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# Peyi A Pwomet: The Experience of Haitian Refugee Claimants in Toronto

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PEYI A PWOMÈT:  
THE EXPERIENCE OF HAITIAN REFUGEE CLAIMANTS IN TORONTO

by

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A Major Research Paper  
presented to Ryerson University

in partial fulfillment of the requirements for the degree of

Master of Arts  
in the Program of  
Immigration and Settlement Studies

Toronto, Ontario, Canada, 2012

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Sophie Pether  
Master of Arts, 2012  
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ABSTRACT

This study assesses the current Canadian refugee determination process and Canadian refugee policy by comparing it with the narrative experience of Haitian refugee claimants in Toronto, Canada. The analysis was guided by a critical anti-racist framework and forced migration theory. Qualitative research was conducted by interviewing five Haitian refugee claimants and a Haitian community leader, all living in Toronto. The research found that Haitian refugee claimants face a multitude of barriers when navigating through the refugee determination process. A socio-political history of Haiti is provided to contextualize the motivations and factors which have induced Haitian migration. This study is the first of its kind with regard to research focused specifically on the experience of Haitian refugee claimants in Canada and in particular Toronto. It contributes to the very limited existing research on Haitian refugees in Canada.

Keywords:

Refugees; Toronto, Canada; Haitians; Canadian Refugee Policy; Haiti Socio-Political History; Forced Migration Theory; Anti-Racist Theory; Postcolonial Theory

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## CHAPTER 1: INTRODUCTION

In 2007, as a volunteer in the advocacy office of the Daily Bread Food Bank in Toronto, I started to observe, along with the director of the program, a higher than normal number of Haitian refugees accessing the resources of the advocacy center as well as the food bank. Given that I was the only bilingual advocacy center volunteer (French and English), many of the Haitian clients were assigned to me. Their accounts of their migration histories, experiences with both the US and Canadian immigration system, and their motivations for coming to Canada during this time period piqued my curiosity. I wondered why so many Haitian refugee claimants were entering Canada (all from the United States) and if this community's needs were being assessed and met. One particular case, a young man in his early 20s, made me question the efficacy of the Canadian refugee determination process. This young man came into the advocacy office asking for assistance to find some money for an airplane ticket in order to return to Haiti (where he knew he would face political persecution and violence) because he was so frustrated with the Canadian system. He had also made his way from the United States, and had spent several years navigating through the Canadian refugee determination process to no avail. His frustration, anxiety, and depression with his situation were clearly visible during each of our meetings. The question that kept persisting in my mind was: given what is known about the situation in Haiti, why would this young man want to leave a seemingly "democratic" and "peaceful" nation and return to a country where he faced probable violence and possible death? What was so frustrating about the Canadian refugee determination process that he was desperate to leave Canada and return to Haiti?

An overview of the research has found that Haitians are not well represented in the Canadian immigration scholarship. Of the existing research on the Haitian diaspora, most is focused on Québec and specifically the Montréal area. Haitians living in Québec make up a very large percentage of all Haitians in Canada. However, a growing number of Haitians (and in particular, refugees and refugee

claimants) are making their way to Toronto. This community is invisible in the scholarship, thus prompting the focus of this small-scale study. Five Haitian refugee claimants living in the Toronto area were interviewed, three men and two women, ages 30-50 years. Two of the participants, a man and a woman, were a married couple. A Haitian community leader was also interviewed to provide insight on the growth of the Haitian community in Toronto, and to relate his experiences with Haitian refugees and refugee claimants in the city. The data collected from the interviews shows a community frustrated with the Canadian determination system, but one that remains optimistic about its eventual success in achieving Canadian citizenship. The study also found that official data and statistics collected by Citizenship and Immigration Canada (CIC - the federal government ministry responsible for immigration) with regard to Haitian refugee claimants in the province of Ontario was seemingly inaccurate and thus provided an incomplete picture of this community.

An outline of the topics covered in this study follows. Chapter Two outlines three theoretical frameworks to contextualize the research on Haitian refugee claimants: globalization, forced migration theory, and critical anti-racist theory. Chapter Three focuses on the socio-political history of Haiti from its colonial days which led to the first, and only, successful slave revolt in history, to the last few decades of political turmoil providing a context for the migration of millions of Haitians. Chapter Four assesses the current refugee determination process and refugee policy in Canada, highlighting the exclusionary policies which have been recently implemented with regard to refugee claimants. Chapter Five describes the research methodology and the study sample. Chapter Six reviews the major research findings in relation to Haitian refugee claimants in Toronto, and the impact of U.S. immigration policy on this group. Finally, Chapter Seven is comprised of a discussion of the findings and a summary of the study discussing its limitations and suggestions for future research.

## CHAPTER 2: THEORETICAL FRAMEWORK

Haitian refugees have endured a multitude of issues which have led them to flee their country and seek out alternatives in other countries. Much of the recent literature on refugee theory focuses either on internal displacement or protracted refugee situations and refugee camps. While these issues may not apply directly to the Haitian refugee flows, it is crucial to contextualize the Haitian experience within a refugee theory conceptual framework. Three key factors have and continue to affect the movement of this refugee group: (1) the impact of globalization, (2) the factors surrounding forced migration and, (3) the social construction of race and racialization within the migration process. Each of these factors interplay with one another creating a complex system in which this migrant group has had to maneuver.

It is estimated that there are between 100 and 200 million forced migrants in the world today (Turton, 2003). Wider processes of social and economic change normally referred to as "globalization" appear to be creating an ever increasing North-South divide in living standards, human security, and the access to justice and human rights protection. Forced migration theory then can provide a manner in which to assess, examine and understand these processes. Postcolonialism has also been connected to debates about economics, history and politics and attempts to produce another vantage point to the colonial representation which has had a critical impact in the development of contemporary Haitian migration (Harrington, Muller, & Marshal, 2006). A critical anti-racist framework in the field of forced migration and refugee studies can be aptly applied to the analysis of the Haitian refugee experience in Canada (Ighodaro, 2006). A historical account for racism in Western Europe and in post-colonial settler societies (like the US or Canada) lies in tradition, ideologies and cultural practices, which have developed through ethnic and racial conflicts associated with nation-building and colonial expansion (Castles & Miller, 2009). The increase of the forced movement of migrants from South-to-North has resulted in an

increase in racism throughout the Global North, including Canada. The fundamental social and economic shifts resulting from the effects of globalization foster a growing and pervasive fear of the racialized Other. An instinctive and ubiquitous anxiety can therefore be formed by the dominant and privileged group about those unfamiliar to them (Marfleet, 2006). Racism thus serves to maintain hegemonies of white dominance and privilege.

### Postcolonial Theory

When examining the causes of forced migration from former colonies, a key theoretical approach often used is postcolonialism. Postcolonial theory critiques not only the master narratives of European imperialism, it also takes into account and draws upon psychoanalysis, gender and race theory, and questions and challenges conventional notions of self and identity that are formed by the colonial gaze (Harrington, Muller, & Marshal, 2006). Finding its roots in the theoretical practice of anticolonial freedom struggles, a politics of postcolonial critique, often integrated with global studies, has emphasized the increasing inequities between "the North" and "the South" (Harrington, Muller, & Marshal, 2006). Postcolonial theory traditionally looks at the effects and impact of colonialism on former colonies in Africa and Asia as well as colonies in the Caribbean. However, the postcolonial development of Haiti is unique within the Caribbean context, with the exception perhaps of Cuba, and thus some postcolonial theory would provide a limited framework for analysis. Bellegarde-Smith explains that "Haiti suffered a period of brutal ostracism from the West for daring to oppose slavery and colonialism" he also suggests that this "ostracism had been a mere hiatus between colonialism and neo-colonialism- no postcolonialism here" (Bellegarde-Smith, 2004, p.257). The events of the Haitian Revolution illustrate that Haiti attempted to break with ruling colonial powers long before many of its Caribbean counterparts and was isolated as a result. Historians of post-emancipation societies have discussed how new conflicts, and new forms of oppression, in plantation societies such as Jamaica, Cuba, and the United States were created with the end of slavery. The Haitian Revolution was the first such

emancipatory struggle in the Americas, and what happened there became a touchstone in subsequent debates about how best transition from slavery to freedom (Dubois, 2004). The “psychological legacy of colonialism however created such a state of dependence” in the minds of the newly formed Haitian political elite that postcolonial power structures created in Haiti emulated and reflected many elements of European imperial courts (Beckford, 1972, p. 88).

Two significant eras in Haiti’s history best reflect the concerns raised in postcolonial theory: the rule of Henri Christophe, and the U.S. military occupation of 1915-1934. In 1811, Henri Christophe, as President of Haiti (1807-1811) transformed Haiti into a Kingdom which followed European hereditary landed aristocracy, complete with crests and mottoes (Dubois, 2012). In the direct aftermath of the revolution, many colonial powers were ready and eager to see Haiti fail (Dubois, 2012). Even prior to becoming king, as a general in the Haitian army, Christophe started directing money into national defense, most famously by constructing a massive fort-La Citadelle Laferrière. The Citadelle, which was built between 1805-1820, was a ruthless folly, one that drove Christophe to the ultimate irony: in order to assure freedom newly freed Haitians were once again turned into slaves creating a new form of colour-based hierarchy. Workers laboured in chains, carrying rocks up the hill under the watchful eyes of armed guards (Dubois, 2012). This was the beginning of the neocolonialism in Haiti that Bellegarde-Smith (2004) referred to.

The 1915-1934 U.S. occupation of Haiti signaled the shift to a new form of imperial power within Haiti which (Beckford, 1972). This neo-colonialism was based predominantly on the needs of business corporations in the metropolitan centres of Europe and the United States (Beckford, 1972). The United States was the predominant force in the 20th century development of plantations in Haiti, a constitutionally independent republic within the colonial orbit of the new U.S. empire. During the occupation, the U.S. government introduced the modern sugar plantation and set the stage for the

integration of American capital by repealing Haitian laws which prevented the ownership of land by foreigners. As a result, much of the rich and fertile but scarce coastal Haitian land was acquired by U.S. plantation corporations (Beckford, 1972). Neo-colonialism was therefore a key factor in the growth of corporate capital dominance in the world plantation economy during the twentieth century (Beckford, 1972). Like so many other "decolonized" nations, Haiti was unable to throw off the yoke of (neo)colonialism; events such as these reveal the relevance of postcolonial theory as applied to the Haitian situation.

### Globalization and Forced Migration

Interest in migration research has grown in recent years, while theoretical approaches have proliferated and interacted, leading to a more complex understanding of migration and its links with broader processes of change. Of special significance has been the use of theories of globalization and transnationalism to the study of migration (Castles & Miller, 2009). A central argument is that migration and settlement are directly related to other economic, political and cultural relations being formed between different countries in an accelerating process of globalization. As such, international migration-in all its different forms-must be seen as an fundamental part of contemporary world developments. It is likely to grow in volume in the years ahead, because of the strong pressures for continuing global integration (Castles & Miller, 2009).

As the study of migration has developed, the term "forced migration" has been devised to both encompass many of the migrations which are part of the changing socio-political landscape and to allow a close examination of involuntary displacement in all of its manifestations. Thus forced migration provides an alternative to the more limited "refugee studies" which addresses only those migrants who fall under the international legal definition of "refugee" (Crépeau & Nakache, 2006). The field of forced migration studies has become very broad. However, at its core, forced migration is about the complex

relationships between states, international systems, and individuals in their efforts to address a global challenge (Robertson, 2012).

In the context of globalization, culture, identity and community can often be seen to counteract centralizing and homogenizing forces (Castles & Miller, 2009). While globalization has created the circumstances which prompt and enable people to migrate, it has also incited the world's most prosperous states to obstruct such movement. In this respect, the challenge to asylum has uncovered an important contradiction in the process of globalization (Crisp, 2010; Adelman, 1999). This situation hides a more problematic reality: that of racism, and the inequitable nature of global power relations. There exists a vital link to be explored between the challenges to asylum and the process of globalization. Globalization appears to have encouraged the movement of people from one part of the world to another by exacerbating socio-economic disparities between and within states. In general, those migrants and asylum seekers who make their way to Europe and North America come from countries and communities which have lost out in the globalization process. At the same time, globalization has enabled the movement of migrants and asylum seekers through the institution of complex social, technological and cultural networks that link the less developed countries to industrialized states (Crisp, 2010). The connection between globalization and social change must be examined by exploring how human mobility is embedded in processes of globalization and social transformation. Such networks can be found in all societies, whatever their level of development and whatever their current place in migratory orders, whether origin, transit and destination societies, or including a number of these positions (Hear, 2010). Generally, though not completely, the emphasis on globalization indicates a departure from state-centered and local-level analysis and the recognition of the growing influence of global changes on governmental and multilateral policy and academic research (Crépeau & Nakache, 2006).

Migration has been a primary focus of much of the discussion on globalization. This is in some ways a result of the very fact that many migrants move across state lines and thus defy state-centered inquiry. In addition, however, migration movements are often produced and/or influenced by several facets of global change (Crépeau & Nakache, 2006). Forced migration has become a major factor in global politics. This can be observed in the changing nature of the international refugee regime which provides a set of legal norms founded on principles of humanitarian and human rights law, as well as a number of institutions designed to protect and assist refugees (Castles & Miller, 2009). The role of states is a key component of many forced migration theories. Also of acute importance is the macro-framework of Global North–Global South relationships with relation to forced migrants who have been consistently situated within a broader system of power inequalities between states and regions (Robertson, 2012). Forced migration and asylum-seeking simultaneously challenge and reinforce the very idea of state authority: the forced migrant represents both the complexities modern states face in maintaining the flows of people across their borders, and the ongoing ability of states to make decisions about who they should exclude and include.

As suggested, forced displacement is the outcome of a complex combination of economic, political, environmental and socio-cultural pressures. Across the developing world survival mechanisms – means of assuring food, shelter and basic security – are rapidly deteriorating, sometimes to the point of collapse (Marfleet, 2006). This is certainly the case for Haiti. Under these circumstances all manner of local factors can generate displacement. These include state repression, militias and political factions; wars and civil conflicts; environmental occurrences; and intense economic pressures.

Refugee flows are produced in regions of poverty and conflict, and mostly remain within these regions. However, since the 1980s, Western Europe, North America, and Australia have grown increasingly anxious and frightened about asylum seekers (Castles & Miller, 2009). In some Western countries ninety percent of asylum applications are rejected, yet many rejected applicants stay on



without any clear legal status, and lead marginalized existences. As a result, the prevailing discourse of the refugee in the West has become the United Nations 1951 *Convention Relating to the Status of Refugees* (United Nations, 2007) which has been used to assert that most of those who seek security in the face of such problems are illegitimate: they cannot be refugees and are portrayed as opportunists who seek to manipulate international agreements on asylum to advance their own interests (Marfleet, 2006). This seems implausible. Why would refugees *choose* to undertake long and dangerous journeys to unknown and uncertain futures, to countries they are unfamiliar with and where they face racist and xenophobic attitudes and policies, abandoning their family, possessions, cutting socio-cultural ties, unless they are faced with extreme circumstances? The crisis of migration is thus closely related to a staunch denial adopted by Western governments (see Chapter 4: Canadian Refugee Policy) in relation to enduring volatilities within the global system. Unwilling to concede to a share of the responsibility for economic and political collapse, these governments view forced migrants as dissemblers (Marfleet, 2006).

#### Critical Anti-Racist Theory and Forced Migration

Racism was established as part of the development of colonization and was utilized specifically during the African slave trade as justification for other forms of forced and racialized mobilizations of labour. It was not only justification for violence and exploitation in the colonies but was also an essential trait of the domestic agenda of the new ruling classes of Europe (Marfleet, 2006). When slavery ended, racism remained. In fact, racism has thrived as an integral element in activities of Western society throughout the twentieth century (Marfleet, 2006). Racism can be characterized as a process in which social groups categorize other groups as different or inferior, based on phenotypical or cultural markers. This process involves the use of economic, social or political power, and generally has the purpose of legitimating exploitation or exclusion of the group so defined (Castles & Miller, 2009). For instance, racism in the Americas against black populations principally took forms of exploitation, exclusion and

assimilation, with North America typically eschewing assimilation and South America often willing to tolerate or even promote it. An inadvertent consequence of the trans-Atlantic African slave trade was the advent of a new black identity in the Americas, chiefly in the United States and the Caribbean. Further, these populations would pursue the establishment of "Pan African" alliances with one another and with peoples of colonized African states (Harris, 2011). From this brief history it is clearly evident that race and class relations are inseparable in post-colonial societies. Given that economic exploitation was the whole point of colonialism, it is evident that imperialism, chattel slavery, and racism had a class dimension from the beginning. European populations exploited non-European populations and rationalized this behaviour in terms of "race," intentionally conflating political economy with skin colour (Harris, 2011). A key factor in the advancement of racism is the way in which it is utilized by influential political actors of the state. Those with power and structural authority play a crucial role in influencing and generalizing ideas about difference and exclusion (Marfleet, 2006). This is especially significant in times of political and economic instability, when those in power often chose to promote racist discourses, using the resources of the state itself to propagate them (Marfleet, 2006). For this reason, it is crucial to investigate through a critical anti-racist lens, the complexities of Canadian immigration and refugee policy to address current refugee resettlement problems.

