

America's refugees

Marina Jiménez
National Post

Marina Jiménez travelled to Vive la Casa shelter in Buffalo, N.Y., to report on the flood of Pakistanis who are waiting there to make refugee claims at the Peace Bridge border crossing into Canada. Many are fleeing the United States's post-Sept. 11 crackdown on illegal immigrants. The unprecedented exodus has jammed land crossings across the border between the two countries. For years they fuelled the U.S.'s vast underground economy. Now they want Canada to accept them as refugees.

In 1998, Raza left his home in Peshawar, Pakistan, and boarded a flight to New York City. His tourist visa was only for three months -- but he hoped the move would be permanent. The balding, quick-witted 31-year-old never considered filing an asylum claim, though he was fleeing persecution. He knew he didn't have to.

Instead, he got in touch with the local Pakistani community in Dover, Del., and within days, found a job as a cashier at a gas station.

For the next four years, Raza lived a productive life, toiling away at his minimum-wage job in the vast U.S. underground economy. No one ever asked for his social insurance number. He saved enough to buy a car and send money home to his parents every month. A liberal Muslim at ease in social settings, Raza also adapted quickly. He dated an American woman, went to Christmas parties and bars.

In the back of his mind, his illegal status sometimes tugged at his conscience. He had heard there might be an amnesty, but he wasn't too worried. He knew that immigration authorities tolerated the seven million illegal restaurant workers, fruit pickers and chambermaids who fuel the U.S. economy, taking jobs no one else wants.

Raza might well have never left his comfortable home in the eastern seaboard were it not for the devastating terrorist act on Sept. 11, 2001, that changed the world -- and ruined his life.

"Before 9/11, nobody asked who the hell I was," he recounts. "Everyone told me, being an overstay is not a crime."

Now, Raza, who won't disclose his surname, is crammed into a shelter in Buffalo, N.Y., with dozens of other Pakistanis, trying to flee an unprecedented U.S. crackdown on illegal migrants, by coming into Canada as a refugee claimant.

Under controversial homeland security measures introduced after the terrorist attacks, Raza has only three more weeks to register with the U.S. government. All male foreign visitors from a list of 25 mostly Arab and Muslim countries are required to report to authorities for interviews, and be photographed and fingerprinted.



CREDIT: Kevin Van Paassen, National Post

A refugee girl waits for her dinner at Vive La Casa, the Buffalo, N.Y., shelter that helps people make asylum claims in Canada.



Schrish Malik feeds her daughter Minahil at the Viva La Casa in Buffalo, N.Y., a two-storey red-brick shelter that was once a Roman Catholic school.



CREDIT: Kevin Van Paassen

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Raza knows that if he registers, he will be deported to Pakistan, where he says he fears persecution. And so he made the heart-wrenching decision to sell his treasured car, give away his television and DVDs, kitchenware and bedding and head for the border. Through his network of Pakistani friends, he heard about Vive La Casa, the Buffalo shelter that helps people make asylum claims at the Canadian border half an hour away. Frightened he would be arrested by immigration officials if he took the bus, Raza paid \$650 to a taxi driver to bring him here.

His world has shrunk to the size of this two-storey red-brick shelter, located in a former Roman Catholic school, and now filled with 118 other people awaiting appointments with Canadian immigration officials. His clothes are crammed into a green suitcase at the foot of bunk bed number 11 in the men's dorm. His toiletries are piled neatly on a shelf. Downstairs, the hallways are filled with donated clothing. Children run through the corridors, pursued by harried parents.

Surprisingly sanguine, Raza does not blame U.S. authorities for the security crackdown. "I was an American. Now I will become a Canadian," he says simply, with a smile.

As for the grounds of his asylum claim -- the one he never made in the U.S. -- he is secretive. He will only divulge details of his case to his lawyer, fearful that others who are desperate to enter Canada may adopt his story as their own.

"I don't want to leak my asylum story. But I have my story in my heart," he says, putting his hand to his chest.

Across the United States hundreds of Pakistanis are flooding border crossings, as the deadline for registration looms. The numbers are so overwhelming that Citizenship and Immigration Canada (CIC) officials have had to turn away people at the border and request they return in a month for an appointment. Many of these people have then been picked up by the U.S. Immigration and Naturalization Service (INS) and thrown in jail unless they can post a US\$5,000 bond.

Of the more than 36,000 people who have registered under the new regulations, 3,055 now face deportation, leaving their wives and children stranded in U.S. border towns.

To avoid this bleak scenario, nearly 1,000 Pakistanis have come straight to Vive la Casa in the last two months, so that shelter workers can contact CIC on their behalf.

