



Helping Survivors of Torture Since 1977

CANADIAN CENTRE FOR VICTIMS OF TORTURE

**Report on Canada's Compliance with the Human Rights instruments
For the Occasion of the February 2009 Periodic Review of Canada**

Introduction

The Canadian Centre for Victims of Torture (CCVT) is a non-governmental charitable organization that helps survivors of torture to overcome the lasting effects of torture and war. Since its inception in 1977, the CCVT has provided services to over 15,000 survivors of torture, war from 136 countries. The centre is the first of its kind to be established in North America and the second such facility in the world. Working with the community, the centre supports survivors in the process of successful integration into Canadian society, works for their protection, and raises awareness of the continuing effects of torture and war. It provides “hope after the horror.”

The centre offers survivors and their families a wide range of holistic services in the broad areas of settlement, mental health, and child/youth programming. It also offers coordinated professional services, including specialized medical and legal support. The CCVT conducts nationwide public education programs and specialized training to share its expertise with other service providers, governmental organizations, and the general community about torture, its effects, and ways to provide an appropriate response.

Moreover, the CCVT has provided support to people in limbo, i.e., Convention refugees and many others who often fall through the cracks due to gaps in the Immigration act and problems such as the lack of identification documents. Being caught in limbo results in prolonged anguish and separation from loved ones and aggravates the impact of the torture experience on survivors. In such cases, our support has included ongoing contact with Canadian and UN officials, providing information and special counselling to refugees, lobbying the government for policy change, and ongoing collaboration with sister organizations such as the Toronto Refugee Affairs Council, the Ontario Council of Agencies Serving Immigrants, and the Canadian Council for Refugees.

In our effort to prevent torture, we have been active in monitoring national and international instruments relevant to the protection of refugees, survivors of torture, war, and organized violence. We have attended UN seminars on the prevention of torture and the rehabilitation of survivors



Main Office
194 Jarvis Street, 2nd Floor
Toronto, Ontario, Canada M5B 2B7
TEL. (416) 363-1066
FAX. (416) 363-2122
E-mail: mabai@ccvt.org
Website: www.ccvt.org

Scarborough Branch
2425 Eglinton Avenue E.
Unit 220
Scarborough, ON M1K 5G8
TEL. (416) 750 - 3045
FAX. (416) 750 - 4990



Helping Survivors of Torture Since 1977

CANADIAN CENTRE FOR VICTIMS OF TORTURE

and similar conferences in countries such as Switzerland, Denmark, Ethiopia, the former Yugoslavia, Chile, Nigeria, Uganda, Rwanda, and South Africa.

Given our knowledge of, and expertise in, physical, psychological and social issues faced by refugees and survivors of torture, we welcome this opportunity to share our insights into a very important area of our human rights concern. We leave other areas of Canada's compliance with its human rights obligations to other sister agencies.

Non-Citizens in Limbo

Limbo is normally used to denote any place or condition of uncertainty, instability, or being taken for granted. Based on our documentation about the global perpetration of torture, limbo is used as an actual technique of torture by torturers, war criminals, and perpetrators of genocide. While the psychological effect of living in limbo is hard on every human being, it is specifically fatal for survivors of torture, war, genocide and crimes against humanity. Based on our experience, almost all survivors have suffered by existing in limbo in some form during their incarcerations.

Unfortunately, there are certain gaps in the Canadian Immigration legislation and practices that keep non-citizens in limbo. We, at the CCVT, have been serving refugees and non-citizens in limbo coming to Canada from different corners of the globe. Following are some examples:

A Sri Lankan client of the CCVT has been in limbo for the last 21 years. He suffers from a schizophrenic illness and has to take different pills in order to stand his uncertain and fearful life. Another client of the Centre, a vulnerable single mother, has been living in limbo for 12 years. The trauma brought on by her experience of torture in Iran has been compounded by the uncertainty she faces on a daily basis. She suffers from anxiety and depression, and fears for herself and her daughter, a Canadian citizen who was born in Canada 11 years back. Her daughter understands the situation very well and it weighs on her heavily. We at the CCVT suffer from the suffering of another Iranian client who has been living under a terrible psychological condition, because of vacillating between fear and hope for the last 15 years. He loves to continue with his studies, but is incapable of doing it because of the lack of proper status. He has frequently told us with a pale voice: *how long should I pay for nothing.*