In his research on black African refugees in Canada, MacDonald Ighodaro (2006) addresses multiple issues facing racialized refugee groups which he outlines in his work *Living the Experience: Migration, Exclusion, and Anti-Racist Practice*. This research provides a sound anti-racist framework for the purposes of this study as it examines the case of black refugees in a Canadian context. Ighodaro suggests that using a theoretical grounding in anti-racist principles and notions of fairness and equity should be essential to immigration and refugee policy makers. One of the most important social issues for any society is who it admits as members and the grounds upon which such choices are based (Ighodaro, 2006). To contextualize the settlement and integration experience of Haitian refugees, he

argues that it is crucial to fully understand the social construction of race and the concept of racialization. Further, matters of race are profoundly significant since society perpetuates social difference-based discrimination. Recognizing the social construction of race is essential to comprehending the social exclusion of racialized groups (Ighodaro, 2006). Therefore supposed biological differences are not the only markers considered: culture, religion, language or other factors are included along with phenotypical differences (Castles & Miller, 2009). As will be further discussed in Chapter 4: Canadian Refugee Policy, it is clear that the power of the dominant group (in this case, the federal Conservative government and CIC) is sustained by developing structures (such as laws, policies and administrative practices) that exclude or discriminate against racially marginalized groups. This aspect of racism is generally known as institutional or structural racism. Scholars and those in the public discourse intimately informed on issues regarding refugees have argued that social difference-based discrimination and racism have been acknowledged and much has been written about human-rights abuses in Canada, yet an effective solution to these problems remains elusive. Conscious and deliberate racism in Canada does not primarily manifest itself through explicit expressions of negative opinions about racialized groups. Rather, it is established through the denial of socio-economic rights and resistance to equitable distribution of power and resources (Ighodaro, 2006).

Racism functions in different ways according to the specific history of a society. In the US, for example, Haitians have been the subject of negative stereotypes and often have been the victims of harsh and discriminatory U.S. immigration policies. In his study on Haitian immigrants in Miami, Kretsedemas (2005) suggests that “Haitian immigrants experienced a greater degree of social isolation, than other minorities due to intersecting effects of racial inequities, anti-immigrant attitudes, and status as a linguistic minority that is marginalized from both the English and Spanish speaking community” (p. 23). In a frightening example, Chierici (2004), describes how in the US, Haitians are often viewed as disease-ridden and dangerous people who need to be kept at a distance. Stereotypes have been applied

to Haitian immigrants, perhaps the most damaging being the urban myth<sup>1</sup> that all Haitian immigrants were carriers of the AIDS virus (Kretsedemas, 2003; Labelle, 2002). These negative depictions further reinforced the social isolation that Haitian immigrants experienced as members of a black, linguistic minority group.

Despite legislation and social-justice policy prohibiting difference-based discrimination in all forms, certain assumptions, conventions, and misinformation persist in Canada about racially visible immigrant minorities (Ighodaro, 2006).

The forced movement of migrants from the Global South to the Global North has grown exponentially in the last 40 years. Critical socio-economic and geo-political changes developed through the process of globalization have generated a deep and profound fear of the racialized Other. As a result, racism is perpetuated to preserve hegemonies of white dominance and power. Forced migration is produced through a multitude of economic, political, environmental and cultural forces. Instruments of survival which exist throughout the developed world are quickly disappearing. As a result, any number of local issues and challenges such as civil war, state repression, and political and economic pressures, can create the need for human movement.

Racial concerns are deeply important as they reproduce socially difference-based discrimination. Thus, acknowledging the social construction of race is needed to understand the social exclusion of racialized groups. Measured and conscious racism in Canada is not generally promoted through overt demonstrations of negative feelings, attitudes, and behaviours toward racialized minority groups. Instead, racism is generated through the lack of access of socio-economic rights and resistance to equitable distribution of control and resources.

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<sup>1</sup> This myth was fuelled by the Centre for Disease Control during the 1980s (Kretsedemas, 2003)

### CHAPTER 3: HAITI: A SOCIO-POLITICAL PERSPECTIVE

Haiti's troubled present, and mass migration from the country, can be far better understood by examining its complex past. The country's difficulties are intricately rooted in its founding revolution – the only successful slave revolt in the history of the world - as well as the hostility that this rebellion generated among the colonial powers in the country and the penetrating struggle within Haiti itself to define its newfound freedom and realize its promise (Dubois, 2012). This chapter will examine the Haitian Revolution and the isolation and impoverishment that resulted from it and how colonial powers (particularly France and the United States) played a powerful role in the systematic and callous fracturing of the new nation and creation of a post-colonial legacy of oppression (Chierici, 1996). As well, weak and corrupt political structures which have caused the emigration of millions of Haitians. The enduring internal political conflicts of Haiti and their impact on migration will also be addressed and examined.

Migration patterns from the Caribbean are historically grounded. Recent outflows of people mostly occurred due to a combination of political and economic uncertainty in the region supported by an expanding network of cultural and linguistic ties in the diaspora (Orozco, 2003). For Haiti, internal migration from the countryside to Port-au-Prince, as well as to foreign countries, of millions of Haitians illustrates a profound dissatisfaction with the political and economic state of affairs in the nation, particularly with policies that have produced the kinds of development responsible for the creation of so much wealth for so few people (Bellegarde-Smith, 2004). The use of political oppression, violence and power by small elite groups at the helm of the country (particularly within the last half-century) in order to achieve economic and financial preeminence, has caused countless Haitians to go into exile. About 1.5 million Haitians live abroad, roughly one-fifth of Haiti's population and one of the world's highest ratios (Bellegarde-Smith, 2004).

## The Haitian Revolution and Emergence of the “Pariah” State

The colony once known as Saint-Domingue represented, in the eyes of France, a purely economic value (Coupeau, 2008). Agricultural products from the plantations on the island were shipped through port-towns to France, and the colony received merchandise, manufactured products, and machinery in return (Coupeau, 2008). At the dawn of the French revolution, Saint-Domingue was incredibly prosperous and the most populated colony in the Caribbean as well as the world’s largest sugar producer (Coupeau, 2008). The social structure of colonial Haiti reflected the colony’s economic purpose. The hierarchy was organized with a minority white elite ruling at the top, a large population of enslaved Africans at the bottom, and a growing intermediate group of people of mixed race. Because the plantation (*habitation*) was created to serve external markets and not to meet local demands for foodstuffs or manufacturers, the locus of financial and political power was outside Haiti. Thus the plantation economy was the primary dictator of acceptable modes of interaction between the dominant Western culture and the subjugated African cultures (Bellegarde-Smith, 2004).

Throughout the Atlantic world in the late 1700s, newly emergent groups fought to be acknowledged, to be free, and to be given political independence (Knight, 1990). In August 1791, the slave population of Saint-Domingue began to pursue their own liberty, equality, and fraternity, and within a year, the colony experienced a slave revolt unparalleled in the accounts of slavery (Knight, 1990). The slaves were led by Toussaint L’Ouverture<sup>2</sup>, himself a former slave. The Haitian revolution of 1791-1804 did not simply seek to achieve political independence for the state but also the personal freedom of more than eighty percent of the inhabitants (approximately 500,000) who were slaves (Knight, 1990). The social consequences of the revolution were enormous. The establishment of the independent state of Haiti marked a momentous occasion, not just for black people but also for black

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<sup>2</sup> Toussaint L’Ouverture (born François Toussaint (1743-1803)) was the early leader of the war of independence; he was nicknamed L’Ouverture because of the “bravery with which he forced openings in breaches” (Coupeau, 2008, p. 165). L’Ouverture has been generally recognized as a military leader on par with great European and North American rulers and strategists. He exhibited rare intelligence as an administrator and unsurpassed abilities with regard to military strategy. L’Ouverture was captured and imprisoned in France for a year, prior to his execution in April 1803 (Coupeau, 2008).

power in the Caribbean. It irreparably destabilized the foundation of the slave system and provided a faint ray of hope for the forces of non-European nationalism throughout the Americas.

In 1776, the Americans fought for their freedom and won. Fifty years later, Haitians endeavoured to do the same. In a seminal article entitled *"the Hate and the Quake"*, written in the aftermath of the earthquake which devastated Haiti in 2010, Sir Hilary Beckles a noted Caribbean historian suggests that the Haitian revolution angered the colonial powers of the time and resulted in a the systematic and very deliberate destruction of the nation. He observes:

The Americans declared their independence and crafted an extraordinary Constitution that set out a clear message about the value of humanity and the right to freedom, justice, and liberty. In the midst of this brilliant discourse, they chose to retain slavery as the basis of the new nation-state. The founding fathers therefore could not see beyond race, as the free-state was built on a slavery foundation. The water was poisoned in the well; the Americans went back to the battlefield a century later to resolve the fact that slavery and freedom could not comfortably coexist in the same place. The French, also declared freedom, fraternity and equality as the new philosophies of their national transformation and gave the modern world a tremendous progressive boost by so doing. They abolished slavery, but Napoleon Bonaparte could not imagine the Republic without slavery and targeted the Haitians for a new, more intense regime of slavery. The British agreed, as did the Dutch, Spanish and Portuguese. All were linked in communion over the 500,000 blacks in Haiti, the most populous and prosperous Caribbean colony. As the jewel of the Caribbean, they all wanted to get their hands on it. With a massive slave base, the English, French and Dutch salivated over owning it-and the people. The Haitians having won their independence foiled these plans thus angering most of the world's imperial powers (Beckles, 2010, par 4-9).

Given the circumstances under which the Haitians had won their freedom, the defeated French government refused to recognize Haiti's independence and declared it "an illegal pariah state" (Beckles, 2010, par 11). The Americans also declined to recognize the country's independence, and instead offered solidarity to the French. The Haitians, in the past, had looked upon the US as an ally and mentor in independence. Furthermore, the British, who had a vested economic interest in the small Caribbean nation and had been negotiating with France for the ownership of Haiti, also stood in solidarity with the US and France, as did every other nation-state in the Western world (Beckles, 2010; Bellegarde-Smith, 2004). Beckles argues that, "Haiti was isolated at birth-ostracized and denied access to world trade,

finance, and institutional development. It was the most vicious example of national strangulation recorded in modern history. The Cubans, at least, have had Russia, China, and Vietnam. The Haitians were alone from inception; the crumbling began” (Beckles, 2010, par. 12).

In 1825, with the economy bankrupt and the political elite isolated, the Haitian government took the decision to suggest a *rapprochement* (a reconciliation of sorts) with the French. The country was desperate to find a solution which would finally allow it to be recognized as a sovereign nation and be reinstated into the world economy (Beckles, 2010; Bellegarde-Smith, 2004). The French government was invited to a summit, where it proceeded to conduct an assessment of the value on all lands, all physical assets, the 500,000 citizens who were formerly enslaved, animals, and all other commercial properties and services. The sum amounted to 150 million gold francs<sup>3</sup>. In return for national recognition, Haiti was ordered to pay this enormous reparation to France (Beckles, 2010). This ushered in a methodical and deliberate destruction of the new Haitian republic. Through its enforcement of the reparation, France bankrupted Haiti and reduced the country to a failed state. This ruthless mistreatment ensured the collapse of the Haitian economy (Beckles, 2010). Haiti was left penniless and powerless, an inauspicious start for the young republic. The French seemingly enjoyed the misfortunes befalling the Haitians, all the while growing richer. Still bruised by the defeat at the hands of an army of slaves, France appeared to celebrate the fact that they would eventually triumph over Haiti financially. Beckles further suggests that, “the collapse of the Haitian nation resides at the feet of France and America, especially. These two nations betrayed, failed, and destroyed the dream that was Haiti; crushed to dust in an effort to destroy the flower of freedom and the seed of justice” (Beckles, 2010, par. 26). Haiti’s legacy as a failed nation needs to be contextualized: it has been suggested, rather, that

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<sup>3</sup> President Aristide, in his second administration asked the French to recognize their debt to Saint-Domingue which had allowed France to become a world power with commensurate economic development. Aristide claimed “restitution” for Haitian payments to former slave owners. The value of this amount was estimated by financial actuaries as US\$21 billion. This amount was the current equivalent of the 150 million gold francs which had been paid by Haiti to France. This sum of capital could rebuild Haiti and place it in a position to re-engage the modern world (Beckles, 2010; Bellegarde-Smith, 2004). To date no repayment plan has been outlined by the French, nor is it likely to.



Haiti was demolished and ruined by two of the most powerful nations on earth, both of which continue to have a key interest in its present situation (Beckles, 2010).

#### Haitian Social-Political History – The Last Hundred Years

The establishment of a system of hierarchy, inequality, and domination that has characterized Haitian social life is strengthened by a political structure which since the period of independence has engendered authoritarian regimes (Dubois, 2012). Moreover, the U.S. military occupation of Haiti, that endured from 1915 until 1934 and crystallized the emergence of the United States as the dominant power in the Caribbean, necessitated the centralization of all activities in Port-au-Prince and was also meant to pacify the countryside. A marked resistance to the occupation that arose from the Haitian peasantry resulted in policies which were implemented to massively displace the population, and use the resulting dispossessed peasants as a source of indentured labour for the U.S.-controlled sugar industry in Cuba and the Dominican Republic (Charles, 1995; Dubois, 2012). The occupation also forced many middle-class blacks to migrate to the capital, where access to state power was the only avenue for social mobility and source of income. From their ranks rose political figures such as Francois Duvalier and many of the military officers who took control after the fall of the Duvalier family dictatorship in 1986 (Charles, 1995). While occupying Haiti, U.S. representatives and officials benefited from and promoted the racial conflicts which had arisen during the colonial period, favouring mulatto regimes and thus reinforcing the hegemony of the mulattos' fraction of the oligarchy. It was also during this contentious period that the Haitian army was created (Charles, 1995).

As a result of the political turmoil and popular discontent generated by the U.S. occupation, a movement led by middle-class blacks began distinguishing itself from the traditional ruling groups (mulattos) during the 1940s. By using colour politics and a populist ideology, this new colour/class movement seized power and was able to secure and maintain its hegemony over the state (Lundahl, 1989; Charles, 1995). The Duvalier political regime was the offspring of this movement.

The 1957 election of Dr. François "Papa Doc" Duvalier as president of Haiti signaled the beginning of a powerful and despotic political machinery and ushered Haiti into a new era in its political development (Lewis, 2004). The most important hallmark of this regime would be greed, corruption, and repression. Methodical efforts to extort the population were instigated; a state of terror followed. Authoritarian regimes, economic deprivation, poverty, disease, human right violations, and corruption were not new to Haitian history. Yet the Duvalierist state was a novelty as it marked an unprecedented level of state corruption and the emergence of institutionalized state-violence (Charles, 1995). By ensuring that only his most fervently loyal supporters were in charge and reshuffling the high command several times, "Papa Doc" Duvalier was able to diminish the authority of the Army. Further, he created the *Tonton Macoutes*<sup>4</sup>, not only to control, through terror, the civilian population, but also to counteract the Army's power. Certainly, violence and force always play a central role in any state, yet robust, civil societies are able to limit and codify its use. For all political factors, the coming to power of the Duvaliers marked the entry of ironfisted policies. All political and social organizations were completely outlawed. The President and his advisors were also responsible for the systematic disbanding of labour unions and the silencing of opposition newspapers (Charles, 1995). When, "Papa Doc" died in 1971, power was ceded to his son Jean-Claude "Baby Doc" Duvalier (Lundahl, 1989). Not only was the transfer of power from father to son politically significant, but the length of time that each president ruled broke all existing records in the country's history. The almost 30 year political reign of the Duvaliers has been identified as one of the most brutal and violent periods in Haitian history, and was the longest stretch of uninterrupted government the country has ever experienced (Lewis, 2004).

