



Canadian Council for Refugees Conseil canadien pour les réfugiés

Year in Review 2011

2011 marked the 60th anniversary of the Refugee Convention and offered an opportunity to reflect on Canada's international obligations to refugees.

2011 was also the 25th anniversary of the UNHCR awarding the Nansen Medal to the people of Canada in recognition of our "major and sustained contribution" to the cause of refugees. This reminds us of the importance of providing a warm welcome to refugees and to all newcomers to Canada.

In keeping with Canada's history of welcoming, respecting and enabling newcomers to thrive, our *Year in Review 2011* looks at the progress Canada has made in 2011 and reflects on where we failed to advance.

Promoting Fairness as a Canadian Priority

Canada must ensure fair refugee determination for refugees, whether applying outside or inside Canada.

Eritrean refugees given new chance at life in Canada

In 2011, a group of Eritrean refugees won the right to have their cases reheard, after being unfairly rejected at the Canadian visa office in Cairo.

While this is good news for those refugees whose cases were reviewed by the Court, we must fix the underlying shortcomings in Canada's system of overseas refugee decision-making – shortcomings highlighted in the government's own quality assurance review. Measures are needed at Canada's overseas visa offices to:

- > strengthen decision-making guidelines, codes of conduct and visa officer training
- > set up monitoring to ensure guideline compliance
- > develop a transparent and meaningful process for reviewing and re-opening problematic decisions and for interventions by organizations regarding problematic trends in decision-making at visa offices



The Nansen Medal was awarded to the people of Canada in 1986 and has been inspiring Canadians to action for the past 25 years.

"When a reputable organization [the Canadian Council for Refugees] brings to [the Minister's] attention a number of similar issues, arising from the same visa post, common sense and fairness leads me to conclude that the Minister ought to have taken the complaint more seriously."

– Justice Snider in *Ghirmatsion v Canada*
(Minister of Citizenship & Immigration),
2011 FC 773, 27 June 2011

Refugee voices from Cairo

While we celebrate this victory, the wait hasn't been without harsh consequences for several refugees left in limbo in Cairo:

Here in Cairo I am not really living, I am just waiting.

- Azeb, 32 years old

The only hope that I had was the Canadian sponsorship and the hope of going to Canada, but then I was rejected. I am trying to keep courage by going to Church, but I became even more stressed when I got pregnant, with no support and one more person to look after.

- Teberh, 32 years old

I could not understand why I had gone through detention and torture in my country only to come to Egypt to find hardship and rejection too.

- Tedros, 32 years old

Reforming Canada's refugee system

2011 saw further preparations for the implementation of Bill C-11, a bill passed in 2010 introducing major reforms to Canada's refugee determination system. Among the most notable: implementation of the Refugee Appeal Division, a promise in the Immigration and Refugee Protection Act. While an appeal for refugee claimants is a big step forward in fairness, in 2011 the government proposed that claimants would face an unworkable 15-day limit to submit an appeal.

"Next year Canada will make significant reforms to our asylum system to make it more efficient, but also to add an additional level of procedural fairness creating a new fact-based appeal for failed asylum claimants."

– Jason Kenney, Minister of Citizenship and Immigration, Geneva,
7 December 2011

Refugee children deserve as much protection as adult refugees

In April, 14-year-old Josette Rosenzweig won an important court case that underlined her right to refugee protection. The Ontario Court of Appeal ruled that, as a recognized refugee, she was wrongly returned to Mexico in a parental custody dispute. Because the original decision to return Josette to her mother under the Hague Convention didn't consider the risks that she faced as a refugee, the Court ordered she be returned to Canada. It was impossible to enforce this order with the Mexican authorities, so her safe return was doubtful. To everyone's surprise, she managed to do just that and is thankfully in the next chapter of her life in Toronto.



Focus on children's rights:
Why is Josette's case so important?

At issue are parental rights under the Hague Convention in international child custody cases where the child needs protection under the Refugee Convention. Josette's case points to the need to give greater attention to children's rights as refugees. Child refugees should not receive less protection than adult refugees.

A 15-day deadline for filing and perfecting an appeal will:

- > Mean that wrong decisions will go uncorrected and refugees may be sent back to persecution, torture or death.
- > Hurt the most vulnerable refugees, including survivors of torture, children and youth, refugees who don't speak English or French, women with children, and people suffering from Post-Traumatic Stress Disorder.
- > Make the Refugee Appeal Division a huge waste of money – the decision-makers won't have any proper submissions to consider.

Offering a permanent home to refugees through resettlement

Canada can easily welcome more refugees, relying on the generosity of Canadians through the Private Sponsorship Program.

The good news in 2011 was that the government is opening the door to more privately sponsored refugees, committing to an increase of 20% in numbers of refugees resettled. Despite these promises, private sponsors faced severe new limits on the numbers of applications they can submit. At the end of the year, the government also announced it was proposing to restrict the refugees who could be sponsored by Groups of Five to those already recognized by the UNHCR or a state. Doors for refugees seem to be simultaneously closing and opening.



Photo: Paige Morrow

Sabontu and her children are waiting in Nairobi for resettlement to Canada.

Promoting public support for newcomers

It is crucial that our society's leaders work to foster strong public support for refugees and to combat xenophobia. In 2011, this means countering the increased criminalization of refugees and other newcomers.

