers in general, in its bid to better control who can claim asylum here. Arbitrary detentions, deportations without a hearing, and a greater risk of *refoulement* are just some of the risks that those forced to claim status in the United States may face if this agreement is finalized. Once again, in the name of national security and the safety of citizens, the human security of the most marginalized peoples in the world are being put at risk.

Conclusion

These recent initiatives are about policing and protecting Canada's borders and the security of the nation. The discourse on which these plans are built suggests that Canadians have something to fear from newcomers, and positions asylum seekers as abject "foreigners." National security interests in our refugee system will likely come at a human cost for asylum seekers, particularly those already marginalized through racist, sexist, and class-based social relations. And, as I have argued, institutional practices within the refugee system systemically discriminate against women, the poor, and people of colour. Thus, contrary to the stance taken by the Canadian state, human security is not something that needs only to be addressed abroad. Nor is it simply about protecting Canadians from "dangerous foreigners." Rather, it would seem that asylum seekers need protection from Canada's refugee laws and proposed border policies, as they are likely, in and of themselves, to be a cause of human insecurity.

If it is true that "in prioritising the national interest as the foundation of security, we are often in practice constructing the very conditions that help to generate instability,"[92] then Canada needs to reassess its security goals. For true security to exist at the level of the nation, human security in its broadest sense must exist at all levels of society. It is human insecurity that leads to social and economic upheaval and threatens the stability and existence of states. To protect national security by allowing for human insecurity is short-sighted and may ultimately result in protection and safety for no one.

Notes

1. Peter Wilkin, "Human Security and Class in a Global Economy," in *Globalization, Human Security and the African Experience,* ed. Caroline Thomas and Peter Wilkin (London: Lynne Reinner Publishers, 1999), 29.
2. Laura Reed and Majid Tehranian, "Evolving Security Regimes," in *Worlds Apart: Human Security and Global Governance,* ed. Majid Tehranian (London: Tauris, 1999), 23–54.
3. Mark Neufeld, "Pitfalls of Emancipation and Discourses of Security: Reflections on Canada's 'Security with a Human Face,'" in *(Dis)Placing Security: Critical Re-evaluations of the Boundaries of Security Studies: Selected Proceedings of the 7th Annual Conference of the York Centre for International and Security Studies,* ed. Samantha Arnold and J. Marshall Beier (Toronto: York Centre for International Security Studies, 2000), 19–34.
4. Among those on whom the RCMP compiled files on were: Canadian author Farley Mowat, African-American singer Harry Belafonte, former Prime Minister Pierre Trudeau, and current Governor-General Adrienne Clarkson. Peter Small, "RCMP Trailed 'Communists' until 1985," *Toronto Star*, 2 March 2002, A7.
5. Heather Owens and Barbara Arneil, "The Human Security Paradigm Shift: A New Lens on Canadian Foreign Policy," *Canadian Foreign Policy* 7, no. 1 (Fall 1999): 1–12.
6. William W. Bain, "Against Crusading: The Ethic of Human Security and Canadian Foreign Policy," *Canadian Foreign Policy* 6, no. 3 (Spring 1999): 85–98.
7. However, Jennifer Ross points out that Canada began addressing what we now call "human security" in its foreign policy during the conflicts in Central America in the late 1980s. Jennifer Ross, "Is Canada's Human Security Policy Really the 'Axworthy' Doctrine?" *Canadian Foreign Policy* 8, no. 2 (Winter 2001): 75–95.
8. Mark Neufeld.
9. Ruth Jacobson, Susie Jacobs, and Jennifer Marchbank, "Introduction: States of Conflict," in *States of Conflict: Gender, Violence and Resistance,* ed. Susie Jacobs, Ruth Jacobson, and Jennifer Marchbank (New York: Zed Books, 2000), 6.
10. Caroline Thomas, "Introduction," in *Globalization, Human Security and the African Experience,* ed. Caroline Thomas and Peter Wilkin (London: Lynne Rienner Publishers, 1999), 1.
11. Lee-Anne Broadhead, "Re-packaging Notions of Security: A Sceptical Feminist Response to Recent Efforts," in *States of Conflict: Gender, Violence and Resistance,* ed. Susie Jacobs, Ruth Jacobson, and Jennifer Marchbank (New York: Zed Books, 2000), 27–44.
12. Laura Reed and Majid Tehranian, "Evolving Security Regimes," in *Worlds Apart: Human Security and Global Governance,* ed. Majid Tehranian (London: Tauris, 1999), 23–54.
13. In a recent issue of *Refuge,* Raquel Freitas notes that in the context of refugee security, human insecurity is associated with internal security and protecting the citizen from security threats. However, I am using the term differently. I see human insecurity for refugees as the lack of human security. Raquel