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<sup>4</sup> The Tonton Macoutes served as the main tool of the Duvalier reign for the maintenance of the regime's grasp on the population. This militia group, often referred to as "henchmen", created a sense of fear through continuous threats against the public as well as frequent random executions. The Tonton Macoutes often stoned and burned people alive, regularly following such rites by hanging bodies of their victims in the streets as a warning to the population at large (Paravisini, 2010). The diversity of the victims was also a measure of the Macoute's cruelty. Victims ranged from women in the poorest neighbourhoods to business men and diplomats who refused to "donate" money (Paravisini, 2010).

It was in this political climate that the first major wave of migration began in earnest from Haiti. The repression of freedom of thought, expression and political ideals forced many of Haiti's professionals and educated population to flee. The first exodus of Haitians in the 1960s was comprised of many Duvalier political opponents and an important number of bourgeois mulatto families (Charles, 2006). Many of these Haitian migrants were forced to use rudimentary means of travel; thus the waves of "boat people" travelling perilously in the waters, carrying political refugees between Haiti and Florida, began. The first detected Haitian boat with refugees arrived on the shores of the US in 1963. Their request for asylum was denied, and they were deported. Thus signaling what would become a key component of U.S. immigration policy regarding Haitian asylum seekers (see Chapter 6: Findings). This was followed in the late 1970s and early 1980s by a large component of middle-class and working-class Haitians. As a result, by the mid-1980s, there were approximately 500,000 Haitians living in the United States and Canada (Charles, 1995). During that same period of time, Haiti lost between sixty and seventy five percent of its highly skilled workers (Charles, 2006). While south Florida has historically been viewed as a refuge of last resort for Haitian migrants and is in very close geographic proximity to Haiti; many of the earliest and some of the largest concentrations of Haitian settlement in North America were in the cities of Boston, New York, and Montréal, all of which were seen as holding more opportunities for economic and social mobility (Kretsedemas, 2005).

In spite of the desperate conditions that resulted in the forced migration of thousands of Haitians, most of the "boat people" who arrived on American shores were defined as economic migrants and not as political refugees by the U.S. Immigration and Naturalization Service (INS) (Kretsedemas, 2003). Many Haitian asylum-seekers were refused entry by the INS and those who were granted legal residency tended to receive less government assistance than Cuban refugees (fleeing a communist regime) who had also entered the US using similar means (Kretsedemas, 2003). Given that Haiti, was seen as a political ally for the US, the mass exodus of Haitians proved embarrassing for the US during the

Duvalier era because it meant that the state would have to prove that Haitians were economic and not political refugees, notwithstanding evidence to the contrary. For the US to have to admit that a connection may exist between dismal economic conditions and political strife may have invited ideological dissonance, and indicated that all was not well in a "democratizing" capitalist country like Haiti (Bellegarde-Smith, 2004). Migration seemed to increase at the same time as there was an increased level of U.S. aid and investment flowing into Haiti, and while the U.S. media and government were singing Jean-Claude Duvalier's praise on a regular basis. Haitian historian Bellegarde-Smith explains that "Haiti was open for business, but the successful development schemes, not so inadvertently, increased the hardships and inequality" (Bellegarde-Smith, 2004, p. 161). It was really during the Carter administration that the refugee flows began to increase. Between 1977 and 1981, around 50,000-70,000 Haitians arrived by boat to south Florida. During the period of 1986-90 there were fewer refugee boats, yet around 20,000 Haitians were still intercepted at sea (Charles, 2006).

The overthrow of the Duvalier regime in February 1987 and the coming to power of the first democratically elected government in February 1991, with the Lavalas movement and its leader, Jean-Bertrand Aristide, did not fully stop the flow of refugees. Nine months after taking the helm as President, a bloody military coup against the Aristide government triggered a renewal in the forced movement of Haitian asylum seekers. The military seizure of power brought massive killings and the disruption of socio-political life-the creation of internally displaced people and a spike in the numbers of refugees fleeing to the United States. By early 1992, around 34,000 Haitian refugees had been intercepted at sea. This has been identified as the second major wave of forced Haitian migration (Charles, 2006).

Following the coup that sent Aristide into exile on September 30, 1991 staunch supporters of Aristide and those who had voted for him in December 1991 were faced with violence and retribution. The military constantly conducted retaliatory raids. People were killed at random or were abducted and

never returned. According to some international human rights observers, in the cities alone, more than 3,000 Haitians died in the aftermath of the coup. Those whose lives were lost in "unobserved" rural areas are not included in this figure (Chierici, 1996). Even though Aristide had been duly elected with strong support from the poor and disempowered, his government was threatened from the onset. Aristide's popular People's Church movement threatened Haiti's ruling class, the military, and the Catholic Church (Chierici, 1996). Aristide preached that a popular struggle could succeed, and that poverty is not a social stigma that keeps the poor in a caste-like structure from which there is no escape.

The Haitian peasantry had been kept at an arm's length from the country's centres of power since the revolution. Without any connection to the state, no protection from it and no stake in it, the poor of Haiti were, to their detriment, the country's main source of income. In Haiti the peasants have been on the margins of society since the war of independence. Their labour has always supported the state, yet they have never had a voice in its affairs. When Aristide signaled that he would speak on their behalf, there was a spark of hope that was brutally dashed. Haiti's population was experiencing a "lack of autonomy, control, and resources, together with poverty, misery, senseless random acts of violence, and a profound disregard for human life, which would explain the despair, the feelings of rejection, and the need to look elsewhere for solutions" (Chierici, 1996, p. 410).

The mass forced migration of the Haitian peasantry during the 1980s and 1990s is reflected in the demographic data that has been gathered on the Haitian refugees who fled and arrived in the US. On average, researchers have found that Haitian migrants who left during and after the 1980s have been poorer and considerably less well educated than their predecessors. A vast majority of them earn little beyond subsistence and frequently are undocumented (Weiss Fagen, 2009).

The political reign of Jean-Bertrand Aristide is complex, complicated and riddled with violence, political uncertainty and chaos. After having spent three and a half years in exile after the 1991 coup, Aristide was restored to power by a U.S. - led military intervention in 1994 and then completed his first

term in office. To counteract the political influence and strength of the Army, with the help of the international community, the Haitian National Police (PNH) was created. The goal of the PNH was to establish a civilian force to provide law and order as a counterpoint to the military's historically repressive and violent tactics. According to the Haitian Constitution, Aristide would be unable to serve consecutive terms, and so, in February 1996, Aristide's first presidency came to an end. However, Aristide was able to run in the 2000 presidential election as ruler of a new political party the Fanmi Lavalas which he had formed shortly after the end of his first presidency. Aristide handily won reelection. The election, however, was marred with allegations of voter fraud and political pressure from Lavalas and the U.S. government on Haitians to vote in favour of Aristide. It remains uncertain which allegations are true and which are false (Charles, 1995; Dash, 2004; Kovats-Bernat, 2006; Orozco, 2003).

The efficacy and ability of Aristide's government has been greatly debated within Haiti and internationally. While some argue that the political situation under the Aristide government created the conditions for a movement of forced migration, others still perceive it as the most democratic administration that Haiti has known. However, what remains irrefutable is that during the second Aristide administration, Haiti remained politically unstable and violence for many was inescapable. For instance, in February 2004 political instability in Haiti erupted in a wave of political assassinations, detention, massacres, torture of prisoners, and disappearances, and finally the eventual exile (for a second time) of Jean-Bertrand Aristide. Following the president's second exile, U.S. and international troops were sent to Haiti to stabilize the increasingly violent situation. While Aristide and his party may not have been directly responsible for all of the violence and unrest, his precarious position as President, the role of the PNH, and the influence of Lavalas, have all been identified as push factors for the forced migration of Haitians during this period (see Chapter 6: Findings) (Charles, 1995; Dash, 2004; Kovats-Bernat, 2006; Orozco, 2003).

In the midst of Haiti's ongoing political crises, refugees have fled the country en masse. Between 1991 and 1994 (Aristide's first term in office); nearly 70,000 Haitian migrants were stopped by the U.S. Coast Guard, including 38,000 in 1992 and 24,000 in 1994. Since then, the number of Haitians intercepted in boats leaving for the US has been about 2000 a year; however, the number has been steadily rising since 2002 (after Aristide took office for a second time) (Martin, Midgley, & Teitelbaum, 2002).

Haitians have tried in vain to create a free and democratic state for 200 years. Their efforts have been frustrated by a post-colonial history of subjugation; by internal power struggles and a political system that has traditionally and systematically kept much of the Haitian population marginalized, poor, and isolated from centres of power; and by state sanctioned violence and chaos that has been shaped by a powerful fusion of imperialism and political maneuvering. Sadly, Haiti "no longer commands the hope of blacks worldwide, but brings forth shame and disillusionment for those who misunderstand the causes of underdevelopment and the ravages of self-hatred. Haiti remains the poorest country in the Americas, having gone from riches to rags for the benefit of its masters" (Bellegarde-Smith, 2004, p. 258). The Haitian Revolution and the ensuing rise of radical Haitian political ideology in general may be considered as an attempt to exorcise the colonial past (Dash, 2004). It must be acknowledged that because the Haitian Revolution vehemently challenged the prejudices of its time, and was such an unthinkable phenomenon, it "has been confined to the margins of modern history or romanticized as an inspiring narrative of black slave resistance" (Dash, 2004, p. 2).

Much of the research done on Haitian migration has focused on the movement of refugees and migrants from Haiti to the United States. However, what will be discussed in Chapter 6: Findings, is that racial biases and stigma, labour market marginalization and oppressive and aggressive American immigration policies with regard to Haitian refugees has created another wave of forced migration towards Canada. What has become apparent is that the United States government seems to be in

violation of its own laws on asylum and its international obligation on *refoulement* contracted under the UN protocol of 1968, where the government had pledged not to "push back" (*refouler*), refugees to a place where they may face political persecution (Bellegarde-Smith, 2004). As a result, Haitian refugee claimants have systematically been denied asylum and have been faced with the difficult decision of remaining in the US illegally, returning to Haiti or seeking asylum and status elsewhere, namely Canada. In fact, Canada's emerging presence on the world scene offsets, in effect, the long-standing relationship between Haiti and the United States. Canadian interest in Haiti is due partly to a massive Haitian migration into Québec, with a very high concentration in Montréal (approximately 70,000). Though Canada recognizes U.S. dominance in the Haitian quagmire, it has played an influential supporting role in terms of both government and private agencies in the field of development assistance (Bellegarde-Smith, 2004).



## CHAPTER 4: CANADIAN REFUGEE POLICY

Canada has an international reputation as a nation which welcomes refugees. Its policies are seen as fair, generous and open-minded. Given this image, refugee claimants escaping persecution and hardship in Haiti imagined Canada to be a promised land, free of political strife and violence. As the participants in this study have found, and what the research has shown, is that the reality of the current Canadian refugee determination process may not reflect this notion.

In the winter of 2012 the federal Conservative government introduced Bill C-31 in the House of Commons. The *Protecting Canada's Immigration Policy Act* has garnered much attention and fostered much debate. Immigration and Citizenship Minister Jason Kenney argued that the provisions in the act are fair and balanced and suggested that it will lead to a reduction of "bogus claims" and reduce the massive backlog of refugee claims which in 2012 stood at about 50,000. Critics of the act have argued that components of the new bill will not only harm refugees but will also produce a two-tier refugee system and is in direct contradiction with the *Canadian Charter of Rights and Freedoms* (Bauder, Des Rosier, Go, & Ng, 2012; Canadian Association of Refugee Lawyers, 2012; Canadian Council for Refugees, 2012). What is clear, however, is that the current refugee determination process in Canada is flawed and in need of change. Both critics and proponents of the new bill agree on this point. Yet a clear philosophical and ideological schism exists about how to address the issues. In the meantime, those most affected by the refugee determination system-refugee claimant and asylum seekers-are caught in the crosshairs and remain in limbo while the debate rages on.

### Historical Overview of Canadian Immigration and Refugee Policy

The contemporary debate on the rights and laws associated with refugee claimants in Canada must first be contextualized within a historical overview of Canadian refugee policy. As an immigrant and refugee receiving country, Canada accepts nearly 250,000 immigrants every year. About 12,500 of

this total number accounts for refugee claimants (41st Parliament, 1st Session, 2012; Jones & Baglay, 2007). While Canada may pride itself on its contemporary treatment of refugees, historically Canadian refugee policy has not always been exemplary. Although Canada provided refuge to dissidents and the persecuted since its early settlement, the history of its formal refugee determination is very young. Before the 1970s, refugees were admitted on an ad hoc basis in response to particular refugee crises and were often treated similarly to economic migrants. In the late 19th century, many of the constraints on immigration were directly affected by and aimed towards the economic priorities of the country. These were, at the time, agricultural development and the settlement of the prairies, viewed as a means of land development. Immigration was even included in the same chapter of the *British North America Act* as agriculture (Jones & Baglay, 2007).

A key element of early Canadian immigration policy was one of exclusion and racism. The final decades of the 19th century marked the start of racially-based restrictions on immigration. The government was starting to assign greater weight to perceived ethnic and cultural factors as opposed to the occupations of prospective immigrants. Many xenophobic and racist attitudes originated in Western Canada as a reaction to the settlement of migrants of other races (particularly Chinese migrants) or groups with lifestyles or traditions different from the dominant group (like the Mennonites) (Jones & Baglay, 2007). Almost from the time when the Canadian government began to control immigration to Canada until the 1960s, explicitly racist laws and practices restricted the immigration of certain groups. This racialized and xenophobic approach to immigration was epitomized by the federal *Chinese Exclusion Act* in 1885 which imposed a heavy tax on all Chinese immigrants of \$50 dollars. This amount was then increased to \$100 in 1902 and eventually to an astounding \$500 in 1903. The 1923 *Chinese Immigration Act* barred entry of Chinese so effectively that only 25 Chinese migrants entered Canada between 1923 and the repeal of the act in 1946. Even after the repeal of the *Chinese Immigration Act*,

the entry of Chinese migrants remained restricted under more general rules relating to persons of "Asiatic race" (Canadian Council for Refugees, 2000; Jones & Baglay, 2007).

Although in the 19th century Canada represented freedom for some black Americans escaping slavery through the Underground Railroad, in the 20th century the immigration of persons of African origin was actively discouraged. In 1911 an Order in Council prohibited "any immigrant belonging to the Negro race, which race is deemed unsuitable to the climate and requirements of Canada" (Canadian Council for Refugees, 2000, p. 5). While this order was never proclaimed, the same result was attained through processes such as fines levied on railway companies that distributed transportation subsidies to blacks, conditions being set for additional medical examinations, and the hiring of agents to aggressively discourage black Americans from immigrating to Canada (Canadian Council for Refugees, 2000).

In the 1960s, ideological and economic influences led to the reevaluation of the selection criteria for immigrants. Prior to this, Canada had primarily admitted immigrants on the basis of their racial categorization rather than the individual merit of the applicant, with preference being assigned to immigrants of northern European (especially British) origin over the so-called "black and Asiatic races", and at times over central and southern European "races" (Canadian Council for Refugees, 2000, p. 5). The 1960s ushered in new immigration policies which promoted the liberal values heralded in Canadian society and were motivated by the eradication of various discriminatory admission policies. Economic considerations reinforced this motivation as the traditional sources of labour from Europe were no longer producing enough immigrants. Therefore, out of necessity, Canada began to admit non-Europeans. The demands of industrialization placed a greater emphasis on the abilities of would-be immigrants and resulted in the development of corresponding selection criteria (Jones & Baglay, 2007).