We have a client who has been imprisoned twice in his country of origin and has gone through various techniques of torture. He has had to escape to different countries and ask for asylum. He has frequently told us about



Main Office
194 Jarvis Street, 2nd Floor
Toronto, Ontario, Canada M5B 2B7
TEL. (416) 363-1066
FAX. (416) 363-2122
E-mail: mabai@ccvt.org
Website: www.ccvt.org

Scarborough Branch
2425 Eglinton Avenue E.
Unit 220
Scarborough, ON M1K 5G8
TEL. (416) 750 - 3045
FAX. (416) 750 - 4990



Helping Survivors of Torture Since 1977

CANADIAN CENTRE FOR VICTIMS OF TORTURE

his opposition to violence. In 1998, he broke completely with an organization deemed violent by Canada. He was posed inadmissible to Canada upon his arrival and was denied access to refugee determination system. He spent 23 months in a Canadian detention centre before being bailed out more than five years back. He has been accepted under Pre-Removal Risk Assessment, but has remained a non-status person due to his Immigration inadmissibility. He often wakes part way through the night and then has difficulty falling back asleep. He has nightmares about his torture. He feels depressed most of the time. He tries to work hard and does physical exercise, to cope with his situation. The condition of living in a tormenting limbo has made concentration difficult for him, his mind wanders frequently.

We are serving a senior woman, a survivor of torture and trauma, who has suffered at the hands of the tyrannical regime of Saddam Hussein. She has been languishing in limbo for the last seven years due to no reason but the slow process of her landing application as a result of the red tape and Immigration bureaucracy. At present, she is under tremendous psychological tension. She is a highly vulnerable woman living alone and dealing with her language and other multiple barriers single-handedly. She has been away from her children and ailing husband for years with no prospect of family reunification that requires receiving her permanent resident status in Canada.

There are thousands of similar cases of non-citizens in Canada who have been languishing in limbo for many years - among them are vulnerable women, youth and senior citizens. People are in limbo due to various reasons, including lack of identity documents, government's security obsessions, lack of immigration status and alleged or real criminality.

The use of the "security certificate" against inadmissible non-citizens has led to keeping them in appalling condition of limbo in detention. The CCVT has served two clients in this awkward condition of limbo. One of them has languished in jail for seven years without trial. He is presently under house arrest. The security certificate is a legal tool against foreign nationals on the basis of being a risk to the national security. It allows the government to detain non-citizens without charge indefinitely for the purpose of deportation. By allowing individuals to be detained indefinitely on the basis of secret evidence and without charges being laid, the security certificate process infringes upon basic rights guaranteed by the *Canadian Charter of Rights and Freedoms*, notably, the right not to be arbitrarily detained and the right to be informed of the reasons for one's detention.

There are also scores of cases of prolonged detention of non-citizens for solely Immigration related issues. We have had cases of people



Main Office
194 Jarvis Street, 2nd Floor
Toronto, Ontario, Canada M5B 2B7
TEL. (416) 363-1066
FAX. (416) 363-2122
E-mail: mabai@ccvt.org
Website: www.ccvt.org

Scarborough Branch
2425 Eglinton Avenue E.
Unit 220
Scarborough, ON M1K 5G8
TEL. (416) 750 - 3045
FAX. (416) 750 - 4990



Helping Survivors of Torture Since 1977

CANADIAN CENTRE FOR VICTIMS OF TORTURE

languishing in Immigration jails or detention centres up to four years. Living for a long time under awkward condition of detention can be very harmful for vulnerable groups such as women and children as well as for survivors of war and torture. It can lead to their retraumatization and irreparable life-long mental damage.

One of the most tragic effects of keeping non-citizens in limbo is the separation of families. This happens due to the fact that delay in landing of refugees and other categories of uprooted people leads to further delay in family reunification. Furthermore, non-status people cannot sponsor their family members to come to Canada. It is expected that Canada respects its international obligation towards the protection of family life. Article 10 of the International Covenant on Economic, Social and Cultural Rights calls upon the state parties to provide “the widest possible protection and assistance” to “the family, which is the natural and fundamental group unit of society.” According to the article 23 of International Covenant on Civil and Political Rights, the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Limbo puts double pressure on women, especially, those with children. Women who flee with their children lack the familial support system that is crucial for the children’s well-being and the well-being and happiness of themselves. The impact of family separation is so devastating that its consequences could continue years after family separation is over.

