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Federal and Quebec Government Human Rights Violations **Immigration Detainees and Certain Prisoners in** **Quebec Deprived of Visits During Pandemic**

- Diane Johnston -

The Canada Border Services Agency (CBSA) has not been allowing visits for immigrants detained at the federal government's Laval Immigration Holding Centre, even though visits are permitted at Canada's other two facilities in Toronto and in Surrey, British Columbia.

When questioned about this, the CBSA was unable to explain why.

At the Laval Immigration Holding Centre, persons detained through the *Immigration and Refugee Protection Act* (IRPA) may be refugee claimants whose files are incomplete, foreign workers or students whose visas have expired, or people awaiting deportation.

Those detained are already suffering from enormous mental anguish and to then be completely cut off from the outside world without any support is inhumane and cannot be considered anything less than torture.

The only justification the CBSA was reported to have given was that at present, the Immigration Holding Centre "does not have the capacity for regular non-contact visits because of the risks to public health."

Visits to all provincial correctional facilities in Quebec have also been suspended since the beginning of the pandemic. The suspension of all visits, with the exception of lawyers, has been in

place since March 14, 2020 [1], even though visits continue to be allowed in federal correctional facilities located in Quebec.

Canada Border Services Agency Detention Statistics for First Three Quarters of 2020-2021

Based on statistics provided by the Canada Border Services Agency (CBSA) [2], during the first nine months of fiscal year 2020-2021, which began on April 1, 2020 and ended on March 31, 2021, Canada detained 1,198 people, with most incarcerated on average 29.4 days. Of those detained, 43 per cent were held in one of Canada's three immigration holding centres located in Toronto, Surrey, British Columbia and Laval, Quebec. Another 44 per cent were incarcerated in a provincial correctional facility. The remaining 13 per cent were confined in "another facility."

The highest number by far of those detained were in Ontario (790), followed by British Columbia (270) and in third place, Quebec (251).

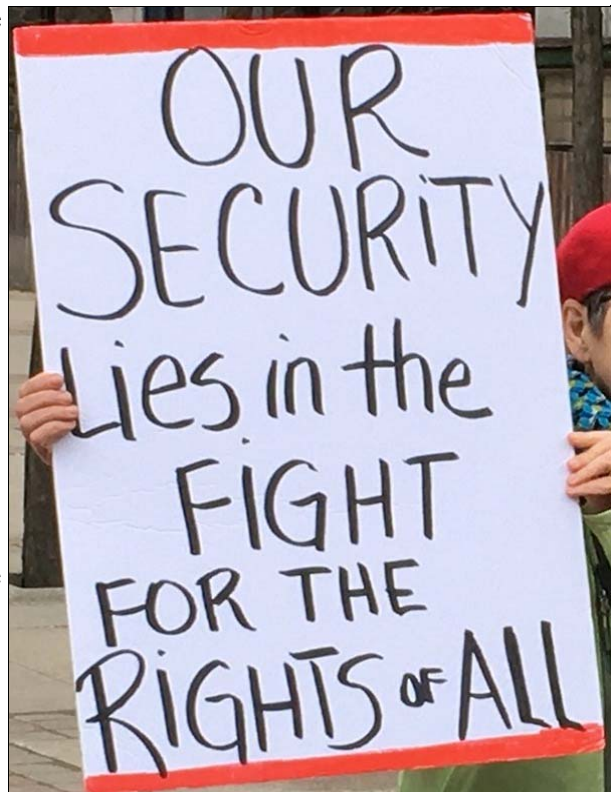
The reason given by the CBSA for detaining the great majority of these people was: "Unlikely to appear" [(flight risk) for immigration processes].

The Time Is Now to Step Up Struggle in Defence of the Most Vulnerable

Mental health problems in Quebec are on the rise because of the inhumane conditions being imposed on society's most vulnerable members by governments in the service of the rich. It is truly an indictment of how those in power in our society treat people and speaks volumes about the need to defend the rights of all and transform the situation so that such crimes against humanity are brought to a halt.

The excuse of the health emergency continues to be used to deprive people of their most basic human rights. This was the case with the closing of the irregular border between the U.S. and Canada to refugees at the end of March, 2020. This action, along with depriving detainees and prisoners of visits, and other violations of rights are violations of Canada's responsibility for refugees under international law. Between March 2020 and mid-October of this year, Canada turned back at least 544 asylum seekers attempting to cross into Canada from the United States.