Throughout the 1940s-1960s, there was very little evidence in Canada's refugee policy of an established long-term approach to helping people in need. Although Canada did admit groups of refugees from a variety of countries, all arrangements were made on an ad hoc basis and were generally

motivated by economic considerations. In 1969, Canada acceded to the 1951 *UN Convention Relating to the Status of Refugees* (the Refugee Convention); at the same time it also acceded to the 1967 *Protocol Relating to the Status of Refugees* (the Refugee Protocol). The cause for the nearly two-decade delay in acceding to the Refugee Convention was because, Canada argued, the open-ended refugee definition and *non-refoulement*<sup>5</sup> principal ran contrary to its interests of immigration control and the capacity to turn away “undesirable” migrants (Jones & Baglay, 2007). In 1986, Canada received the Nansen medal<sup>6</sup> for its work with refugees, thereby establishing it internationally as an example of a country that welcomes refugees. Since then, many changes have been implemented to the refugee determination system that have generated much criticism from pro-refugee groups. Until the early 1990s Canada had imagined itself as a country of resettlement, not as a country of first asylum. However, a major ideological and social-political shift has resulted in increasingly restrictive measures being put in place. Refugee policy in Canada is one of the most contentious and debated issues in current political and social discourse (Lacroix, 2004).

#### Contemporary Canadian Refugee Policy

The current refugee determination process in Canada is a long and complex process which is in great need of reform. All those involved in the process - refugees, lawyers and consultants, settlement service workers, government officials and politicians and researchers - are in agreement that there exist fundamental flaws in the manner in which Canada determines who is a bona fide refugee. During this period refugee claimants have limited access to work, social welfare, and health and social services and are generally separated from their immediate family (Showler, 2009; Lacroix, 2004). There are, however,

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<sup>5</sup> The principle of *non-refoulement* is the cornerstone of asylum and of international refugee law. Following from the right to seek and to enjoy in other countries asylum from persecution, as set forth in Article 14 of the Universal Declaration of Human Rights, this principle reflects the commitment of the international community to ensure to all persons the enjoyment of human rights, including the rights to life, to freedom from torture or cruel, inhuman or degrading treatment or punishment, and to liberty and security of person. These and other rights are threatened when a refugee is returned to persecution or danger (UN High Commissioner for Refugees, 1997).

<sup>6</sup> The Nansen Medal Award was launched in 1955 by UNHCR's first High Commissioner G.J. van Heuven Goedhart. It is named after the famous Norwegian polar explorer and humanitarian, Fridtjof Nansen, the first League of Nations High Commissioner for Refugees and the winner of the 1922 Nobel Prize for Peace. It is an annual award (UN High Commissioner for Refugees, 1997).

critical ideological and philosophical differences in the way varying entities would approach reforming the system. While the current Conservative federal government has adopted a more aggressive and exclusionary approach, opposition members, settlement workers, researchers and others suggest that the approach may be faulty. They propose a more inclusive, less restrictive system focused primarily on human rights and the rights of refugee claimants. In the midst of the current political debate regarding Bill C-31, political rhetoric on both sides of the debate abounds.

### The Need for Reform

It can take up to eight years for Canada to process a refugee claimant's request. For instance, all five of the participants interviewed for this study have been in Canada for more than five years awaiting decisions on their refugee claim. There are a number of steps in the refugee determination process which combined are a barrier to quick and effective methods of refugee determination. Both the current government and members of the opposition agree that there is a need for restructuring. There is currently a backlog of tens of thousands of refugee claims in Canada. The current system is not adequately resourced to manage the annual number of claims arriving and, as a result the Immigration and Refugee Board (IRB) is facing a serious backlog of claims and delays in completing decisions. (Showler, 2009). Every refugee claimant currently living in Canada is affected by this backlog. Presently, refugee claimants and asylum seekers, in particular those making in-land refugee claims (as opposed to government assisted refugees and those coming from designated refugee camps around the world) face a number of obstacles as they make their way through the process. The challenges for refugee claimants who are awaiting determination of their claim are particularly acute because they are not eligible for many benefits and services available to recognized refugees. Given the current average time before hearing at the immigration and refugee board, many refugees will have spent years in this difficult limbo situation before they can acquire permanent residence. The adversities experienced in those first few years in Canada are likely to have profound and long-lasting consequences for these refugees'

integration. (Canadian Council for Refugees, December 2011). As the official opposition immigration critic for the New Democratic Party of Canada (the NDP), MP Don Davies was quoted as saying,

I will grant the Minister (Immigration and Citizenship Minister, Jason Kenney) that there was need for reform. The Minister is correct when he says that the old system is not working. People make a refugee claim, they are denied, and they appeal. Then they make an H and C (Humanitarian and Compassionate) application and they are denied the appeal. Then they make a pre-removal assessment application and they are denied the appeal. It can take too long to remove people who do not have valid claims. That is why the parties worked on a streamlined quick process to make those determinations (referring to Bill C-11 debated in 2010) (41st Parliament, 1st Session, 2012).

Another point, on which most agree, is that Canada has a moral and legal responsibility as a signatory of the 1951 UN *Convention for the Protection of Refugees* as well as in keeping with the *Canadian Charter of Rights and Freedoms* (the Charter) to assist those who are in fear of persecution and are in danger. The federal government argues that the current proposed legislation meets and, in fact, goes well beyond all of Canada's moral and legal obligations (41st Parliament, 1st Session, 2012). Critics of the current proposed legislation, however, suggest that it is in direct contradiction to both the Charter and the UN Refugee Convention suggesting that "the Bill protects no one and threatens many. It treats asylum-seekers as criminals rather than people in need of protection. It is discriminatory, conflicts with Canadians' sense of fairness, and violates the fundamental rights guaranteed to all people by the Canadian Charter of Rights and Freedoms" (Bauder, Des Rosier, Go, & Ng, 2012, par.2). Members of both the Liberal Party and the New Democratic Party argued during parliamentary debates that the current proposed legislation, in particular the detention of refugee claimants without the review of their file, contravenes their right to freedom and legal rights. Members of the opposition as well as refugee scholars and activists suggest that these amendments will lead to Supreme Court challenges because those with refugee status are also protected by the Charter of Rights and Freedom (41st Parliament, 1st Session, 2012; Elliott, 2012). Therefore, the need for reform not only lies in the length of time it takes to determine a refugee claim but in the manner in which it is executed.

In response to the strenuous and rigorous criticism over the unconstitutionality of this particular aspect of the Bill, the government announced in May 2012 that it would amend this section of the Bill by introducing a 14-day and six-month review of the detention of so-called "mass arrivals" of refugees who had made their way to Canada through smuggling (rather than the original 12 month time period). "People have raised concerns about this. We've studied the issue closely as a result of which the government has decided to amend the bill to allow for an initial detention review at 14 days initially, and then subsequently at six months," said Kenney (Elliott, 2012, par. 2). The Bill originally specified that a judicial review would only be required after those refugee claimants designated as "mass arrivals" by the Minister had been in detention for one year (Elliott, 2012). Another amendment made was that refugees who have had their claims approved by the government will not be stripped of their permanent residency status if conditions improve in their country of origin. The government does, however, preserve the right to apply to the IRB to revoke the protective status and permanent residency of anyone found to acquire these through fraudulent means (Elliott, 2012). Refugee law professor Peter Showler praised the attempts to change the law but noted that changing the first review to the 14-day timeline now makes it difficult for migrants to prove their identities and argued that Bill C-31 remains a flawed and discriminatory piece of legislation (Elliott, 2012).

The changes suggest an attempt by the government to placate the grave concerns raised about Bill C-31 by agencies, researchers, opposition parties and the public rather than introduce substantive changes to the Bill. Many elements of the legislation continue to be potentially harmful to refugee claimants and numerous aspects of the bill remain too punitive. This sentiment was echoed by Lorne Waldman, a refugee lawyer in Toronto, when interviewed by the CBC regarding the changes to the legislation. He suggested that "the minor concessions that the minister has made don't alter my opinion one iota and don't alter the likelihood of major constitutional challenges" (Elliott, 2012).

## Exclusionary Policies

Immigration Minister Jason Kenney has scoffed at the notion that his party and the current government has introduced legislation which is exclusionary and denies basic fundamental rights to refugee claimants (41st Parliament, 1st Session, 2012). He suggests that "'xenophobia', 'beating up on refugees' and 'anti-immigrant' are the kinds of terms we could fairly ascribe to the far-right French party: Front National De La France, to the British National Party or to the xenophobic parties of Western Europe that are against immigration and refugee protection" (41st Parliament, 1st Session, 2012). A review of Canadian refugee policy over the last decade would suggest otherwise.

In Canada, as in Europe and the United States, migrants - refugees in particular - represent a supposed threat to national identity. As a result, the Global North has adopted discriminatory and restrictive laws to protect itself against this perceived threat. These policies create an ethno-racial construction of the refugee which in contemporary discourse has become demonized and characterized as 'illegal', 'harmful' and 'destructive'. The collective acceptance of the refugee as threatening has enabled governments in the developed world to institute these exclusionary policies. Since the 9/11 terrorist attacks in the United States, there has been a global backlash against refugees and asylum-seekers. Many liberal democratic countries like Australia, New Zealand, the United States, the United Kingdom and many European countries have adopted provisions that greatly restrict the movement of refugees around the world. The Canadian government has implemented many of the same types of provisions. In fact, current refugee reforms in Canada are in part based on the United Kingdom model, where government officials make rapid decisions based on limited information and limited procedural rights for the refugee claimant. The U.K.'s system also employs an early fast-track process with even fewer rights for claims that are assumed to be unfounded. The fast-track claims are selected from a list of presumably safe countries of origin. On the list of presumed 'safe countries' there are numerous countries that produce a significant number of refugees. In their assertions that the refugee



determination process must be accelerated, the Tories have introduced legislation in keeping with the exclusionary policies adopted elsewhere, thereby allowing the Immigration Minister unilateral power to declare any country as 'safe.' Under the legislation, refugees from safe countries who have their claims denied may be quickly deported without an appeal. Determining who is a refugee is tremendously difficult; it requires that individual claims be closely scrutinized and cannot be easily and reliably decided by objective categories (Showler, 2009). Variations of the U.K. model of asylum have been employed by most European countries with mixed results. Critics have maintained that quick decisions by ill-trained refugee claim adjudicators have resulted in too many mistakes, and legitimate refugees have been unjustly deported to persecution (Showler, 2009). Since 2001, Canada has implemented a number of new measures to enhance border control, monitor human movement across the border, and ease the identification of individuals crossing the border. These measures consist of the development of a national security policy, controversial biometric technology for border control, and the negotiation of a number of Canada/U.S. agreements on immigration, asylum, and security measures (Jones & Baglay, 2007).

These restrictions which have been placed on human mobility have a far greater impact on the poorest members of the world since most refugees are fleeing from failed states in the developing world. Migration thus can be seen as a class-based phenomenon and for the poor as constituting a new form of indentureship. The call for stricter border control, the detention of asylum seekers and the deportation of illegal aliens has been steadily increasing. The public demand of such actions is obvious: right-wing electoral victories in countries as distinct as Denmark, the Netherlands, Belgium, Austria, France, Australia and Canada can be linked to fears of mass influxes migrants from the Global South. In actuality, the vast majority of refugees remain in poor countries in Africa, Asia, the Middle East and Latin America (Castles & Miller, 2009). The current Conservative government has suggested that the present legislation being debated in Parliament, and previous immigration laws, have been implemented to

enhance the safety and security of Canadians and to protect the integrity of the Canadian immigration system (41st Parliament, 1st Session, 2012). Critics, however, suggest that the government is playing on the fears of terrorist attacks and codifying these fears into law. In other words, using a repressive agenda, the government is attempting to garner support by making people feel that they are under threat. The refugee claimant thus becomes an easy target which can be demonized and maligned to suit the needs of the government. Given the fact that the refugee claimant has no legal status in Canada and no right to vote, the federal government can play on the fear of the Other while facing very few consequences politically.

Current Canadian refugee policy has been steadily influenced by neo-liberal approaches to governance. A key component of the neo-liberal state is the adherence to principles of individuality and self-sustainability. Within this framework a clear shifting of responsibilities occurs: the state no longer assumes as much responsibility for the individual and emphasizes the necessity of self-reliance. This approach thus allows governments to rationalize the promotion of policies which strip refugee claimants of their basic human rights. For instance, in a shift towards the securitization of immigration and refugee policy in the post-9/11 era, asylum-seekers have been systematically exposed to laws and policies which have led to long-term detention, the imposition of strict visa regulations and heightened border controls. Rather than focusing on the causes of forced migration, governments have steadily implemented strategies to exclude asylum-seekers from their countries.

In Canada, a clear example of this ideological and political shift is the *Safe Third Country Agreement* between the United States and Canada. It was signed by the US and Canada in December 2002 and came into force in December 2004 (Jones & Baglay, 2007). The agreement states that claimants who have gone through the United States can be returned there and not allowed into Canada to make their claim. Non-governmental refugee advocate groups have suggested that the agreement contradicts the *non-refoulement* principle (Lacroix, 2004). In an informal discussion with a refugee

lawyer<sup>7</sup> working with Haitians in Toronto, a brief explanation of this agreement was provided using the case of Haitian refugee claimants as an example. The refugee lawyer explained that:

...under the Safe Third Country Agreement a person can claim at the Canadian border if there is a moratorium on removals to his/her country in Canada, but no moratorium in the USA. When the USA was deporting Haitians some learned it was possible to claim at the Canadian border and did so. The numbers dropped when the Obama administration announced a moratorium on deportations to Haiti -as the fact that both countries have a moratorium means there is no longer a Safe Third Country Agreement exception for Haitians generally (RB, personal communication, March 9, 2012).

The *Safe Third Country Agreement*, however, still remains for a number of other nations and is a critical part of the current debate on refugee policy.

The current system has been also been shown to discriminate against persons from certain countries. Protected persons from broken states, like Haiti, are often unable to obtain permanent residence because of the absence of acceptable identity documents. Persons from poorer and less developed countries are likely to face greater difficulty satisfying immigration requirements. Visa restrictions are frequently described by critics as the new face of the various racial exclusion acts of an earlier time. Such is the case for Haiti and would be Haitian asylum-seekers. Providing further insight into Canadian refugee policy, the refugee lawyer consulted for this study suggested that “it has become far more difficult for Haitians to leave the country with visas as the USA and Canada are keenly aware of the deplorable conditions in Haiti and therefore are strictly limiting issuance of visas” (RB, personal communication, March 9, 2012). In fact, this trend was occurring prior to the 2010 earthquake: in 2008, during the 110th American Congress, the persistent prohibition of the use of funds to provide visas to certain Haitian asylum-seekers who were involved in political violence in Haiti was upheld (Wassem, 2010). During a placement at a Toronto agency serving refugees in the summer of 2011, I observed that other racialized refugee claimants and asylum-seekers from countries such as the Democratic Republic

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<sup>7</sup> The immigration lawyer consulted practices law in Toronto, Canada focusing the majority of his work on refugee cases. In a series of personal communications, via email, he provided some insight on the Canadian refugee determination process and the case of Haitian refugee claimants in particular.

of Congo, Rwanda and Burundi were also facing similar circumstances. While these policies do not inherently deny the important extensions of the Charter protection to noncitizens, they do highlight the fundamentally discriminatory and contradictory nature of migration laws (Jones & Baglay, 2007).

#### Political Rhetoric and Refugee Policy

Critics of the Bill C-31 have suggested that fierce rhetoric accompanied the launch of a bill that protects systems, not refugees. The Canadian Council for Refugees (2010) rejected the notion that the system has been "broken" by abusive claims, and argued that the rhetoric about "abuse" and "bogus claims" is inaccurate and tarnishes Canada's reputation as a defender of refugees. In spite of these critiques, with the introduction of Bill C-31 the federal government has been reinforcing claims of the illegitimacy of many refugee claimants in Canada by using negative terminology to describe them, both in the media and in parliamentary debates. Refugee claimants have been characterized as "queue jumpers", "irregular", and abusers of a "generous, balanced, and fair" system (41st Parliament, 1st Session, 2012). The Minister of Public Safety, Vic Toews, has argued that "Canadians have no tolerance for those who abuse our generosity and take advantage of our country"; he has also promoted the need for "national security and public safety to send a message that those who would compromise our international borders will be dealt with severely" (41st Parliament, 1st Session, 2012). The Minister has argued that there must be "stronger laws in place that specifically condemn those who would undermine Canadian sovereignty and our immigration system" (41st Parliament, 1st Session, 2012). The title of Bill C-31 - *The Protecting Canada's Immigration System Act* - also represents the very clear position which has been adopted by the federal government. The Conservative government has been promoting its policies through aggressive media campaigns, and then using the headlines created in order to promote these same policies and agendas. The media are the most readily accessible sources of information and play an important role in the formation of public opinion. The government has a responsibility to correct misinformation about refugees in the media. When the government plays into

these misrepresentations of refugees as if they were true, it encourages xenophobia rather than contradicting it. This creates a vicious cycle, since by tightening the screws in response to negative public opinion about refugees; the government reinforces prejudices that in the first place informed policy (Canadian Council for Refugees, 2000). For instance, in a parliamentary debate on Bill C-31 the Minister of Public Safety said "the headlines tell the story" and continued by suggesting that "we have seen more incidents in the media about human smuggling criminal operations at work around the globe." (41st Parliament, 1st Session, 2012). The Minister then stated that the new legislation contained firm and reasonable measures that address specific challenges related to asylum-seekers, and that the integrity of Canada's borders would be compromised if the issues are not addressed (41st Parliament, 1st Session, 2012). The rhetoric regarding human smuggling masks the reality that the majority of those affected by the new legislation will not be the smugglers themselves, but rather bona fide refugee claimants who are escaping civil war, political upheaval, violence and poverty. The legislation aims to close the borders and prevent the flow of those seeking refuge in Canada.

