

MER Colloquium Speaker Series 2010 - 2011

“Fortress Canada: Circling the Wagons Against Asylum-Seekers”

Presented January 6, 2011 by
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Article 33: UN Refugee Convention

- No contracting state shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion.



WORLD OF INTERNATIONAL PROTECTION

PERSONS OF CONCERN

Refugees and Asylum Seekers	14 million (2008)
Number of Internally Displaced	26 million (2007)
Number of Stateless (Recorded)	3 million (2007)
Number of Stateless (Estimated)	15 million (2007)
Total Persons of Concern	43-55 million



GEOGRAPHIC DISTRIBUTION

PRINCIPAL COUNTRIES OF ASYLUM (HOST COUNTRIES)

Host countries with per capita income below \$2000

74%

Host countries with per capita income below \$10,000

22%

Host countries with per capita income above \$10,000

4%

Principal Host Countries (2009)

- Pakistan 1.74 million refugees
- Iran 1.07 million
- Syria 1.05 million
- Germany 593,000
- Jordan 451,000
- Kenya 359,000
- Chad 338,000
- China 301,000

Destination Countries (2009)

- South Africa 220,000
- USA 48,000
- France 42,000
- Malaysia 41,000
- Ecuador 40,000
- Canada 34,000
- United Kingdom 29,000
- Sweden 28,000

Principal source countries

- Afghanistan 2.89 million
- Iraq 1.79 million
- Somalia 678,000
- DR of Congo 456,000
- Burma 407,000
- Colombia 390,000
- Sudan 368,000





EUROPE: INTERDICTION POLICIES

- **Visa restrictions**
- **Overseas interdiction (migration integrity officers)**
- **Carrier sanctions**
- **Deterrence: detention, withholding of assistance**
- **Extra-territorial interception**
- **Regional protection: diversion of claim process**
- **Eligibility screening: safe transit country or COI**



MOTIVATIONS FOR MIGRATION

- **Political (fear of persecution)**
- **Environmental**
- **Social**
- **Personal**
- **Economic**



Three Observations

- 1) Migrants move from poorer to more prosperous countries (not necessarily the most prosperous)**
- 2) Most migration occurs within the developing world**
- 3) Sovereign systems of migration regulation are being overwhelmed by the massive numbers of migrants**

Canada's Asylum System

- Overseas Resettlement 11,000 refugees
 - Selected from refugee camps
 - Permanent residents upon arrival
 - Global resettlement 100,000 in 2009
- Inland refugee determination
 - 34,000 claims (2009)
 - 21,000 claims (2010)
 - May apply for permanent residence after positive refugee decision by IRB



Canada: Inland claims

- **Broad access to asylum**
- **Moderate detention policy**
- **Respecting the Convention**
- **Full quasi-judicial hearing**
- **Two-member decisions**
- **Independent tribunal**





Canada: positive view

- **Progressive attitude**
- **High acceptance rate**
- **Liberal jurisprudence**
- **Permanent residence**





Canada: negative view

- **IRB appointment process**
- **Lack of good counsel**
- **No appeal of first level refusal**
- **Leave for judicial review to Fed Ct**





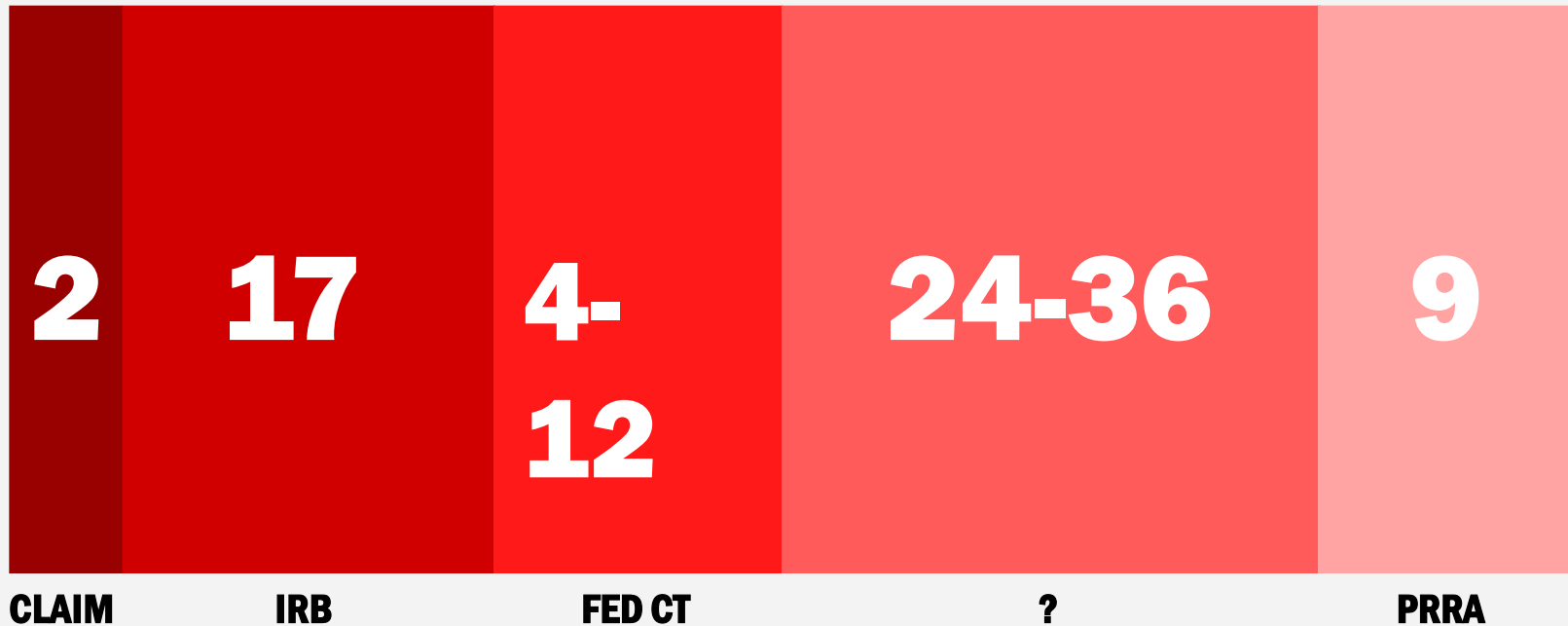
Slow claim process

- **IRB Backlog: 51,000 claims**
- **IRB Capacity: 25,000 claims/yr**
- **IRB Delay: 18 months**
- **Refugee claim process: 4-6 years before removal**



JUSTICE DELAYED

 **in MONTHS**



TOTAL: 56-76 months (4-6 years)

Recent Refugee Law

- Immigration and Refugee Protection Act (2002)
 - Single member decisions
 - Refugee Appeal Division (not implemented)
 - Broad inadmissibility provisions
 - Security certificates
 - Pre-removal Risk Assessment

Balanced Refugee Reform Act (June, 2010)

- Safe country of origin list
- Interview within 8 days (15)
- Hearing within 30/60 days (60/90)
- Decision-maker a public servant
- Refugee Appeal Division
- No PRRA if removed within one year
- No Humanitarian application alternative

Bill C-49 Preventing Human Smugglers from Abusing Canada's Immigration System Act

- Power to designate group arrival
- Imprisonment for one year w/out review
- No permanent residence for 5 years
- No power to sponsor or leave Canada



International Solutions

- **Massive increases for aid to in-transit migrants**
- **More vigorous pursuit of conflict resolution, national and regional**
- **Increased ground level support for repatriation programs**
- **More generous resettlement programs**
- **More honest and accessible asylum programs**
- **Wider recognition of core human rights**