During the ban on irregular crossings, an unknown number of asylum seekers turned back were placed in indefinite U.S. immigration detention, with some subsequently deported. Over a year and a half into the pandemic, the ban on irregular crossings was finally lifted on November 21. Said Maureen Silcoff, a refugee lawyer and past president of the Canadian Association of Refugee Lawyers (CARL): "It's a relief to see the measures for refugees align more with our international obligations, and I think it's been clear all along that



public health and refugee protection could co-exist.” CARL took the government to court over the policy.

On December 8, Prime Minister Trudeau mimicked the position taken by the Biden administration, saying he will launch a diplomatic boycott of the upcoming 2022 Winter Olympic Games in Beijing, because the government is “extremely concerned” by the “repeated human rights violations carried out by the Chinese government.” A week earlier, on December 2, Canada imposed sanctions against Belarusian officials and entities “in response to gross and systemic human rights violations” with regard to migrants at its border with Poland. Where was the Prime Minister when U.S. border patrol agents were literally rounding up Haitian migrants at the border between Mexico and Texas and deporting them back to Haiti during the pandemic? He shares that same level of concern for the most needy here in Canada.

In response to the situation facing the most vulnerable, including migrants, prisoners and the poor who have been further impoverished through no fault of their own, we must step up the struggle in defence of the rights of all. It is totally unacceptable that in Canada, basic human needs are increasingly not being met while all manner of pay-the-rich schemes continue unabated. Human beings, not vested interests, must occupy centre stage.

Our strength lies in our numbers and in the consolidation of our organizations to change what cannot be justified. Join in!

Notes

1. Questions and answers concerning legal and correctional services during the COVID-19 pandemic, Government of Quebec .
2. Arrests, detentions and removals, Quarterly detention statistics: Third quarter (Q3) fiscal year 2020 to 2021, Canada Border Services Agency .

(With files from Radio-Canada and the Montreal Gazette)

Violations of Human Rights in the U.S.

Federal Enforcers Manipulate "Threat Algorithm" to Justify Mass Detention



In the United States, the Department of Homeland Security (DHS) issued a statement November 29 saying it will begin implementation of the “Guidelines for the Enforcement of Civil Immigration Law.”

DHS controls both Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). DHS Secretary Alejandro N. Mayorkas, said, “Today is an important step forward in ensuring that our workforce is empowered to exercise its prosecutorial discretion and focus its enforcement efforts on those who pose a threat to our national security, public safety, and border security.”

“DHS will carry out our mission to safeguard our country justly and humanely. In making our enforcement decisions, we will focus our efforts on the greatest threats while also recognizing that the majority of undocumented noncitizens, who have been here for many years and who have contributed positively to our country’s well-being, are not priorities for removal,” he added. According to what he said, there is supposed to be a “thorough and case-by-case assessment of whether enforcement action is warranted.”

While claiming the guidelines will give rise to more just and humane treatment — and not focus on workers and their families as has been the case — DHS leaves out that the algorithms used to determine a “threat” are designed to overwhelmingly impose detention and eliminate a case-by-case assessment. For example, between 2017 and 2019, in ICE’s New York field office alone, more than 97 per cent of people were detained using the algorithm’s “threat” assessment. DHS has reported that 63 per cent of people who are not subject to mandatory detention (such as for violent felony convictions) and had a special vulnerability that counseled their release were still ordered detained. Basically, the information fed into the algorithm guarantees that the vast majority will be assessed as a “risk” or “threat” and detained and/or deported.

ICE’s national network of detention facilities, many of them privately run, now hold more than 22,000 people, including many women, children and even babies. Its ballooning electronic monitoring program, said to be an “alternative,” keeps close to 132,000 people under constant surveillance.

ICE’s “Risk Classification Assessment” (RCA) is an algorithmic tool that imposes detention and feeds ICE’s electronic monitoring program. ICE uses the RCA to create a false distinction between “safe” and “dangerous” immigrants, said to pose a “threat.” The new guidelines further perpetuate this false notion, even though DHS admits, “the majority of undocumented noncitizens are not priorities for removal” and “have contributed positively to our country’s well-being.”