The Conservative government has suggested that the changes that are being proposed with Bill C-31 will "enhance the safety and security of Canadians and, indeed, protect the integrity of our immigration system" (41st Parliament, 1st Session, 2012). The question remains, however, as to what security threat do refugee claimants and asylum-seekers pose to the greater Canadian public? It is difficult to envision malicious and intentionally malevolent behaviour from those who have been forced from their country of origin by war, political persecution, and in many cases poverty. This argument has been raised by both the Liberal and New Democratic parties of Canada. In his response to minister Kenney, the official immigration critic, NDP MP Don Davies, said:

...we always want to be careful with our analogies but we need to consider the Jews when they were fleeing Nazi Germany during World War II. When they made their way into a neighboring country through the dark of night, they did not arrive with the visa. They did not come through any UNHCR process because there was none at the time. They just made their way to safety. Those people were not bogus people. They were not jumping any queues. They were escaping for their lives (41st Parliament, 1st Session, 2012).

In the same debate on Bill C-31, the Immigration Minister addressed issues regarding "bogus claimants who abuse Canada's generosity, who jump at the immigration queue ahead of those who follow the rules" (41st Parliament, 1st Session, 2012). This discourse clearly reinforces the political ideology fostered by the Conservative government. It further constructs the refugee claimant as a security and criminal threat reinforcing the value placed on dominant hegemonic discourses. Once again, opponents of the new legislation have argued that measures such as incarceration policies have not been productive, and in fact cause further trauma to people, as well as delay the integration of refugees into society, and are very costly. Refugee claimants flee their country of origin out of desperation and fear. Therefore, Bill C-31 will not stem human smuggling. Given that desperate people take desperate measures smugglers will always find other ways of circumventing the law and exploiting the frightened asylum-seekers, thus ensuring refugees, in the end, will be the ones punished (Bauder, Des Rosier, Go, & Ng, 2012). The Canadian Association of Refugee Lawyers argued that the Minister's constant reference to "bogus" claims is an egregious misrepresentation suggesting that "the refugee definition is very technical. Many claimants come with a genuine fear of harm but may not meet the definition of a refugee. That does not make them 'frauds' or 'bogus', or abusers of the system. Their search for protection is genuine" (Canadian Association of Refugee Lawyers, 2012, par. 5).

Despite regulations and social justice policy preventing difference-based discrimination in all forms, certain conventions and misrepresentations persist in Canada about racialized immigrant minorities, particularly when it comes to refugees (Ighodaro, 2006). Torn between humanitarian, economic, socio-political, and post-9-11 security concerns, contemporary Canadian refugee policies principally aim to reduce the number of asylum-seekers by any administrative means and many contend the logic of exclusion prevails (Lacroix, 2004). As such, the advancement of restrictive immigration and refugee policies within the developed world constitutes a core element that aims at exclusion rather than inclusion (Lacroix, 2004). As security concerns continue to dominate national policy agendas, the

“othering” of migrants from the Global South an institutional bias toward refugees has been developed (Jones & Baglay, 2007). While the government eschews notions of a balanced and generous approach to refugee protection in parliamentary debate and the media; a closer inspection of refugee policy in Canada illustrates a far different reality. This tension can be vividly traced in the overall framework of Canadian refugee policy, which ambivalently combines liberalization in certain aspects of refugee determination (i.e. expanded grounds of protection) with greater restrictions in others (e.g. detention, security certificates and visa requirements). In examining immigration and refugee policy, the question of refugees and political-asylum seekers is much more complicated than that of immigrants who know their destination, and their fate, before leaving their home country. Current immigration and refugee policy is profoundly restrictive along the lines of class and social difference and has a direct impact on the refugee determination process of racialized refugee claimants such as those from Haiti.

## CHAPTER 5: METHODS AND SAMPLE

This study was carried out using a qualitative, one-on-one interview based approach. Six face-to-face interviews were conducted with Haitian refugee claimants in Toronto as well as a Haitian community leader. The data collected was transcribed and subsequently coded.

### Qualitative Research

My research was undertaken using the qualitative method. Qualitative research provided a multiplicity of approaches when doing research, allowing the researcher to understand, describe, and sometimes explain social phenomena from the inside in a number of different ways (Flick, 2007). Qualitative researchers are primarily concerned with gaining access to experiences, interactions and documents in their natural context and in a way that contributes to the particularities of the materials in which they are studied (Flick, 2007). This format was perfectly suited for my preferred area of research given that the primary goal was to highlight the struggles and hardships as well as the positive aspects that Haitian refugees may face while navigating through the Canadian immigration system. Following suggestions by Stake (1995), I chose to do individual interviews for a small number of Haitian refugee claimants living in Toronto. I proceeded to complete a comparative analysis of the data collected during the interviews to identify similar challenges and issues, commonalities in answers and interpretations of the refugee determination process in Canada, and to ascertain whether or not there was a general consensus regarding the pros and cons of the Canadian refugee determination process among the participants.

### Case Study

According to Creswell (2009), case studies are a strategy of inquiry in which the researcher explores a bounded system (a case) using detailed, in-depth data collection through the use of several types of sources of information. Qualitative research takes context and cases seriously for



understanding an issue under study (Flick, 2007). Much qualitative research is grounded in case studies, and often the case (its history and complexity) is an important context for understanding what is studied (Flick, 2007).

The case study approach proved very well suited to my selected research topic and allowed for an in-depth analysis of a complex issue in great need of attention. Following suggestions by Stake, I chose to do individual interviews for a small number (five) of Haitian refugees claimants living in Toronto. A comparative analysis of these cases identified similar challenges and issues faced by the refugee claimants as well as high points or positive aspects of the refugee determination system and Canadian refugee policy.

### Sample

As outlined in Creswell (2009), the idea behind qualitative research is to purposefully select participants or sites that will best help the researcher's question. The purpose of my study is to identify the challenges, if any, Haitian refugee claimants have faced during the refugee determination process and to assess the efficacy of the process as related to the Haitian refugee claimant community. Participants had to meet the following criteria to be considered: firstly, their immigration status had to be pending or in limbo and they had to be a refugee claimant or have had their refugee claim denied and be in the process of appealing the decision, and ; secondly, all participants had to originally be from Haiti.

Having had direct contact with much of the Haitian refugee community through a variety of volunteer work and community development, I had access to, or knew several people who met this criterion. Originally, I felt that the connections I had made in the community would allow me to meet my target number of interviews (seven to eight) very easily. I contacted several members of the Haitian community, including the Haitian consul general for Toronto, and those not necessarily refugee claimants themselves, to assist me in identifying and contacting potential interviewees. In most

instances, these contacts were unable to assist me in finding participants. One of these contacts gave me the name of a woman who knew some Haitian refugees who might be interested in participating in my study. The woman in question gave me the names of several people. After several failed attempts to contact these potential participants by telephone, I was only able to convert two of these leads into interviews. I also attempted to recruit other potential participants, using snowball sampling (Creswell, 2009), by asking those I was able to interview to mention my study to their fellow refugee claimants in the community. This yielded three more interviews. In the end, after three months of telephone calls, posterizing my study flyer in several agencies throughout the city, emailing and networking, I managed to complete five interviews. It would seem that those I contacted and who declined to participate were struggling with time constraints, as all of the potential participants contacted were working many hours per week and also attending church on the weekends, sometimes both Saturdays and Sundays. This left very little personal time and a few were not willing to use their free time to be interviewed.

To compensate for the low number of participants, I also asked an active community leader if he would agree to answer a slightly modified version of the questions I had asked the study participants, allowing me to have a fuller data set from which to make determinations. All six interviews took place between September 2011 and January 2012.

My aim was to have an equal number of men and women of different ages participate in the study for a gender balance and variety in my sample. My sample included three men ranging in age from 35 to 55 and two women both in their late thirties (36 and 37 years of age).

The option of conducting the interview in French or English was offered to each participant. Interestingly, all of the participants chose to be interviewed in English. In fact, several participants were very adamant about not wanting to speak French in spite of the fact that they could. When questioned about their motivations for an Anglophone interview, a few factors were outlined. Some of the participants suggested that given that they were living in an predominantly English speaking city and had

chosen to settle in an Anglophone community, they wanted to improve and maintain their English skills. Others indicated that having lived in Florida and other parts of the US for many years prior to making refugee claims in Canada; they were accustomed to speaking in English.

To protect the anonymity of the study participants when referring to them in the research I will make use of pseudonyms. The gender of each participant will be reflected in the pseudonym assigned.

### Setting

The original plan when conducting the interviews was to have participants come to the Ryerson University library or an agency that had agreed that I could hold interviews in their private offices (FCJ Refugee Centre). Both locations had private rooms for interviewing and were fairly centrally located in downtown Toronto. However, in the end, four out of the five interviews were conducted in the participant's home and only one interview was conducted on the campus of the university. Most of the participants did not live close to the city centre and faced challenges with transportation, unfamiliarity with the city, and the subway system, and also had other considerations which made the original interview locations impractical.

### Data Collection Tools

#### *Face to Face Interviews*

My primary data collection tool was the one-on-one, in person interview. Interview notes were taken and audio recordings were made for all of the interviews. The interviews were semi-structured in nature in that I had some prepared questions that targeted several of the salient research points but also allowed for conversation and discussion. I also utilized prompts to target the research areas I was focusing on if I found that the participant was veering off topic, or not answering the questions being posed to him or her. This approach also allowed the participants to delve further into their personal story if they choose to. The advantage of the face-to-face interview is that it provided confidentiality and allowed the participant to discuss their case as freely as they chose to.

All the data collected during the interviews has been stored on a USB key which has been password protected. Only I know the password for this device.

### Data Analysis

To analyze the data collected during my interviews and non-participant observation I followed the steps outlined in *Research Design* by John Creswell (Creswell, 2009). Creswell suggested that first one should organize and prepare the data for analysis. This involved transcribing interviews, and arranging the data into different types depending on the sources of information (Creswell, 2009). As indicated by Creswell the next step was to get a general sense of the information and identify what were the general ideas that the participants were saying. A detailed analysis using a coding process followed. Coding is the process of organizing the material into chunks or segments of text before bringing meaning to information. I developed and engaged a systematic process of analyzing textual data as recommended by Creswell. The fourth step in data analysis was to use the coding system to generate a description of the setting or people as well as categories or themes for analysis. This analysis was useful in designing detailed descriptions for case studies. Once the themes had been identified, I analyzed them within each individual case and across cases. Finally, interpretations or meanings of the data were made.

### Positionality

Qualitative research is interpretive research, with the researcher usually involved in a sustained and intensive experience with participants (Creswell, 2009). This introduces a variety of ethical and personal issues into the qualitative research process (Creswell, 2009). The interviewer thus becomes a tool in the data collection process and as such it is paramount to socially locate oneself in relation to the participant and within the larger context of the study. It is crucial to identify the inherent biases, values, and personal background such as gender, culture, socioeconomic status, race, age, education level, etc. which may shape the interpretation of the data (Creswell, 2009). Intricate insider/outsider issues can

manifest themselves when multiple dimensions such those mentioned above are factored into the process of the participant interview.

As a non-Haitian white female in my thirties, who is pursuing an advanced degree, I was clearly marked as an “outsider” by the Haitian refugee claimants that participated in my study. Perhaps the most two most salient factors that solidified my position as ‘outsider’ were race and gender (particularly with regard to the male participants). Prior to agreeing to participate I was asked questions regarding my motivation for research on a group of people who were not “my own”. In preliminary telephone calls explaining the interview process, I was also asked, quite frankly, by more than one potential participant, what my ethnic background was (I understood this to mean if I was ‘black’). I was asked about the familiarity I had with issues regarding the Haitian community and refugees given that I was neither. I would assume that my position as a non-Haitian female academic also may have caused several potential participants to refuse to be interviewed. In one specific case, I was discussing the parameters of the interview with a gentleman over the telephone. He had been referred by a previous participant in my study. I could sense trepidation in his voice and his hesitation was clarified when I overheard a female voice in the background forbidding him to talk to a “white girl” about “our problems”. I sensed that had I not been a woman and perhaps from the same cultural and racial background as them, the female may have had fewer objections to the study and the gentleman may have agreed to participate.

During the interviews themselves, issues of power and positioning also became apparent. For instance, on several occasions, I was asked if I could “fix” the issues that participants were having with their claims. I was asked to talk to “my people” about their problems. My role as researcher and not an authority figure in the immigration process had to be clearly delineated and was often met with disappointment and frustration on the part of the participant. Bargaining also became problematic in certain instances. I was told that I could be put in contact with other potential participants if I was able

to help the ones I had already interviewed. This quid pro quo was, as I was told, a given in the Haitian community and perhaps I did not understand given that I was not Haitian.

However, one point that provided some insider positioning was my ability to speak French. While all the interviews were conducted in English (the participants' choice), the very fact that I spoke French allowed the participants to communicate more freely. If, for instance, there were terms they did not know how to explain in English, the participant would transition to French with ease and this facilitated the interview process and also provided a familiarity with me that assisted in the interview process. Informing some of the participants that I was also in the process of learning Creole helped to improve my positioning as an insider.

Overall, the participants interviewed for this study provided incredibly keen observations and insights on the Canadian refugee determination process and their experiences navigating through it. This resulted in rich and thorough data from which to make determinations on both the efficacy and fallibility of Canadian refugee policy. While each case varied greatly from the other, some key issues facing refugee claimants quickly became apparent. These are discussed in the next chapter.

## CHAPTER 6: FINDINGS

Canada's refugee determination process is a long and drawn out one with a multitude of barriers and challenges which refugee claimants must face. This study found that Haitian refugee claimants believe that Canada represents a clear pathway to citizenship, but they are often disappointed by the process and eventual results. Difficult and restrictive American immigration policies with regard to Haitians have also played a key role in the migration patterns of this community. Furthermore, the violence and risk of danger the participants face if deported to Haiti also play a key role in their motivations for migration.

### Canada: The Promised Land?

*"So they told you, 'Welcome to Canada,' now when you coming here they say you not qualify"*  
(Joel)

The participants in this study all came to Canada from the United States after experiencing difficulties with the American immigration system and being faced with the possibility of deportation. All but one of the participants was living in Miami, Florida prior to coming to Toronto.

S.P.: So, you were in the United States?

JUDE<sup>8</sup>: Yes.

S.P.: And you decided to come to Toronto?

JUDE: Yeah.

S.P.: Can you explain why you made that decision?

JUDE: Because we have a lot of problem in the US, uh, the deportation.

S.P.: And you thought that the situation would be better in...

JUDE: In Canada.

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<sup>8</sup> All names in this study were changed to protect the identity of the participants and to maintain confidentiality.

Several of those interviewed for the study had been informed by their relatives, lawyers, or social networks that Canada represented a new opportunity to achieve citizenship in a country other than Haiti.

S.P.: And from whom did you hear that Canada was welcoming refugees from Haiti?

JOEL: 'Cause I had a friend of mine here in Canada and I spoke to him. He told me Canada has opened the door.

S.P.: So it was a word of mouth. Like, from a friend to you. It wasn't a government policy or anything that you read.

JOEL: No, it was a friend.

Canada, they were told, had a better healthcare system, educational opportunities, provided many employment opportunities and most importantly provided status to refugee claimants far more easily and frequently than the US did:

REMY: I realized that if there was another option I would take it and my lawyer [in the US], back then, told me that...

S.P.: ...in the US?

