



America no 'safe haven' for refugees

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Is the United States a safe country? Obviously not, if your name is Maher Arar. And if you are a refugee?

Consider the situation of an Albanian activist. She was raped in her country in the context of political and religious persecution. She sought asylum in the U.S. but was denied, partly because of the way gender-based claims are handled there, partly because of a rule making it hard to be accepted if you don't apply within a year of arriving.

As a result of the inadequacies in the U.S. system, the fact that the woman is a survivor of rape was never considered by a decision-maker.

If she knocks on Canada's door, seeking asylum here, she will be summarily turned away, without being given a chance to tell her story. This is because two years ago, the Canadian government decided that the U.S. is safe for refugees and closed the border between the countries to most refugees seeking our protection.

This week, the Federal Court is hearing a legal challenge of Canada's designation of the U.S. as a safe third country for refugees. The court will consider extensive evidence from American experts showing that forcing asylum seekers back to the U.S. means some of them might be removed from there to face persecution or torture.

The case has been brought by the Canadian Council for Refugees, Amnesty International and the Canadian Council of Churches, along with a Colombian asylum seeker in the U.S. They launched the challenge because the U.S. is not, in fact, safe for all refugees. Many are protected in America, but many also fall through the cracks.

The situation for refugees in the U.S. has been getting worse in the last couple of years, as a result of the predominance of the security agenda over concerns for human rights, particularly the rights of non-citizens.

A major problem is the expanded "material support" rule that excludes from protection anyone who has provided support to a terrorist group, even under duress.

This rule has led, in an extreme example, to a Sierra Leonean woman ruled ineligible because she had given "shelter" to rebels. These rebels had attacked her house, killed one family member, burned another and raped her and her daughter.

They then stayed four days in her house, which, according to the U.S. government, meant that the woman had provided "material support" to terrorists. If this woman comes up to the Canadian border, she will simply be sent back to the U.S., on grounds that the U.S. is allegedly safe.

Other problems in the U.S. include excessive use of detention and discrimination (particularly targeting Muslims and Arabs); the one-year deadline to file a refugee claim, which has a disproportionate impact on claims based on gender or sexual orientation; huge variations in acceptance rates between individual decision-makers, and some improperly restrictive ways of interpreting the refugee definition.

All these things mean that some refugees, who under international law should be given asylum, are refused in the U.S. and face removal to a country where they might be persecuted. By turning them away without any hearing, Canada shares responsibility for violating their rights.

Because they never get into Canada, those denied access don't have the opportunity to tell their story to Canadians or contest their return in the courts.

Canadians are proud of our country's reputation as a haven for refugees. But the reality has never been as good as the reputation, and we have taken a dramatic step away from the values of refugee protection by closing the door at the U.S. border.

We know that the U.S. cannot be relied on to always respect the rights of Canadian citizens. We should have no illusions about whether they will always protect refugees who have no government to advocate for them.