Limbo has frequently acted as an implicit psychological torture against children who either remain separated from one of their parents or witness ongoing retraumatization of their both parents. More often than not their own lack of permanent resident status in Canada prevents them from enjoyment of their own rights as minors. This is being practiced despite Article 37 of the UN Convention on the Rights of the Child that has protected children against torture. It is also against Article 24 of the International Covenant on Civil and Political Rights that speaks about children right to protection “on the part of his family, society and the state.”

Keeping non-citizens in limbo is against Article 14 of the UN Convention against Torture (CAT). This Article obligates states to guarantee the rights



Main Office
194 Jarvis Street, 2nd Floor
Toronto, Ontario, Canada M5B 2B7
TEL. (416) 363-1066
FAX. (416) 363-2122
E-mail: mabai@ccvt.org
Website: www.ccvt.org

Scarborough Branch
2425 Eglinton Avenue E.
Unit 220
Scarborough, ON M1K 5G8
TEL. (416) 750 - 3045
FAX. (416) 750 - 4990



Helping Survivors of Torture Since 1977

CANADIAN CENTRE FOR VICTIMS OF TORTURE

of torture victims to redress, compensation and rehabilitation. Limbo creates a situation that prevents redress, reparation and rehabilitation of survivors. It cripples the hopes of its victims. There is also the loneliness of living in limbo and the feeling of being excluded and rejected which in turn can lead to feelings of apathy, hostility, isolation, and being a “nobody.” It leaves a negative impact on survivors’ endeavours to empower themselves.

Article 16 of the CAT calls upon state parties to “prevent other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture....” Limbo is a kind of psychological torture and it works against the spirit of the this crucial provision of the UN Convention against Torture.

We have learned from our experiences at the CCVT that limbo is particularly devastating for any family or individual who has experienced war and/or torture. With the prolongation of limbo, it becomes very difficult for organizations such as the CCVT to help victims effectively due to the fact that survivors of torture are forced to experience it all over again. This makes the healing process extremely difficult and in some cases virtually impossible.

One of the main reasons of keeping non-citizens in limbo is the existence of a powerful bureaucracy with vested interests that works behind closed doors and prolongs the process. There is also the problem of unjustified discretionary power for immigration and visa officers, and of a total lack of accountability of these officials. The absence of face-to-face contact between people in limbo and immigration officials often results in a lack of compassion and absence of attention to special individual needs and emergency situations. There are also problems dealing with the lack of correct information and the inexperience, inadequate training, and sheer ignorance on the part of immigration or visa officials.

Conclusion

While we endorse the Canadian government’s global campaign against terrorism, we are concerned about its excessive measures of post-September 11. There is a need for genuine effort by the Canadian government to reform its domestic legislations and practices with regards to the implementation of the fundamental rights of humankind. We are particularly concerned about prolonged detentions and keeping non-



Main Office
194 Jarvis Street, 2nd Floor
Toronto, Ontario, Canada M5B 2B7
TEL. (416) 363-1066
FAX. (416) 363-2122
E-mail: mabai@ccvt.org
Website: www.ccvt.org

Scarborough Branch
2425 Eglinton Avenue E.
Unit 220
Scarborough, ON M1K 5G8
TEL. (416) 750 - 3045
FAX. (416) 750 - 4990



CANADIAN CENTRE FOR VICTIMS OF TORTURE

citizens in Immigration limbo indefinitely. There must be a strong link between Immigration and human rights in Canada. Enforcement officials must be accountable and accessible. There is also an urgent need for their training and education. We strongly recommend for designation of an independent ombudsperson by the Canadian parliament with the responsibility of overseeing the practices of the Citizenship and Immigration Canada as well as the Canadian Border Service Agency.



Main Office
194 Jarvis Street, 2nd Floor
Toronto, Ontario, Canada M5B 2B7
TEL. (416) 363-1066
FAX. (416) 363-2122
E-mail: mabai@ccvt.org
Website: www.ccvt.org

Scarborough Branch
2425 Eglinton Avenue E.
Unit 220
Scarborough, ON M1K 5G8
TEL. (416) 750 - 3045
FAX. (416) 750 - 4990