REMY: ...yes, what about Canada? Why not? It's about the same country just different culture and the healthcare is better and you can work, I mean you'll be able to manage. I thought that the way they said it, it was that easy. However, it wasn't.

S.P.: So, when you say "they", "they" told me to go to Canada, who are you referring to? People in your community, or your lawyer, or...

REMY: Exactly, like Haitians who know about the program, including my lawyer and including, you know, people on the radio, you know they do have Haitian stations in Florida and they keep on telling people, you know, like we have three people they send [deported] to Haiti, or five or seven. If you know that your case is not ok for any reason you might leave. If you have nothing in your country [Haiti] 'cause you've been living here for so many years it's better for you to go to a country where you know you can start over, you know, that's the reason why I came.

Some of the participants seemed to have an unrealistically positive outlook on their individual cases and the fairness and equity of the Canadian system. This optimism was not generally reflected in their own accounts of their experiences during the refugee determination process.

FLORVILLE: It was, like, like, Canada is a very, very, very nice country, helpful country. I came in here, and I don't bring nothing [any money] for my lawyer. If I come to any other country, that's zero [with nothing], you know what I mean? ...I mean, they pay, they give me money to pay rent, they give me food, you know, they pay lawyer for me, all the stuff, ...okay, is really, really, really good. You know I can't reproach nothing that they [settlement services in Toronto] did.



This unbridled optimism may in part be fueled by the assertions made to refugee claimants by their lawyers and consultants, whose vested interest in the claim process may lead to providing inaccurate information. This notion is confirmed by Antoine Derose<sup>9</sup>, a Haitian community leader who suggests that:

AD: ... the majority of the cases in which I was involved, were successful up to 60% of the cases. There have been a number of cases that I know of where the refugee claimants were not well advised in terms of their legal rights and even some who have been misled by deceitful and unscrupulous individuals who requested large amounts of money and did not properly inform them about their immigration proceedings or the preparation of documents and provide pertinent advice.

For instance, one participant was given, it would seem, vastly inflated approval rates for H and C claims by his lawyer:

JOEL: When they [the IRB] send the results he said the result was we [participant and spouse] don't have proof of persecution in my country so we will not qualify. So my lawyer say there are two steps, we can choose one of them. The appeal, and humanitarian [and compassionate] claim, and I ask him what one he think is the better...

S.P.: Yeah.

JOEL: And he told me when you file for... when you apply for humanitarian [and compassionate] you have 99% chance [of success], and appeal, you have 50% [chance of success]. And I say, you want to have 99%. I prefer that. I prefer 99%.

S.P.: He thought you and your wife had a 99% chance of success in the humanitarian and compassionate claim process?

JOEL: Yeah.

S.P.: He said that to you.

JOEL: Yeah, he said that. That's why, he told me they had 14 humanitarian [and compassionate] cases – only one didn't accept.

S.P.: Okay. So of the 14 H and C claim, 13 of them had been accepted.

JOEL: Had been accepted.

S.P.: Okay, and were they all Haitian refugees?

JOEL: Yeah.

Florville seemed to have the most positive outlook about his prospects in Canada, saying:

FLORVILLE: I'm not going to go back to Haiti.

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<sup>9</sup> Antoine Derose worked with Haitian newcomers for over 20 years from 1984 to 1995 in the capacity of a community leader as the Founding President of the Haitian Cultural Network of Toronto and the Haitian Association of Toronto. He was later on involved mostly as a community volunteer and sometimes as an interpreter during immigration hearing proceedings from 1995 to 2006. This was at the height of the last Haitian migration wave into Canada, namely those fleeing from the USA because of the fear of deportation. As a Bilingual Program Consultant at the Centre for Addiction and Mental Health (CAMH) since 2000 he has conducted many consultations with Haitian refugee claimants with regards to their mental health.

S.P.: No.

FLORVILLE: You know what I mean? I can't talk like, you know, I'm angry because I came into Canada. No, no, no, no, no, I can't say that. Because the average Haitian, they just come in here [to Canada], you know what I mean, [Canada is] very, very, very helpful.

However, Florville has spent since 2009 fighting to get his permanent residency status. Having been granted protected person status after his refugee claim was accepted in 2009, CIC refused to grant him permanent status because of issues relating to his immigration process in the US. He was accused by U.S. immigration officials of entering the country with documentation belonging to another person. While Florville remains vague about the exact circumstances of his entry into the US he maintains two things: (1) that CIC was aware of this situation throughout the refugee determination process and (2) that he has provided the CIC with all the documentation they have requested to resolve the issue. Nonetheless, CIC has continued to question him on this matter and are withholding his permanent residency status. He now remains with an uncertain immigration status without a resolution in sight:

FLORVILLE: That's uh, that's my thing. Well I already go to the [IRB] hearing, I already pass, and then...

S.P.: So the questioning of these charges in the US, along with holding up your permanent residency status, would that be your biggest problem?

FLORVILLE: A lot of problems.

S.P.: Okay.

FLORVILLE: ...seriously, [I'll] be honest with you, if I can't get a way to live in that country [Canada], I will leave it. I don't want problems. Because I'm a very quiet guy. I don't want trouble and if you see [that], and then just stay away from trouble.

S.P.: Yeah.

FLORVILLE: You know what I mean? Like I said to you, if I knew, they'll now charge, and I would get my lawyer, you know when I was over there [in the US], to fix this thing...

S.P.: Yeah.

FLORVILLE: ...and I get charged with what? Because the trouble with the document, if I knew that, if I knew that then I would put my nose in that when I was over there [in the US], you know what I mean?

S.P.: So the government is claiming that you had illegal documents and that you were travelling with another person's illegal documents?

FLORVILLE: Yeah.

S.P.: That's what they're saying happened?

FLORVILLE: Yeah, but that's our [my] business. You know when you have problem like... I ran away from my country because I had a political problem. Okay and then I'm here [in Canada] and I have an immigration problem, if immigration arrests me, even when you see, I can show you the picture, like, when I was over there [searching through files for pictures proving violence in Haiti].

From these examples what becomes clear is that Haitian refugee claimants arriving in Canada may have unrealistic expectations of the ease with which the refugee determination process unfolds in the country. They have been advised by friends, family and legal advisors that Canada represents all that the US doesn't in terms of achieving their primary goal – citizenship. The reality, as pointed out by Remy, is vastly different.

In conjunction with exclusionary policies, restrictive requirements, and unrealized expectations, Haitian refugee claimants in Toronto are also experiencing employment barriers. For instance, one of the participants identified one of the ways in which refugee claimants are essentially “marked” and marginalized by the government and thus face barriers to work:

REMY: I'm sure I would get a job somewhere, I'm not going to say where. When they asked me for my social, they say 'oh your social start by one num...by nine' they say 'okay, um...'

S.P.: Knowing that means you are a refugee claimant.

REMY: Exactly.

S.P.: So right away you're identified as a refugee claimant.

REMY: Yeah, and they would not give me the job.

S.P.: Okay.

REMY: So, like that, you feel like an outsider.

Remy further suggested, “... but when it comes to work, they give you a social that you can do little with” referring to the fact that while refugee claimants are eligible for work permits and social insurance numbers, the social insurance numbers assigned always begin with the number “9”. Potential employers are aware of this and in spite of ability, experience and skill of the applicant, often refuse to hire them as a result of their temporary immigration status. Thus, Canada may not represent the nirvana which the participants in this study had expected. As outlined by Antoine Desrose:

AD: If one overall recurring theme were to be cited from conversation with Haitian refugee claimants, it would be that the existing mental health strain caused... constant worry, trauma and anxiety the Canadian immigration system put them through. Over and over again stories were recounted about barriers to access, inappropriate services, unmet needs, marginalization and second-class status.

These intersecting and challenging factors affect the experience of Haitian refugee claimants in Canada in an adverse manner and result in a challenging and often frustrating claim process.

## U.S. Immigration Policy

Canada was a secondary choice as a country of re-settlement for all five of the participants in the study. As stated, each of the five participants had first tried to claim refugee status in the United States. The motivation to seek refugee status in Canada resulted from a number of similar factors for each of the refugee claimants in the US, namely restrictive and punitive immigration laws faced by asylum-seekers and the fear of deportation.

The September 11, 2001 terrorist attacks tied national security concerns to immigration policy issues. All of the 9/11 hijackers had illegally entered the US on temporary visas through normal ports of entry, and this fact angered many Americans who then called for reforming immigration laws. In response, Congress followed President Bush's plan to abolish the Immigration and Naturalization Service (INS) in order to allow the new Department of Homeland Security (DHS) to take over jurisdiction on immigration. The idea behind the creation of the Department of Homeland Security was to bring together those agencies responsible for preventing and responding to natural disasters and terrorist attacks occurring on U.S. soil (Harper, 2011).

In 2002, the United States Department of Justice acknowledged that it had instructed field operations "to adjust parole criteria with respect to all inadmissible Haitians arriving in South Florida after December 2001, and that none of them should be paroled without the approval of headquarters" (Wassem, 2010, p. 6). The Bush administration maintained that paroling Haitians would embolden other Haitians to embark on the dangerous boat voyages and potentially trigger a mass asylum from Haiti to the United States (Harper, 2011). The administration further contended that all migrants who arrive by sea posed a risk to national security and cautioned that terrorists may pose as Haitian asylum seekers (Wassem, 2010). All of the participants were very clear on this point, suggesting:

JOEL: Well, because I was in the United States for, I'm gonna say, 13 years, and, when I applied for the residence in the US and I didn't qualify and they sent me the deportation letter so as I was very afraid of going back to my hometown, to my country, so I decide to come to Canada.

Another participant echoed this feeling, explaining:

FLORVILLE: At that time when I was in Miami, the immigration problem was tough, but I [they] didn't deny [my claim] when I was over there [in the US] but I could see the immigration, you know I keep my eyes on [what was happening to] people, you know my people, and send them down there [referring to being deported to Haiti] and I just decided to come to Canada.

Critics have maintained that Haitians were being singled out for more restrictive treatment. They challenged the view that Haitians posed a risk to national security – as was being suggested by the Bush administration - and asserted that the term was being construed too broadly, being applied arbitrarily to Haitians, and wasting limited resources (Wassem, 2010). This assertion seems to be supported by Remy, who specifically addressed the immigration policies of then President Bush.:

REMY: ...but with George W. Bush it change a lot of things. After 9/11 and then if they deny your case, you've been there [in the US] for a long time, an immigration officer get you or even the police they stop you in the street...

In 2010, Haiti suffered a devastating 7.0 magnitude earthquake, which caused massive death, injury, crippling fear and mass mourning in Haiti. While worrying about loved ones and their country folk, Haitian refugee claimants in Canada were preoccupied by another issue. Those who had left the US for Canada and were waiting to hear about their refugee claim status learned that Haitians in the same position in America had received some temporary relief. The United States Citizenship and Immigration Service (USCIS), part of the Department of Homeland Security (DHS), announced that all Haitians living in the United States at the time of the earthquake would be granted Temporary Protective Status (TPS). This suddenly and completely changed the status of thousands of Haitians in the United States from undocumented to a truly legal, albeit limited, status, eliminating the threat of deportation in an instant (Ammann, 2010-2011). One participant expressed frustration that Canada was not doing the same:

REMY: And by the way, when I came here, they had a certain law in the States, after the earthquake, everything change. They give everybody, like, I'm talking about the Haitians their status. Now I mean they do have...

S.P.: In the US...

REMY: Yes. And us we left for that specially [to get status]. We didn't come here because we couldn't eat or we did not have a place to live. I had a nice big house, and I tell you

what, in the States they did that for them [Haitians without status], you think that because it's about the same system they would do something for these people here too 'cause if you are not going to send them home according to the law that you put here why can't be, I mean, why can't they be legal?

Where Remy may have been misinformed is that the Canadian government also announced immediately after the earthquake that "all removals to Haiti have now been temporarily halted" (Citizenship and Immigration Canada, 2010). The policies implemented by both the US and Canada are of a temporary nature. While the TPS provided to those Haitians in the US may have seemed to Remy as a more viable and permanent solution this is not the case. TPS is only available to people who were present in the United States as of the effective date of the designation and allows a person to remain in the United States and obtain work authorization. In general, an 18-month time period is granted, but often extended for humanitarian reasons, as has been the case for Haitians. It is, however, usually not a path to citizenship and has restrictions on the benefits available to those in the United States. Thus, TPS for Haitians in the US and the moratorium on deportations to Haiti in Canada are likely to expire at some point, revealing the temporary nature of the compassion of both programs (Ammann, 2010-2011).

#### Haitians Refugee Claimants in "Limbo"

Remy raises an excellent point: since there does currently exist a moratorium on deportations to Haiti, why have more measures not been implemented to create faster tracks to permanent status or citizenship for Haitian refugee claimants? Persons who apply when they are inland (as did each of the participants in this study), must wait several months for their claims to be deemed eligible. Even after the initial approval, the refugee determination process in Canada can take as many as 30 months to be completed.

S.P.: So your humanitarian and compassionate claim was submitted a year... over a year and a half ago.

JOEL: Year and a half... year and eight months... But they never send me a letter over there [CIC] to tell me "your case is here, so we did this, we did that"... they don't do anything. Only, they told me so they sent my case over there [for review at CIC]. So when I call my lawyer I say, 'Okay, we one year, I don't hear anything, so what do I do?' And he said

“there’s nothing you can do. You just wait because they’re going to send you something”, anyway so it takes time but they will, they will come back to you so I’m...

S.P.: So that’s where you’re at right now. You’re waiting.

JOEL: Waiting.

It is crucial to examine the complexities of the refugee determination process, and illustrate that while there exist some forms of humanitarian entry into Canada, the options are rapidly shrinking. Furthermore these humanitarian options also tend to create pathways to forms of precarious status as people navigate the system (Goldring, Berinstein, & Bernhard, 2009).

REMY: Why is it that those here, they say that they are not going to send them home, but we don’t have to worry, I mean, they don’t have to worry about nothing. But, if I want to get a good job, they tell me with that social, I cannot get it. So it’s like if you limit me in a way. I want to do things for my family. I don’t want to deal with that social [insurance number] thing. Like Ontario Works<sup>10</sup>; no. I’m able to support myself. But, if you’re not going to give me a chance, you’re not going to decide on my case. I mean, how am I living?

S.P.: So you’re talking about being in limbo.

REMY: Exactly.

S.P.: Yeah. Being without status. So knowing that there’s a stay on deportations to Haiti right now, but not getting status, meaning that you are stuck in this sort of grey area.

REMY: That’s right.

Researchers have demonstrated that remaining in a precarious immigration status for prolonged periods of time is harmful to refugee claimants. People living in Canada without legal status are susceptible to abuses by employers and landlords, exploitation and manipulation by immigrant consultants and lawyers, and detention, deportation, and surveillance by authorities. For non-status immigrants, the Canadian border is not just a wall around the country; it represents the walls within Canadian immigration policy. Whenever a person without status endeavours to access a social service, they run the risk that a government employee – such as police officers, public housing officials, or school teachers and principal – will contact immigration authorities. This makes it exceedingly difficult for non-status immigrants to live their everyday lives (Khandor, Macdonald, Nyers, & Wright, 2004). Furthermore, many refugees experience feelings of loss, sadness, distress, trauma and isolation, which

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<sup>10</sup> Ontario Works is a provincial social assistance program. Claimants receive monthly payments and are entitled to limited drug and dental coverage.

can be aggravated by their reception in the country where they seek asylum if they are then subjected to ostracism and racial discrimination (Laird, 2008). The settlement process for these claimants then becomes exasperated as a result of racism, mental health issues, language barriers and unrealized expectations (George, 2002).

In the past, refugee groups from around the world have received full legal status in Canada through regularization programs established by the federal government. A regularization program allows non-status immigrants to apply for official legal status. Since 1960, several regularization programs have been introduced. When the Canadian government changed its immigration laws in 2002, they considered introducing a regularization program. However, nothing was implemented and non-status people in Canada presently have almost no manner in which to regularize their immigration status. As suggested, currently, the only official option for non-status immigrants to get status is through a Humanitarian and Compassionate application (Khandor, Macdonald, Nyers, & Wright, 2004).