Freitas, "Human Security and Refugee Protection after September 11: A Reassessment," *Refuge* 20, no. 4 (August 2002).
14. Lee-Anne Broadhead.
15. Neufeld argues that the Department of Foreign Affairs provides ideological legitimacy for the state as it posits our foreign policy as a just and humane extension of Canadian domestic policy.
16. Online: Department of Foreign Affairs and International Trade <http://www.dfait-maeci.gc.ca/english/foreignp/sechume.htm> (date accessed: 1 March 2002).
17. *Ibid.*, 5.
18. Mark Neufeld.
19. Caroline Thomas, *Global Governance, Development and Human Security: The Challenge of Poverty and Inequality* (London: Pluto, 2000).
20. William W. Bain, "Against Crusading: The Ethic of Human Security and Canadian Foreign Policy," *Canadian Foreign Policy* 6, no. 3 (Spring 1999): 85–98; Mark Neufeld.
21. Online: Department of Foreign Affairs and International Trade <www.dfait-maeci.gc.ca/foreignp/humansecurity/HS_program-e.asp> (date accessed: 1 March 2002).
22. "What's New: Human Security in Action," On-line: Department of Foreign Affairs and International Trade <http://www.humansecurity.gc.ca/whatsnew_action-e.asp> (date accessed: 28 July 2002).
23. Online: Department of Foreign Affairs and International Trade <www.dfait-maeci.gc.ca/foreignp/humansecurity/HS_program-e.asp> (date accessed: 1 March 2002).
24. "Freedom from Fear: Canada's Foreign Policy for Human Security;" online: Department of Foreign Affairs and International Trade <www.dfait-maeci.gc.ca/foreignp/humansecurity/HumanSecurityBooklet-e.asp> (date accessed: 1 March 2002).
25. In this sense, then, I agree with Raquel Freitas's concern that the state can use the term "human security" in its own way, and to its own advantage. Clearly in the case I just outlined, Canada's understanding of the term neglects important aspects of the concept. However, I disagree with her assertion that talking about refugee protection in terms of human security (instead of human rights) risks changing the focus from refugees to the state. I think that the concept can be used to interrogate the experiences of refugees and the role of the state in the in/security of those experiences.
26. Susan J. Smith, "Immigration and Nation-Building in Canada and the United Kingdom," in *Constructions of Race, Place and Nation,* ed. Peter Jackson and Jan Penrose (Minneapolis: University of Minnesota Press, 1993), 50–77.
27. Tanya Basok, "Refugee Policy: Globalization, Radical Challenge, or State Control?" *Studies in Political Economy* 50 (Summer 1996): 133–63.
28. Robert F. Barsky, "An Essay on the Free Movement of Peoples," *Refuge* 19, no. 4 (February 2002): 84–93.
29. Tanya Basok.
30. Audrey Macklin, "Borderline Security," in *The Security of Freedom: Essays in Canada's Anti-Terrorism Bill,* ed. Ronald J.

Daniel and Patrick Macklem (Toronto: University of Toronto Press, 2001), 383–404.

31. Reg Whitaker, "Refugees: The Security Dimension," *Citizenship Studies* 2, no. 3 (November 1998): 413–34.

32. *Ibid.*

33. B.S. Chimni, "Response to Hathaway: Globalization and Refugee Blues," *Journal of Refugee Studies* 8, no. 3, (1995): 298.

34. Reg Whitaker.

35. Evan H. Potter, "The Challenge of Responding to International Migration," *Canadian Foreign Policy* 4, no. 1 (Spring 1996): 1–22.

36. Reg Whitaker.

37. Tanya Basok, 139.

38. Nazare Albuquerque Abell, "The Impact of International Migration on Security and Stability," *Canadian Foreign Policy* 4, no. 1 (Spring 1996): 83–109.

39. Eva Mackey, *The House of Difference: Cultural Politics and National Identity in Canada* (London: Routledge, 1999); Chris Mullard, "Multiracial Education in Britain: From Assimilation to Cultural Pluralism," in *Race, Migration and Schooling*, ed. John Tierney (London: Holt, Rinehart and Winston, 1982).

40. Eva Mackey, *The House of Difference: Cultural Politics and National Identity in Canada* (London: Routledge, 1999).

41. Magdalene Ang-Lygate, "Women Who Move: Experiences of Diaspora," in *New Frontiers in Women's Studies: Knowledge, Identity and Nationalism,* ed. Mary Maynard and June Purvis (London: Taylor & Francis, 1996), 151–63.

42. Stephen Castles and Alastair Davidson, *Citizenship and Migration: Globalization and the Politics of Belonging* (London: MacMillan Press, 2000).

