



Application for Refuge

Name: Grace Lawrence

uOttawa Sponsor: UROP Office

Reason: The Safe Third Country Agreement

DENIED

Study Details

General Overview of Case

Since US President Trump came into power in the United States in November 2017, there has been a noticeable increase in refugee claims made at Canada's land borders. Most of the claims are made by people who entered Canada illegally. Why is that so? The answer to this question is the Safe Third Country Agreement between Canada and the United States. The Agreement recognizes the US and Canada as safe countries, therefore, asylum seekers at land border crossings must claim refuge in the first country they land in. It does not apply to individuals arriving by plane or who are already in Canada. There has been much debate over the designation of the United States as a "safe third country." As a result of Trump's new Executive Orders, there is debate over the designation of the United States as a Safe Third Country. This research is a literature review which aims to gain a better understanding of the Agreement as a whole, the human rights issues with the agreement, and America and Canada's compliance with the Agreement.

ELIGIBILITY CRITERIA

Are you a refugee or asylum seeker? **?**

United Nations Convention on the Status of Refugees

The United Nations Convention on the Status of Refugees came into force in 1951 and Canada became a party to it in 1969. The Convention lays out certain rights for refugees and asylum seekers

- Article 16 (access to courts)
- Article 31 (no penalty for illegal entry)
- Article 33 (prohibition of expulsion or return= non-refoulement obligations)

Safe Third Country Agreement:

If you are an asylum seeker or refugee who entered the United States prior to entering Canada you are ineligible to claim asylum in Canada

Trump's Executive Orders:

- Enhancing Public Safety in the Interior of the United States
- Border Security and Immigration Enforcement Improvements
- Protecting the Nation From Foreign Terrorist Entry Into the United States

Key Information:

Treatment of asylum claims in the US

Expedited Removal:

This practice allows immigration officials in the United States to send individuals for deportation before they have had a hearing. This is in violation of Article 16 of the International Convention on the Status of Refugees.

Are you one of the individuals targeted by the Border Enforcement Order?

One Year Ban:

This is a rule stating that any individual who arrives in the US looking to claim refuge must be done within one year of arrival. This is problematic because of the mental duress refugee claimants are under, the language gap, and the lack of knowledge about the rule

Are you one of the 15,000 asylum seekers who would have been subjected between 1998 and 2009 to the one year bar?¹

Gender Based Claims:

Canada has specific legislation that allows for gender-based asylum claims, the United States does not.

Are you one of the vulnerable individuals who are not protected under US legislation?

Use of Detention:

Detention of refugees or asylum seekers is not illegal, but it should not be used as a means to deter refugees or punish them for entering the country.

Detention is a major tool used in the United States, and often treats migrants as criminals.

Detention facilities in the United States use uniforms and shackles on detainees. Migrants have limited privacy, as well as limited access to healthcare, and legal services. Families are often split up, which increases psychological stresses. Lack of access to legal resources and vulnerability of refugee claimants while in detention prevents these individuals from properly preparing their refugee claim and increases their likelihood of being deported.

Are you one of the 86% of detainees from the US who lacked access to legal council counsel?²

Are you one of the THOUSANDS of asylum seekers who would have qualified for asylum in the Canada had you arrived here first?

Conclusions

It is evident through the literature review that there are several problems with the Safe Third Country Agreement between the United States and Canada. The first problem having to do with the loophole in the Agreement that encourages asylum seekers to enter Canada irregularly. The second being the failure of the Agreement to meet international obligations, and there are infractions in both the United States and Canada. The United States has several practices (expedited removal, detention, etc) that are in violation of international conventions that both Canada and the United States have signed on to, and that Canada has for criteria of a designated Safe Third Country.



Photograph 1

Acknowledgements and Bibliography

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¹ Philip G Schrag et al, "Rejecting Refugees: Homeland Security's Administration of the One-Year Bar to Asylum" (2010) 52:3 Wm & Mary L Rev 651 at 756

² Ingrid Eagly and Steven Shafer, "A National Study of Access to Counsel in Immigration Court", (2015) 164 University of Penn L R 1 at 32.

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