The regularization of Haitians is not unprecedented in Canada. In 1980, more and more Haitians began to arrive in Canada and found themselves with fragile statuses. For instance some had student or work visas, or others had overstayed their visa and had become “non-status”. As the political situation in Haiti worsened, the well-established Haitian diaspora in Quebec began to make requests for a program to address their needs of “non-status” community members collectively, rather than having everyone dealt with on a case-by-case basis as refugee claimants (Khandor, Macdonald, Nyers, & Wright, 2004). As a result, in 1981, the federal government granted 4000 Haitians with less than full legal status in Canada their full citizenship (Khandor, Macdonald, Nyers, & Wright, 2004). Haitians based in the Montreal-area were able to secure a regularization program for Haitian “illegals” living in Quebec. This program was eventually expanded to include temporary workers and student visa-holders from Haiti.

Regularization programs are often portrayed as a humanitarian act by a compassionate government. The history of regularization programs in Canada would suggest otherwise. In the past,



governments have regularized non-status immigrants as the need for more workers in the labour market arose. In other instances, they have done so in response to political pressure created by the campaigns of non-status immigrants and their supporters, as in the Haitian case of the 1980s. Most often, however, governments have announced regularization programs prior to the introduction of a major overhaul of the immigration system. During these transition periods, the existing government introduces programs to regularize the status of people who remain in the old system. This has allowed different Canadian governments to “clear the decks” before bringing in new – but usually more restrictive and exclusionary – immigration procedures and controls (Khandor, Macdonald, Nyers, & Wright, 2004, p. 9). It should be noted that regularization programs in Canada have never been full amnesties. Governments have always attached criteria for eligibility that end up excluding many people from being granted full legal status (Khandor, Macdonald, Nyers, & Wright, 2004). For example, there were clearly delineated criteria implemented to meet the eligibility requirements for the Haitian regularization program. People had to be living in Quebec, have valid identification documents, and pass a security and criminal check. Furthermore, eligible claimants who had serious health conditions that would put an ‘excessive demand’ on health care services were not eligible. In addition, French language, job skills, and employment helped applicants (Khandor, Macdonald, Nyers, & Wright, 2004).

In spite of the issues surrounding regularization programs, a very strong argument could be made that this could be an avenue for Haitian refugee claimants in Canada once again. To the extent that source countries from the Global South are over-represented among refugee claimants and most temporary entrance categories, it can be argued that racialized minorities – such as Haitians - are more exposed to precarious status and illegality. This is consistent with scholarly research on economic and social inequality in Canadian immigration and refugee policy barriers to immigrant settlement (Wayland 2006). For example, Goldring et al. suggest that:

From an academic, rights-based, policy, service delivery, and activist perspective, recognizing the institutionalized production and complexity and confusion of precarious

status in Canada, helps to make visible the presence and potential vulnerability of people living with variable forms of precarious status, including no status. Lack of visibility compounds the vulnerability and marginalization of people with precarious status and their families by reproducing an underclass that is vulnerable on several fronts, including inadequate access to health and other services, limited recourse in the event of abuse at work or other arenas, and deportation (Goldring, Berinstein, & Bernhard, 2009, p. 241).

In light of this research and given that there already exists a stay of deportation for Haitians as a result of the conditions in Haiti following the 2010 earthquake (and subsequent outbreaks of cholera and stalled reconstruction efforts), providing a path to full citizenship seems to be a logical next step. Realistically, Haitian claimants in Canada could remain in limbo for years awaiting their fate, perpetuating the feelings of exclusion and precariousness felt by many, and providing a pathway to citizenship would allay much of the stress and trauma found in the community.

#### Violence, Chaos and Poverty in Haiti

It has been widely asserted that Haiti is a country fraught with violence and chaos and that many of its inhabitants are faced with this issue on a daily basis (see Chapter 3: Haiti: A Socio-Political Perspective). While over the years some of the violence has been politically motivated, much of it is generated by other realities, be they poverty or desperation. While it is crucially important not to pathologize Haitians as inherently violent, the participants in the study did acknowledge that violence has become culturally entrenched in Haitian society.

REMY: In Haiti, let me tell you how it is. You don't have to be part of politics. If they realize that you do have your son or your daughter, in foreign country, they say you have money.

S.P.: Because they're sending money home.

REMY: Exactly. They do that thing to you and you start shaking and if you have ten dollars, you say take it.

S.P.: Yeah.

REMY: That's how it works.

The narrow definition of the UN Convention for the Protection of Refugees specifically delineates political persecution or membership in a particular social group as the fundamental basis for refugee claims. As Canada remains ardently dedicated to the use of the Convention definition to base its refugee claim decisions, this jeopardizes many Haitians who have a credible fear of violence, death or harm,

from being accepted as “real refugees”. For instance, there exists a very real threat of rape in Haiti as suggested by one participant:

JOEL: But before that I was saying that like ‘well, there’s no choice, I’m going back to Haiti” but because of my wife I say “If I go back, they kill me, I don’t care”. But because of my wife I know they’re going to kill me but they’re going to rape her because the... the rape is very, very, you know, a dangerous part of Haiti and I say well... and then when I heard Canada open door for the refugee when they want to come to Canada, you’re welcome, so that’s why I decide to come to Canada.

Until recently, the IRB had not accepted the fear of rape as a valid reason for the basis of a credible refugee claim. However, in 2010, a groundbreaking Federal Court ruling opened doors to Haitian women who are seeking refugee status in Canada because they are afraid of being raped in their own country, where sexual violence is a growing problem (Tyler, 2010). Elmanica Dezameau, a Haitian-born mother of four who requested refugee protection after arriving in Toronto in 2007, argued that she and her four daughters were at risk of being targeted for rape if she were returned home. To strengthen her case, her lawyer<sup>11</sup> provided evidence from several international aid agencies, including Amnesty International and Doctors Without Borders, which proved that rape was a systemic problem in Haiti, and had in fact worsened since the January 2010 earthquake (Tyler, 2010). In 2009, however, an IRB adjudicator rejected her claim, arguing that Dezameau may be at risk of being raped not because she was a woman, but because violence is such a widespread problem in Haiti. The adjudicator further suggested that this pandemic places everyone in the country at risk of becoming a victim of a violent crime (Tyler, 2010). Several other refugee claims from Haitian women have been rejected on the same basis. However, the justice presiding over the claim said that “the notion that rapists are motivated by a general desire to resort to criminal activity, and that the victim’s sex is irrelevant, is wrong according to Canadian law” (Tyler, 2010 par. 8). The Justice further argued that 20 years ago the Supreme Court of Canada had ruled that sexual assault unlike other crimes as it disproportionately targets and affects women. He also suggested that in 1994, the organization Human Rights Watch identified “harrowing”

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<sup>11</sup> Ms. Dezameau’s lawyer was the same lawyer informally consulted for this study.

stories of sexual violence in Haiti including rape, gruesome mutilations and attacks on Haitian women's organizations (Tyler, 2010). These examples provided a socio-historical context which illustrated that Haitian women were specifically targeted and subjected to sexual violence. This notion was confirmed by the Justice in his decision (Tyler, 2010). Therefore the IRB's assertion that rape is an act of violence which affects all Haitians equally was rejected. Dezameau's lawyer suggested that this decision marked the first time the Federal Court, in a refugee case, had treated the issue of rape in the same way it has been addressed in Canadian criminal courts for nearly twenty years, that being, as a crime grounded in the status of women in society (Tyler, 2010). Not surprisingly, but rather narrowly, lawyers for the federal government argued that if the Dezameau case was accepted then all female refugee claimants from Haiti would automatically be given refugee protection simply because of their gender. The Justice rejected the argument, saying female refugee claimants from Haiti would still have to demonstrate that their risk of being raped is more than a mere possibility (Harper, 2011).

While the Dezameau case proved to be a major success and showed remarkable insight into the issues facing Haitian refugee claimants (particularly women in this case), other forms of violence – including kidnappings, killings, robbery and extortion – plague claimants, yet many of their claims regarding the fear of violence are not being accepted by the IRB. Haitians claimants believe that the Canadian system does represent a safe alternative:

S.P.: And so you made the decision to come...

YVELINE: To come here.

S.P.: To Canada.

YVELINE: Yeah, for protection.

S.P.: For protection – what did you need protection from?

YVELINE: Uh, because if I staying there [the US], maybe one day they might send me back home.

S.P.: Okay.

YVELINE: So, because there are so many things [that] happen in my country... There's kidnapping, killing, too many violence, so if they send me back home, maybe that [would] be what was [waiting] for me, so [I] was trying to come here because I know Canada is protecting people.

A belief exists in Haiti that if you leave the country, you will become rich and send money home to relatives. This places the families of refugee claimants at risk. Failed claimants who return to Haiti also face this risk, as they are seen as having been to the “promised land” and returning with vast fortunes:

S.P.: You mentioned the knowledge that you've come from North America, being dangerous because you have skills, and the presumption that you have money, right? So can you talk a little bit more about that?

REMY: Okay, basically, once you leave Haiti, people usually know that, no matter where you go, it's better than Haiti. If you spend five, ten years, they know that whosoever you are, you would have to save some money. Even though your life was hell where you are, they don't care about that. That's why people keep on kidnapping. See on TV, you don't hear about kidnapping, but they kidnap so many people in Haiti. You wouldn't believe it. And [I] tell you what, when it comes to Immigration, they say that, you know, you find kidnapping everywhere in the world. So they don't care about that, it's like a lot of things that you think they [the IRB] would care for [when considering a refugee claim], they don't.

This example was repeated by several other study participants. Including Joel who explained:

JOEL: Well, in case that happen [being deported], so we don't have no choice, we have to go back. But only one thing, when we go back... when we go back... I know for sure. I know, 100% sure, I'm going to be killed.

S.P.: Even, even though it's been so long, you feel very strongly about that?

JOEL: Yeah, because people, people...they don't forget. People from here... you go there [back to Haiti], they come to your house. There's no security there. They knock your door, 'Open the door!' If you [do] not open the door, they shoot. You open the door, they ask you for money. And the money they ask you for [is] \$50,000 USD. That's the way it is. You don't have the \$50,000 USD, then what they do, they shoot you. If you don't have the money, they shoot you. And sometimes while you're at the airport you just get off the train, uh, the plane and you take a taxi or whatever, and you see the people on the motorcycle and they stop the car or the taxi and ask you for the money. If you don't have the money, they'll kill you before you get home.

S.P.: So you have a true fear of violence if you were to return to Haiti?

JOEL: Yeah, yeah. Haiti still has violence, even we have a president right now, he cannot do anything. There's no security. Nothing yet.

The fear of violence if returned to Haiti was omnipresent in most of the interviews. All the participants had been exposed to a violent form of trauma prior to leaving. In one gruesome example, Jude recounts the events surrounding the death of her husband:

S.P.: Ok, so the father of your child and your child were kidnapped in Haiti.

JUDE: No, the father.

S.P.: Just the father.

JUDE: Yeah.

S.P.: OK, sorry, go on.

JUDE: The father, they take him, they kidnap him and I never see him [again]. That's what I have in my claim form. I have the persecution so I tried... they tried to... when I go to police department to let them know they keep my husband so they [the Haitian police] told me they [were] going to be find out for me and they never go, the process never go. And, [after a] couple of days when I go to the police department again, the department police, I saw someone [the person that] kidnap my husband. When I point my finger, they [the kidnappers] give me a lot of problem for that.

S.P.: So you identified the kidnapper(s) (and) were threatened with violence? Like was it...

JUDE: They try to give me lot of problem.

S.P.: Why was your husband kidnapped, was he a political activist or was he...?

JUDE: Yeah because, you know, they have a lot of group [political associations in Haiti].

S.P.: Yeah.

JUDE: They have lot of groups so the group they are different group. He was in [a] group and was really, really active. When they need something, when they have meeting, he go everywhere to say, what any day any time he go to the supermarket to put some paper like when you need for it, they just put paper everywhere [posting for a political meeting]

S.P.: So he was very politically active?

JUDE: Yeah. There was one day after me and him [were] going to the meeting, seven o'clock, and people just come and broke... Um... I don't know... Zap? They think [it was] the police, but I don't know.

S.P.: Like the Taser?

JUDE: Yeah, Taser, yeah.

S.P.: In front of you? You were with him?

JUDE: Yeah, try him [to get him] to come in to [the car], one say, 'if you don't come in I going to kill you.' They force him to go in the car and take him so now...

S.P.: And so the police did nothing?

JUDE: They never said nothing to me.

S.P.: And you felt... you felt you were in danger and that's when you went to, uh, the US?

JUDE: I have [faced] a lot of persecution because I point my finger with the other [kidnapper].

S.P.: You identified the kidnapper.

JUDE: And because I see him.

S.P.: Were they Lavalas, was that that it was?

JUDE: Yeah, he was not Lavalas. The people take him was Lavalas.

S.P.: That's what I was asking. The people who took him were Lavalas?

JUDE: Yeah.

S.P.: OK. So you haven't seen or heard from him since then?

JUDE: No.

S.P.: And your daughter is she still in Haiti, is she with your family?

JUDE: Yeah, she [is] living with my mom and dad's sister.

As demonstrated, this violence creates family ruptures, exposes refugee claimants to extensive mental anguish and suggests that returning to Haiti is extremely dangerous for many Haitian refugee claimants.

The notion that there may be a chance that their refugee claim may not be accepted is incredibly traumatic as explained by Antoine Derosé. He maintains that: "For many Haitians refugees, adults and

their children, trauma, violence, war, expulsion and severe deprivation may have characterized their previous experiences". These examples illustrate the need for a broader definition of "refugee" when claims are being adjudicated by the IRB. The current framework would not accept these examples as "a fear of persecution" as they are largely apolitical examples of violence. Even though the claimant can appeal the decision if it is denied through the process of filing an H and C claim, and purportedly has a fairly good chance of having it accepted, if the definition were broadened, then the additional one to two years it can take to have an H and C claim reviewed could be avoided and the claimant's stress and anxiety alleviated far more rapidly.

#### Refugee Data and Statistics

An exhaustive search was conducted to find data on refugee claims made in Canada by Haitians. I was advised by Statistics Canada, a refugee lawyer in Toronto, The Canadian Council for Refugees (CCR), and several professors at Ryerson University in Toronto, that data on refugees in general is difficult to find or access, that finding information on a particular community would require a special request from CIC, and that a fee would be charged. In order to have a full and complete understanding of the situation of Haitian refugee claimants in Toronto, a request was made to CIC requesting data specific to this community. The following statistics were requested:

1. How many refugee claims have been made since 2000 by Haitians?
2. How many claims have been accepted (for Haitian claimants)?
3. How many claims have been denied (for Haitian claimants)?
4. The number of claims pending (for Haitian claimants)?
5. Average length of claim process (for Haitian claimants)?
6. Humanitarian and Compassion approval rate (for Haitian claimants)?
7. Overall claim numbers for Canada and also data for Toronto.

The process of receiving this data was lengthy and frustrating. After a prolonged delay (eight weeks instead of the suggested two weeks by CIC when the request was made), much of the data received from CIC seemingly contradicted the findings of the qualitative research conducted for this study. For instance, the data suggested that only fifteen Haitian refugees made claims in Toronto in 2011 and in

total only 74 had made refugee claims in Toronto since 2000 (see Table 4). Based on participant observation, informal conversations with Haitian community leaders and agencies serving the community, this figure seemed very low but difficult to disprove. However, the most glaring example of inconsistencies between the CIC data and the findings from this study was the data provided for Humanitarian and Compassionate (H and C) claims<sup>12</sup> received by CIC for Haitians refugee claimants since 2000. The data showed that between 2000-2009 not a single H and C claim was received by a refugee claimant from Haiti in Toronto (see Table 3). Further, the data indicated that since 2009 only four H and C claims had been processed for the city. This data did not correlate with observations I made while completing a placement at a refugee serving agency in the summer of 2011. In the three months I was there, I personally helped prepare four H and C claims for Haitian refugee claimants in Toronto. Given that there are many agencies, law firms, and consultants preparing these types of applications in the city of Toronto, and that I had personally prepared more claims than were indicated by CIC in total for the city, I concluded the data was faulty. The data was sent to a refugee lawyer in Toronto for review, who also suggested that the data provided was “obviously not accurate”<sup>13</sup>.