Elizabeth Woike, assistant manager of Vive La Casa, says the new security measures, intended to target terrorists, have caught another group of people in their net. "We are throwing out illegals who we have tolerated here for years," she says. "We are creating economic destruction."

She also blames CIC for not making extra staff available to process asylum seekers on the spot, as is generally the custom, so that they won't risk being arrested by INS.

At the border crossing in Lacolle, Que., 862 people -- two-thirds of them Pakistanis -- made refugee claims in the past two months -- almost double the number from last year. And at the Douglas crossing in British Columbia, 67 of the 85 claimants in the same period were from Pakistan.

René Mercier, spokesman for CIC, says they did not anticipate this unexpected spike in the number of claimants, and are doing their best to accommodate the flow. He points out that most do come back for their interviews.

U.S. crackdown on illegal migrants.



CREDIT: Kevin Van Paassen

"We are still legal in the U.S. but we don't want to live here any more," says Ume Laila Akhtar, who has an MBA from Princeton University.



Nearly a thousand Pakistanis have come to Vive la Casa in the last two months. Refugee claims have also soared at other border crossings.

approval rate for Pakistanis. Their country is plagued with sectarian problems, as militants from both the Sunni majority and the Shia minority are involved in an endless cycle of tit-for-tat violence that has left 2,000 people dead over the last decade. Inter-marriage between Sunnis and Shias is also considered taboo, and that appears to be the basis of many people's asylum claims.

Several couples at Vive la Casa tell the National Post that one is Sunni, the other Shia, and that their families have never accepted their "love match."

Others do not appear to fully understand the refugee determination process. Jamil Qaiser, an articulate 45-year-old financial analyst with a large American company, came to the shelter with his wife and four children two weeks ago in hopes that "Canada will let me work there."

He still has legal status in the United States -- but his H1B temporary work visa runs out in two months and he fears it will not be renewed. "The Canadian government has been so generous accepting us and we are really grateful and feel we will boost the economy," says Qaiser, who is well groomed despite the shelter's limited facilities, and speaks perfect English. "Now I feel unwelcome in the U.S. and I don't want my son to have to go and be fingerprinted every year."

He doesn't yet have an appointment with CIC but he already thinks of Canada as a "lifeline." "I will say I want to work there and that's it." As for the grounds of his asylum claim, he too declines to elaborate: "In Pakistan I can't go back because of ethnic problems."

If his claim is turned down, it would be Canada's loss. An experienced analyst as well as a motivational speaker, Qaiser would make an excellent immigrant. He may even qualify under Canada's point system. But unlike refugee claimants, who may work while their claims are being processed, he would have to apply from outside the country, and the process could take months.

Milling around the shelter's foyer are two more highly educated Pakistanis: Jamil Akhtar and his wife, Ume Laila, dressed impeccably in a green shalwar kameez and orange silk scarf. Both the Akhtars have MBAs in human resource management from Princeton University and were in the process of requesting visitor visa extensions until fear drove them to the border. "We are still legal in the U.S. but we don't want to live here any more," explains Ume Laila Akhtar. "Anyone who is Muslim is considered a terrorist even though Pakistan is a key ally in the war on terrorism." Her family is politically active in a Shia political group, Tehrik-e-Jafria, that has been banned by the government.

The Immigration and Refugee Board will ultimately decide whether these cases fit the United Nations refugee definition: a well-founded fear of persecution on the basis of race, religion, nationality, membership in a particular social group or political opinion.

Faiz Rehman, with the National Council of Pakistani Americans, says many Pakistanis are reluctant to make asylum claims in the United States because they believe the refugee determination process is politicized, and the judges biased. "Canada is more balanced," he says.

Many families sold everything to come to the United States, he adds, and "understood that once they entered, they would be safe." They opened businesses, bought homes and cars, had children and settled into their new lives. "These people are very established," says Rehman. "It is an open secret that INS only targets Muslims who are out of status."

The majority of the illegals in the U.S. are Mexicans and they do not have to register -- prompting accusations of racial profiling. The INS also expels a very low percentage of failed asylum seekers, leaving most free to join the underground economy. Undocumented workers typically earn one-tenth the salary of their American counterparts and INS seldom punishes businesses for hiring these cheap and compliant workers.

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The chaotic situation at the border begs a larger question that governments in the U.S., Canada -- as well as Britain and France -- must grapple with: How to balance international obligations to refugees with

national security interests.