43. Audrey Macklin.

44. *Ibid.*

45. Nazare Alburquerque Abell, 100.

46. Reg Whitaker.

47. Ruth Frankenburg, *White Women Race Matters: The Social Construction of Whiteness* (Minneapolis: University of Minnesota Press, 1993). Frankenburg argues that white people traverse racial, physical, and geographical boundaries "in fear rather than in danger" (32), an argument that I think we can extend to the reaction of the state to "foreigners" who traverse Canada's borders.

48. Susan J. Smith.

49. Eileen Pittaway and Linda Bartolomei, "Refugees, Race, and Gender: The Multiple Discrimination against Refugee Women," *Refuge* 19, no. 6 (August 2001): 21–32.

50. The draft Regulations mistakenly read "economically established." (It has been corrected in the final Regulations to read "successfully established.") However, given the neo-liberal economic agenda of the current government, one has to wonder if the misprint was in fact a Freudian slip.

51. *Immigration and Refugee Protection Regulations Canada Gazette Part 11,* Vol. 136, Extra, s. 139 (g), p. 91.

52. "Gender Based Analysis Chart for Bill C-11;" online: Citizenship and Immigration Canada <http://www.cic.gc.ca/en-

glish/ about/policy/c11-gender.html> (date accessed: 28 February 2002).

53. "What Is New in the Proposed Immigration and Refugee Protection Act;" online: Citizenship and Immigration Canada, <http://www.cic.gc.ca/english/about/policy/c11%2Dnew.html> (date accessed: 20 August 2001).

54. *Ibid.*

55. This discourse of "queue jumping" suggests that there is one big line in which all those seeking status in Canada wait. Such a line, so the story goes, is orderly and equitable. However, there are many lines, and each moves at a different pace depending on who is in it (refugees, business class immigrants, etc.). Further, discourses about refugees abusing the system seem to prioritize the integrity of rules and bureaucracy over the needs and realities of asylum seekers.

56. "What Is New in the Proposed Immigration and Refugee Protection Act;" online: Citizenship and Immigration Canada, <http://www.cic.gc.ca/english/about/policy/c11%2D new.html> (date accessed: 20, August 2001).

57. "Amnesty International Brief on Bill C-11;" online: Amnesty International <http://www.amnesty.ca/RefugeeBill_C11. PDF> (date accessed: 20 August 2001), 3.

58. "Gender Based Analysis Chart for Bill C-11" online: Citizenship and Immigration Canada <http://www.cic.gc.ca/english/about/policy/c11-gender.html (date accessed: 28 February 2002).

59. The *UN Declaration of Human Rights* s.13 (1); also Robert F. Barsky, "An Essay on the Free Movement of Peoples," *Refuge* 19, no. 4 (February 2002): 84–93.

60. Colin J. Harvey, "Refugees, Rights, and Human Security," *Refuge* 19, no. 4 (February 2001): 95.

61. Reg Whitaker.

62. Audrey Macklin.

63. *Ibid*, 385.

64. In IRPA, it is an offence under s.117 to smuggle people into the country if they do not have a visa or other required documents. The penalties range from a maximum fine of $500,000 and less than ten years in prison to life imprisonment. For those trafficking in persons (s.118 (1)) the penalty may be a fine of one million dollars and/or life in prison.

65. "Brief on the Proposed Immigration and Refugee Protection Act;" online: National Association for Women and the Law <www.nawl.ca/immigrate_e.htm> (date accessed: 20 August 2001).

66. In s.245 detention can be considered if someone is deemed to be a flight risk. Factors to take into account in (f) include determining the claimant's involvement with people smuggling or trafficking that would make it likely that she would not appear to an examination or hearing, or be coerced by smugglers/traffickers to not appear.

67. An exception will be made if the person can convince the Minister that their presence in Canada is not detrimental to the national interest, or (in the case of criminality) that they are rehabilitated.

68. Online: <http://www.parl.gc.ca/37/1/parlbus/house/bills/government/C-11/C-11_4/C-11TOCE.html>.

69. "Backgrounder: Royal Assent of Bill C-36;" online: Department of Justice <http://canada.justice.gc.ca/en/news/nr/2001/doc_28217.html> (date accessed: 28 July 2002).

70. "Comments of the Canadian Council for Refugees on Bill C-36, Anti-Terrorism Act;" online: Canadian Council for Refugees <http://www.web.net/~ccr/c36comments.htm> (date accessed: 28 February 2002).

71. *Ibid.*

72. "Refugees and Security;" online: Canadian Council for Refugees <http://www.web.net/~ccr/security> (date accessed: 28 February 2002).