Furthermore, all the participants in this study had filed H and C claims in the city of Toronto, in years where CIC indicated that none had been made. In a follow-up with CIC regarding the possible irregularities in the figures, they responded that “the data in the report that was prepared for you is accurate in as much as it exists in our databases”<sup>14</sup>. The CIC further explained that geographical considerations also affected the data gathering process and suggested that “not all of the potential

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<sup>12</sup> Typically, H and C claims are made if a claimant receives a negative result from the IRB, an independent review panel which hears refugee applications in Canada. H and C claims – which are processed by CIC – are made by those claimants who believe they have humanitarian and compassionate grounds for staying in Canada. These grounds can include, but are not limited to, establishment in the community through work, and community participation in conjunction with elements of undue hardship the refugee claimant would face if returned to their country of origin. All but one of the claimants in this study had been denied by the IRB and were in the H and C phase of their application process.

<sup>13</sup> Personal communication with refugee lawyer, May 15, 2012.

<sup>14</sup> Personal communication with CIC, May 15, 2012.



population would show an intended destination city (e.g., Toronto)<sup>15</sup>. The CIC also indicated that given that this field (in the refugee application process) is not mandatory the information may not be inclusive of all the applications in their systems<sup>16</sup>. Finally, the CIC indicated that another “possible explanation for the difference between the numbers you were expecting and those in the report would be individuals preparing the application in Toronto but indicating on their application their intention to reside elsewhere. It’s that intended destination that is being reported upon”<sup>17</sup>.

The data and subsequent response from CIC highlights the fallacy of statistics. This example illustrates that there exists a definitive gap between the data on which much of refugee policy is based in Canada and the reality of the situation.

The question thus becomes how the federal government can make sound policy decisions regarding refugee claimants if they are basing these decisions on information which is only partially complete? It would seem, based on the figures provided, that CIC may not be fully aware of Haitian refugee claimants in Toronto and therefore cannot be able to adequately assess their needs and provide the assistance and resources they may need.

It should be noted, however, that some of the data provided from CIC did correspond to the observations and findings of this study. For example, as was indicated in Chapter1: Introduction, the catalyst for this research was the observation of a high number of Haitian refugee claimants accessing the services of the Toronto Daily Bread Food Bank and its advocacy office in 2007-2008. When asked what had prompted them to make claims in Toronto, many replied that the situation for Haitians in the US was becoming increasingly difficult and they were facing deportations. In reviewing the data provided by CIC of IRB decisions pertaining to Haitian claimants, a high number of claims were made by Haitians during this time period. A major spike in claims made can be observed from 2007 onward (see

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<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

Table 5). Many of these claims remain pending, which is also consistent with the experience of the participants of the study. Another noteworthy figure is the average time it has taken for claims to be processed by the IRB. A dramatic increase can be noted in the years where the number of claims has risen. It should also be pointed out that for those whose claim is not accepted by the IRB, like the participants of this study, the length of time in which refugee claimants remain uncertain of their outcome increases as they wait for their H and C applications to be prepared, filed, and reviewed. This is of particular importance, given that, as has been indicated, one of the primary findings of this study is that the precarious and prolonged nature of the claim process is a major source of stress, frustration and anxiety for Haitian refugee claimants.

Overall, the discrepancy between the findings in the study and the data highlights the importance of qualitative analysis as a vital component for social science research. The experience of claimants and their analysis of the refugee determination process and Canadian refugee policy are not reflected in the CIC data. This, it can be argued, then becomes another form of marginalization and exclusion of the refugee claimant in Canadian society.

## CHAPTER 7: DISCUSSION AND CONCLUSION

### Race, Exclusion and Canadian Refugee Policy

Haiti is one of the most densely populated countries in the world. The population of 7.5 million lives on the western third of the island of Hispaniola, with approximately 250 inhabitants per square kilometer (Bellegarde-Smith, 2004). As a result of political turmoil, poverty, environmental disasters and other geopolitical and socio-economic push factors, Haiti has experienced substantial emigration of its population to other countries.

It is important to acknowledge Haiti's past as a major influence on its current state and the mass movement of its people. The country's troubles are intricately rooted in its founding revolution, the hostility that this rebellion produced among the imperial rulers of Europe, and the penetrating struggle within Haiti itself to define its newfound freedom and realize its potential (Dubois, 2012). The Haitian Revolution resulted in global seclusion and widespread poverty for Haiti. Enraged by Haiti's fight for independence, colonial powers (particularly France and the United States) subsequently played a powerful role in the methodical and measured fracturing of the new nation, and the creation of a post-colonial legacy of oppression, as well as unstable political structures which have caused the emigration of millions of Haitians.

Canada is host to a significant community of Haitians, who maintain direct links with their country of origin (Orozco, 2003). When tracing the movement and experience of Haitian migrants (particularly to North America), the effects of globalization and the socio-economic inequity faced by refugees is clearly visible. When Haitian asylum seekers reach the US and Canada having fled persecution, violence and political instability, they have often been the targets of negative stereotyping and the victims of harsh and discriminatory U.S. and Canadian immigration policies. The failure of policy-makers and analysts to see international migration as a dynamic social process is at the root of many

political and social problems. Migration will continue to endure as a result of social factors, even as the economic factors which instigated the movement have been wholly transformed (Castles & Miller, 2009).

Asylum has increasingly become a major political issue in many Western countries. Those with power and authority, who are most directly involved with the structures of the state, play a central role in shaping and generalizing ideas about difference and exclusion (Marfleet, 2006). This is particularly significant in times of economic uncertainty, when those in power often choose to promote racist discourses, using the resources of the state itself to disseminate them. Rather than diminishing obstacles to free movement; economic and political changes at the world level have prompted the production of new physical and cultural barriers (Marfleet, 2006). Refugees are *produced* by a complex set of factors which include economic, political, social, cultural and environmental elements. Their lives are shaped by formal legal and political structures, and by both official and popular notions of nationalism, citizenship, race and ethnicity. Western states have been shown to exclude most forced migrants because the latter are said to lack authenticity, the argument being that most asylum claims are said to not satisfy the definition of the refugee. Sensationalist journalism and conservative political factions describe dire consequences such as rocketing crime rates, fundamentalist terrorism and overstretched welfare systems (Castles & Miller, 2009). To highlight this point using a Canadian example, in a recent debate on the contentious new Refugee Bill (C-31) introduced in the House of Commons, Immigration Minister Jason Kenney maintained that "the system continues to be the fairest in the world, the legislation targets illegitimate claimants who clog the refugee system and create unnecessarily long wait times for those truly in need of Canada's protection" (41st Parliament, 1st Session, 2012). However, many of the "illegitimate" claimants whom Kenney describes face overwhelming hardships or danger at home even if that hardship or danger doesn't fall within the

restricted legal definition of persecution or risk under Canadian and international law (Canadian Council for Refugees, 2010).

Because immigration and refugee policy has a profound impact on the destiny of refugees seeking political asylum in Canada, an in-depth analysis is necessary when questioning the principles of equity and inequity in immigration policy implementation and practice. In examining immigration and refugee policy, the question of refugees and political-asylum seekers is far more complicated than that of immigrants who know their destination, and their fate, before leaving their home country (Ighodaro, 2006).

#### Improving the Refugee Determination Process in Canada

This study was too small in scale to engage in an in-depth analysis of possible solutions to the critical issues faced by refugee claimants in Canada and its existing refugee policy. However, the Canadian Council for Refugees (CCR) (December 2011), having undertaken an extensive study of its own regarding this matter, has made some insightful suggestions as to how the current refugee determination process in Canada could be improved. The CCR has made the following suggestions:

1. accept that refugee determination is difficult: it is rarely obvious who is a refugee
2. assess each case on its individual merits
3. invest in high-quality initial decisions: get it right the first time
4. keep it non-political: have an independent body make all decisions
5. keep things simple: avoid unnecessary rules
6. put the necessary resources in place: avoid backlogs
7. remember that human lives are at stake: adhere to human rights standards

At the moment, almost none of the above listed items are reflected in current refugee policy. For instance, in their third point, the CCR suggests “getting it right the first time” (December 2011). As this study has indicated, Haitian refugee claimants endure a very long and complex determination process

with multiple stages. While many eventually are granted asylum, the pathway to citizenship is far too lengthy and results in major issues such as anxiety, marginalization in the workforce, unrealistic expectations and trauma. Improving the acceptance rate at the first stage (the IRB hearing) by modifying the criteria for refugee determination to include some of the struggles not outlined in the outdated UN Convention would dramatically improve the fate of this community.

#### Limitations and Future Studies

The primary limitation of this study was its small-scale nature. Only five Haitian refugee claimants in Toronto were interviewed. While the five participants provided valuable insight into the experiences of this community, a larger number of participants would result in a better representation and understanding of this refugee group in Toronto, allowing for the determination of the size of the community in Toronto, and resulting in a better assessment of the needs of Haitian refugee claimants in the city and whether they are being met. Given that the data provided by the CIC is incomplete and inaccurate, another suggestion would be to incorporate both qualitative and quantitative analyses into further studies. Demographic surveys of Haitian refugee claimants in Toronto should be undertaken and analyzed. Without proper data and figures, it is not possible to have an accurate representation or understanding of the Haitian refugee population of Toronto. As has been discussed, there has been very little research conducted on the Haitian community in Toronto, particularly Haitian refugee claimants. More scholastic work would increase an awareness of this growing community and possibly improve their settlement experience.

TABLES

Table 1

**Humanitarian & Compassionate Applications Processed\*  
by Country of Citizenship: Haiti**

Calendar Year	Approved		Refused		Approval Rate**	
	Cases	Persons	Cases	Persons	Cases	Persons
2000	0	0	0	0	n/a	n/a
2001	0	0	0	0	n/a	n/a
2002	0	0	0	0	n/a	n/a
2003	14	16	11	16	56%	50%
2004	52	54	38	43	58%	56%
2005	99	113	26	30	79%	79%
2006	121	153	80	83	60%	65%
2007	143	176	22	28	87%	86%
2008	109	123	36	38	75%	76%
2009	125	142	31	38	80%	79%
2010	268	336	128	178	68%	65%
2011	263	368	127	170	67%	68%

Table 2

**Humanitarian & Compassionate Applications Processed\*  
by Country of Citizenship: Haiti & Province of Intended Destination: Ontario**

Calendar Year	Approved		Refused		Approval Rate**	
	Cases	Persons	Cases	Persons	Cases	Persons
2000	0	0	0	0	n/a	n/a
2001	0	0	0	0	n/a	n/a
2002	0	0	0	0	n/a	n/a
2003	0	0	2	2	0%	0%
2004	4	4	1	1	80%	80%
2005	3	3	0	0	100%	100%
2006	4	4	5	5	44%	44%
2007	8	9	1	1	89%	90%
2008	5	7	2	2	71%	78%
2009	6	10	5	6	55%	63%
2010	40	54	14	17	74%	76%
2011	30	59	23	25	57%	70%

Table 3

**Humanitarian & Compassionate Applications Processed\***  
**by Country of Citizenship: Haiti & City of Intended Destination: Toronto**

Calendar Year	Approved		Refused		Approval Rate**	
	Cases	Persons	Cases	Persons	Cases	Persons
2000	0	0	0	0	n/a	n/a
2001	0	0	0	0	n/a	n/a
2002	0	0	0	0	n/a	n/a
2003	0	0	0	0	n/a	n/a
2004	0	0	0	0	n/a	n/a
2005	0	0	0	0	n/a	n/a
2006	0	0	0	0	n/a	n/a
2007	0	0	0	0	n/a	n/a
2008	0	0	0	0	n/a	n/a
2009	0	0	0	0	n/a	n/a
2010	3	3	1	1	75%	75%
2011	1	1	0	0	100%	100%

\*Applications processed in Canada and Abroad

\*\* *Approval Rate = approved / (approved + refused)*



Table 4

<b>The Total Number of Refugee Claims Received by The Citizens of Haiti In Canada, Ontario and Toronto, From Calendar Year 2000 to 2011</b>			
<b>Calendar Year</b>	<b>Total Claims in All Canada</b>	<b>Total Claims in Ontario Region</b>	<b>Total Claims in Toronto</b>
2000	335	27	3
2001	220	18	3
2002	237	22	2
2003	195	18	2
2004	172	18	2
2005	356	117	3
2006	708	479	4
2007	3,247	1,930	4
2008	4,250	1,985	10
2009	1,438	558	10
2010	1,064	305	16
2011	511	144	15
<b>Total Claims From 2000 to 2011</b>	<b>12,733</b>	<b>5,621</b>	<b>74</b>

Table 5



Immigration and  
Refugee Board of Canada  
**Refugee Protection  
Division**

Commission de l'immigration  
et du statut de réfugié du Canada  
**Section de la protection  
des réfugiés**

### HAITI

## Claims Referred and Finalized with Pending and Average Processing Time National and Central Region Regions - 2000 to 2011

(Based on Principal Claimants)

2000								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	71	205	53	7	336	21%	270	8 mths
Central Region	0	2	0	0	2	0%	4	11 mths
2001								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	105	139	24	16	284	37%	220	9 mths
Central Region	2	0	1	0	3	67%	2	8 mths
2002								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	70	136	5	9	220	32%	257	11 mths
Central Region	0	0	1	0	1	0%	7	18 mths
2003								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	149	135	5	8	297	50%	159	11 mths
Central Region	1	3	0	0	4	25%	5	18 mths
2004								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	117	76	4	8	205	57%	130	10 mths
Central Region	2	3	0	0	5	40%	3	12 mths
2005								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	111	68	4	6	189	59%	319	8 mths
Central Region	0	1	0	0	1	0%	42	14 mths
2006								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	211	166	3	17	397	53%	693	8 mths
Central Region	17	16	1	4	38	45%	226	8 mths
2007								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	134	77	18	37	266	50%	4223	12 mths
Central Region	36	13	12	15	76	47%	1330	12 mths
2008								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	321	365	18	88	792	41%	8300	17 mths
Central Region	70	22	7	27	126	56%	2385	18 mths
2009								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	1046	1261	37	128	2472	42%	7395	22 mths
Central Region	417	283	11	19	730	57%	1973	25 mths
2010								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	2503	1800	150	145	4598	54%	3852	26 mths
Central Region	919	401	28	24	1372	67%	728	27 mths
2011								
National	Positive	Negative	Abandoned	With/Other	Finalized	Acceptance Rate	Pending	Avg Process Time
	1443	1430	76	63	3012	48%	1364	27 mths
Central Region	481	204	12	9	706	68%	97	27 mths

Acceptance Rate = positive / finalized

## APPENDICES

### Appendix A:

#### Interview Questions - Community Leader

##### **Personal Information**

Name:

Organization:

Immigration Status:

Preferred Language of Communication:

Date of Arrival in Canada:

Why did you decide to come to Canada?

##### **Interview Questions**

How many years have you worked with Haitian newcomers in Toronto? In what capacity?

What are your thoughts on the refugee determination process in Canada? Please identify the strengths and weaknesses of the process and how these relate to Haitian refugee claimants specifically.

Have you been following the changes that have been made to the refugee determination process in Canada? If so, what are your thoughts?

Specifically, what have you heard or read, if anything, about the new Bills (C-11 and C-49) regarding changes to the refugee determination process introduced by the current Federal government. If so, what are your thoughts?

Have you spoken to Haitian refugee claimants about their claims? If yes, what are you generally hearing about the issues they have faced (if any)?

In your opinion, what challenges (if any) do Haitian refugee claimants face when arriving in Toronto?

Do you have anything else you would like to add?

Appendix B:  
Interview Questions – Refugee Claimants

Name (optional):

Age:

Gender:

Immigration Status:

Marital Status/Number of Children:

Preferred Language of Communication:

Date of Arrival in Canada:

Why did you decide to come to Canada?

At what stage in the refugee determination are you?

Is your family with you in Toronto?

Describe your experiences since arriving to Canada? These can be economic, legal, emotional, health related or any other type.

What is your current financial situation? What sources of income do you have?

Are you employed? Is the work in the formal economy?

Were you affected by the January 2010 earthquake in Haiti? If so, how?

Do you have the resources/support to assist you in your immigration application process? If yes, where?

If no, what challenges have you faced?

Have there been positive experiences during your immigration process? If so, describe them?

Have you encountered problems in the immigration process? Explain?

What are your thoughts on the refugee determination process in Canada?

Have you encountered difficulties with language barriers since arriving in Toronto?

Have you thought about what will happen to you and your family if your claim is not successful?

Do you have a home and employment to return to in Haiti if your refugee claim is denied?

How do you generally feel about fitting into or not fitting into Canadian society? Explain.

Would you participate in the creation and development of new programs aimed at refugees if you were given the opportunity?

Do you have anything else you would like to add?

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