The recent exposure of the use of algorithms by Facebook and Twitter to promote divisive and racist content readily shows how easy it is for algorithms to be used to provide the false results desired. Those algorithms used by the state are no different and involve far more state-organized racism and criminality, in this case by unjustly targeting immigrants and refugees, especially those from Mexico, Central America and Haiti.

ICE’s methods of predicting future “risk,” using algorithms they create, are a main part of their detention and deportation machine. Congress now also appears ready to increase funding for expanding ICE’s “risk assessment” program.

From the Start, Algorithm Detained 91 Per Cent

ICE developed the RCA between 2009 and 2012. The agency contracted IBM for \$7.6 million to

create the Automated Threat Prioritization, which formed the technical foundation of the RCA. It was said that it would limit ICE's detention capabilities but it has done the opposite. This was known early on. The first year of its national implementation by the Obama administration confirmed that of all the individuals run through the RCA, the tool recommended for release a mere one per cent of those subject to it, while 91 per cent ended up detained. DHS's own internal watchdog identified problems, noting that the RCA was "time consuming, resource intensive, and not effective in determining [whom] to release or under what conditions." It has been known for years that it is rigged toward detention, yet it is being expanded.

ICE analyzes "risk to public safety" by ranking various factors including previous charges or convictions (including those for traffic violations or parking tickets and other minor misdemeanors), by their "severity." ICE has full discretion to alter the severity score for a broad range of charges. Given the racist nature of charges and arrests by governments at all levels, such as for non-violent possession of marijuana, the charges an individual may have on their record, even if eventually dismissed or they are found not guilty, as well as convictions in a system where many who are innocent are forced to plea to a lesser charge, are skewed. ICE then further rigs the algorithm with their arbitrary "severity" score. This is especially true for charges that are pending or dropped, which ICE still considers as "risk" factors in the RCA. Keep in mind ICE is supposed to be a civil enforcement agency, primarily focused on the enforcement of civil immigration law, not criminal law.



The score for "risk to public safety" also incorporates information from other databases. These databases may include the National Crime Information Center database, biometric information-sharing databases, and so-called gang databases. Each of these databases imports information from various sources that are riddled with false inputs obtained from racist government practices. For example, gang databases are overwhelmingly composed of Black and Brown youth who are broadly targeted simply for their associates, their tattoos, where they live — and not actual criminal activity. Flagging people as gang members and putting that into the algorithm then produces the result that someone is a "threat." Both the databases and the RCA lead to the detention of people based on false information and perpetuate the justification that immigrants and refugees are a "threat."

Consistently since 2014, when "Deporter-in-Chief" Obama announced he would be targeting those who were charged with, among other things, significant misdemeanors, the algorithm has gotten more stringent, resulting in harsher penalization of those with previous charges and convictions. Under the Trump administration, the RCA was changed again so that even those assigned low-risk scores — such as people without criminal records — were detained without bond. The arbitrary and racist nature of the RCA and its promotion of detention have continued and the recent guidelines in no way change this reality.

"Risk" Assessments Perpetuate Racist Incarceration

As experience and facts from across government sectors show, "risk" assessment tools are built to justify incarceration, not to reduce it. The government uses the RCA to reinforce their claim that immigrants need to be assessed for their "dangerousness," and their mere presence in the country criminalized, even though all of it is contrary to existing U.S. and international law. As with algorithms that are used by children and family services agencies that break apart families, to "predictive" policing that increases policing in Black neighborhoods, "risk" assessments are another way of continuing the government's racist policing and incarceration practices hiding behind the curtain of "data-driven" technology. Their use lends an air of legitimacy, a claim that decisions are impartial and based on science, while also filling detention centre beds and increasing the profits of private detention monopolies.



As many of the people detained and the many workers and immigrant and human rights advocates have made clear, the RCA with its algorithm has been a failure across administrations resulting in great harm, violence and rights violations against hundreds of thousands of people. The just demand is for an end to detention and deportation and upholding existing U.S. and international law concerning immigrants and refugees. The U.S. instead continues to brutally attack the human rights of all concerned.

Voice of Revolution, newspaper of the U.S. Marxist-Leninist Organization (USMLO)

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