Some critics charge that the 1951 United Nations Convention on Refugees, created in the aftermath of the Second World War to cope with the tide of people displaced by events in Europe, is no longer an effective mechanism to deal with mass movements of people from one country to the next. Refugees in camps are often unable to leave their countries to make a claim. Those facing famine or civil war do not qualify as refugees. And economic migrants motivated not by persecution but by poverty and human misery add a new dimension to the debate.

"The UN convention was created to reflect the realities of the Cold War and the massive influx of refugees," says Sergio Karas, an immigration lawyer based in Toronto. "But it is anachronistic and not useful as a tool to deal with today's realities, and the problems of people smuggling and human exploitation.

"We cannot as a country pay for the spillover of the U.S. crackdown on illegal aliens."

In Britain, where there has been public concern about the levels of unfounded asylum seekers, some Labour politicians have raised the prospect of re-writing the convention. They suggest developing a co-ordinated system of resettlement for an agreed number of refugees and targeting people smugglers who prey on the desperate. France is entertaining the idea of derogating from one article of the convention, which forbids failed asylum seekers to be returned to countries where they could be tortured or killed.

Catherine Dauvergne, a law professor at the University of British Columbia, believes it would be impossible for the convention's 143 signatories to re-negotiate the agreement -- especially in the current climate of international terrorism and heightened security alerts.

She agrees, however, that the convention does create an incentive to break the law because it lacks provisions allowing claimants to lawfully enter other countries.

"The convention creates an incentive to enter countries illegally and for people to try and persuade authorities that they are refugees because they want to live in Canada," says Dauvergne, who holds the Canada research chair in migration law. "It is exceptionally difficult for people to migrate to Canada. And many people feel their life circumstances are such that they are willing to take the risk."

Those fleeing persecution are supposed to seek haven in the first country they reach -- although as many as one third of Canada's 30,000 annual asylum seekers come through the U.S. (The U.S. does not permit anyone who has been in the country for longer than a year to make an asylum claim -- a restriction Canada does not share.)

However, once a new regulation called the Safe Third Country Agreement comes into effect this summer, Canada will no longer accept claims made at the U.S. border. Critics fear this will merely encourage more human trafficking as people attempt to sneak into Canada hidden in fruit trucks, in order to make their claims.

"The great tragedy of our system is that we reward the law-breakers who take up valuable resources that could otherwise be allocated to true refugees in need living overseas," says Karas. "The government of Canada is capable of taking in refugees by the planeload from camps around the world, but every year we fall short of our targets of these kinds of refugees."

(Mercier says Canada intends to meet this year's target of 7,300 government-sponsored refugees, selected from camps.)

Other immigration experts such as Dauvergne believe the convention is still the best tool to help those fleeing tyranny. Canada already has the laws available to deal with the refugee system's problems, and to discourage economic migrants from applying as refugees. "The convention doesn't need to be changed," says Richard Kurland, a Vancouver immigration lawyer. "You could slap visas on countries so people can't enter as easily. You could allow more expeditious processing for detained people."

Back at Vive La Casa, lunch is being served in the basement cafeteria, which has flags from all over the world painted on its light blue walls. Mothers carry their babies in for a rice-and-curry meal. Waqar, a beaming 16-year-old from Rawalpindi, came as a visitor to the U.S. two years ago after his father was killed by political opponents. Today, he is completely Americanized, with low-slung blue jeans, Nike runners and a Virginia accent. He came here on his own, and hangs out with several other boys in the shelter, some of whom were born in the U.S. and speak only English: "I got nobody up here in Canada. I don't know what I'm going to do."

Naem Malik, another Pakistani, believes many families do not want to leave North America because they have lost their economic and familial ties to their homeland. "People don't want to give up the dream that brought them here," he says. "But the FBI doesn't want to see the face of Muslims any more."

And then, there are the steady stream of those who have just arrived: shell-shocked Colombians and Congolese who drink bottles of Gatorade and look around the crowded cafeteria in resignation.

Sylvie Kasongo flew here from Kinshasa, Congo, two weeks ago and expected to make a claim right away. Her husband has already been accepted as a political refugee and lives in Toronto. "When the lists for appointments [with Canadian immigration officials] come out, I see only Pakistani names. Why aren't our names on the lists too," she complains.

Sitting nearby on a bench is a young mother cuddling her 19-month-old daughter, who is dressed festively in a pink corduroy jumper. "We are so worried," she says, frowning. She and her husband paid a smuggler US\$25,000 for visas and air tickets to come here from Lahore, and now hope to make asylum claims in Canada. "In Canada, the judgment is faster and the system more generous," she says. The grounds for her claim: "My family is Sunni and I married a Shia and our parents do not accept our love marriage. My parents or my in-laws could kill us."

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