Canada's human smuggling legislation: anti-smuggling or anti-refugee?



In June, the federal government reintroduced legislation seeking to curb human smuggling to Canada. But, Bill C-4 punishes refugees not smugglers. The bill proposes mandatory detention for some refugee claimants, including children – treating

refugees like criminals. Worse still, refugee claimants have been presented as a threat, rather than as people fleeing threats to their lives. Happily, a wide range of organizations have spoken up against Bill C-4.

Newcomers should be welcome, not Canada's 'most wanted'

Over the summer, the government took the unprecedented step of publishing 'most wanted' lists, inviting Canadians to participate in locating non-citizens wanted for removal. Concerns were raised that this initiative contributes to a negative perception of non-citizens as dangerous criminals. The number of individuals on the lists represents only a tiny percentage of newcomers to Canada – the government's intensive focus, picked up by the media, is out of all proportion. Unfortunately this is likely to reinforce existing xenophobia, hurting all newcomers, particularly in the context of repeated recent government messaging associating refugees and immigrants with criminality, fraud and abuse. Other concerns include the misapplication of the label "war criminal", possible violation of privacy rights and the fact that publication increases risks for some people if they are deported.

Setting the record straight, changing public opinion

We want refugees to be treated fairly and honourably, in a process that is independent and affordable. These are Canadian values and treating refugees in this way is good for Canada and good for refugees.

"Asylum space has long been under threat, with populist politicians and certain elements of the media promoting xenophobia and scapegoating refugees and other foreigners. Asylum-seekers increasingly face limitations in their access to refugee status determination systems and rights long respected for refugees begin to be scaled down."

– Antonio Guterres,
UN High Commissioner for Refugees,
UNHCR Global Appeal, 2012-2013



Focus on children's rights:
Detention is no place for a child

Contrary to the *Convention on the Rights of the Child* (article 37), Bill C-4 proposes to detain some children for one year without review. Instead, the government should find viable alternatives to detention that are in the best interests of children.

Upholding family values

Families need to be kept together – and when they are separated, they need to be reunited quickly and simply.

Focus on family reunification: Decrease waiting periods

Long delays and barriers continue to keep refugee families apart. In 2011, Africa, and particularly the Nairobi office, continued to have some of the longest processing times. Live-in caregivers and their families also suffer from long periods of separation.



Focus on children's rights:
Impacts of family separation
on children

"What society is this that creates parentless children?" ... "We dream of a society that will never be torn apart just for the need to survive."

– Children of live-in caregivers from the Philippines speak out against long delays in family reunification

Focus on family reunification: Ease access, limit DNA tests

Demands for DNA testing are causing significant hardships for some families awaiting reunification in Canada, especially those who cannot afford the test or who have already been waiting years to be reunited. Thanks to generous donors and dialogue with government departments, progress has been made in some cases. The CCR is calling for the Canadian government to review its current practices and establish guidelines for when DNA tests are used.

Changing immigration levels are changing Canada's focus on families

2011 saw a shift in immigration levels further limiting options for speedy family reunification for many in Canada. A moratorium was imposed on sponsorship applications for parents and grandparents. While the federal government proposed a new 'supervisa' program to grant parents and grandparents long-term visitor visas, the visa's criteria will place the new program out of the reach of families who cannot meet the financial conditions.

Photo: <http://www.settlementarts.ca/Anna Hill>



Jean-Claude and his family were finally reunited in Canada in July. After years of waiting, Jean-Claude was informed in February 2010 that he and his children would have to undergo DNA testing. The tests meant further delays and a large, unplanned expense.

Protecting rights through permanent status

Granting permanent status allows for full participation and greater contributions to Canadian society.

Migrant Workers: Temporary jobs for permanent needs

The number of migrant workers with temporary status in Canada has grown to address permanent labour demands, but policies that affect them need to catch up. While provincial government awareness of the need for workplace monitoring has grown in 2011, federal policy changes will not hold abusive employers and recruiters accountable. These solutions are part of a larger picture. In 2011, the CCR and allies continued to call on the federal government to protect migrant workers and to revisit the shift in Canadian policy from permanent to temporary migration. By granting them permanent status, migrant workers are able to contribute to Canadian society at their full potential and we all win.



Focus on children's rights:
Precarious status, what future?

With a policy of 'conditional permanent residence' in place, children may be forced to remain in abusive households for fear of losing status in Canada. Their lives could also be disrupted if their sponsored parent is deported from Canada.

No to conditional permanent residence: Permanent status means protection for women

In March, the government proposed a "conditional" permanent residence period of two years or more for sponsored spouses and partners who have been in a relationship of two years or less with their sponsors. This proposal will increase inequalities in relationships between spouses, and would put women in particular at heightened risk of violence. The CCR and other organizations oppose this proposal because of the potential impacts. Providing permanent status for sponsored spouses ensures more successful integration in Canada.



CANADIAN COUNCIL FOR REFUGEES
6839A Drolet #302, Montréal QC, H2S 2T1
tel. (514) 277-7223, fax (514) 277-1447
email: info@ccrweb.ca website: ccrweb.ca



For more information and action ideas see:

ccrweb.ca/en/review_2011