73. *Ibid.*

74. "Comments on Proposed Immigration and Refugee Protection Regulations;" online: Canadian Council for Refugees <http://www.web.net/~ccr/ccrcomments1-17c-11.htm> (date accessed: 28 February 2002).

75. Sharryn J. Aiken, "Manufacturing 'Terrorists': Refugees, National Security and Canadian Law, Part 2." *Refuge* 19, no. 4 (February 2001): 127.

76. "Comments on Bill C-11 Related to National Security and Terrorism;" online: Centre for Refugee Studies <www.web.net/%%Eccr/crsbrief.htm> (date accessed: 20 August 2001).

77. "Convention and Protocol Relating to the Status of Refugees;" online: United Nations High Commissioner for Refugees <http://www.unhcr.ch/cgi-bin/texis/vtx/home?page=publhttp://www.unhcr.ch/cgi-> (date accessed: 28 July 2002).

78. "Amnesty International Brief on Bill C-11," online: Amnesty International (date accessed: 20, August 2001), and s.98 of IRPA.

79. "Executive Committee of High Commission Programme Standing Meeting: Notes on the Exclusion Clauses", 8th meeting (30, May 1997).

80. "The CBA Intervenes in *Suresh* v. *Minister of Citizenship and Immigration*;" online: Canadian Bar Association <http://www.cba.org/News/Archives/2002Archives/2002-01-11_suresh.asp> (date accessed: 22 March 2002).

81. Citizenship and Immigration Canada, "Canada-United States Issue Statement of Common Security Priorities," news release; online: <www.cic.gc.ca/english/press/01/0126-pre.htm> (date accessed: 29, February 2002).

82. The following day the CIC announced that visitor visas are now required for those from Dominica, Grenada, Hungary, Kiribati, Nauru, Tuvalu, Vanuatu, and Zimbabwe; online: <http://www.cic.gc.ca/english/press/01/0127-pre.html>. Note that in 2001, Hungarians were the largest group of refugee claimants at 3,812, while Zimbabweans were the third highest at 2,722. This move was likely a response to the high number of refugee claims, as well as an attempt to harmonize visitor visa requirements with the U.S. The imposition of visa requirements on refugee-producing countries is another strategy of exclusion.

83. The CCR explains the meaning behind the name *None Is Too Many* as follows: "During the Second World War, Canada denied protection to Jewish refugees fleeing Nazi persecution. The slogan from that period was 'None Is Too Many!' – the answer given by a Canadian official when asked how many Jewish refugees Canada would take." See "10 Reasons Why the US-Canada Refugee Deal Is a Bad Idea;" online: Canadian Council for Refugees <http://www.web.net/~ccr/10reasons.html> (date accessed: 28 July, 2002).

84. "Safe Third Country Agreement: Territorial Co-operation in the Examination of Refugee Status Claims from Nationals of Third Countries;" online: Citizenship and Immigration Canada <www.cic.gc.ca/english/policy/safe-third.html> (date accessed: 17 July 2002).

85. Online: The Standing Senate Committee on Social Affairs, Science and Technology <www.parl.gc.ca/37/1/parlbus/commb…nate/com-e/soci-e/rep-e/rep09oct01-e.htm > (date accessed: 25 October 2001).

86. Bill Frelick, "Who's On First? The Canada-U.S. Moratorium of Agreement on Asylum," *Interpreter Releases: Report and Analysis of Immigration and Nationality Law* 73, no. 8 (26 February 1996): 212–25.

87. "Are Canadians Prepared to Forcibly Return People to a Country which…;" online: Canadian Council for Refugees <www.web.net/~ccr/jointsafethirdreleadse.html> (date accessed: 20, June 2002).

88. "CCR Responding to Questions about the "None is Too Many Agreement;" online: Canadian Council for Refugees <www.web.net/~ccr/safethirdccr.html> (date accessed: 15 July 2002).

89. John K. Wiley, "Washington State Lawsuit Seeks Free Legal Help for Minors in Deportation Cases," *Associated Press*, 14 March 2002.

90. For detailed information and analysis of Canada's gender-based persecution provisions see: Sherene Razack, *Looking White People in the Eye* (Toronto, University of Toronto Press, 2001); Chantal Tie, "Sex, Gender and Refugee Protection in Canada under Bill C-11: Are Additional Protections Required in Light of *In re R-A-*?" *Refuge* 19, no. 6 (August 2001): 54–64.

91. In a letter to CIC Minister Denis Coderre, dated April 2, 2002, Karen Musalo and Stephen Knight of the Centre for Gender and Refugee Law Studies at Hastings College of the Law write that: "In the United States…this issue remains highly controversial and legally unsettled, and it is not uncommon for women fleeing gender persecution to have to litigate their basic right even to claim asylum, often without success."

92. Peter Wilkin, 30.

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