

**Courage My Friends Podcast Series II – Episode 3**  
**Conflict, Climate and Refugees:**  
**Borderless Crises in a Bordered World and the Politics of Asylum**

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**COURAGE MY FRIENDS ANNOUNCER:** COVID. Capitalism. Climate. Three storms have converged and we're all caught in the vortex.

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**STREET VOICE 2:** The future just seems so uncertain. What do say to my kids?

**STREET VOICE 3:** This is outrageous! The rich are getting richer, the are getting poorer. Where is the compassion? Where is the solidarity?

[music]

**COURAGE MY FRIENDS ANNOUNCER:** What brought us to this point? Can we go back to normal? Do we even want to?

Welcome back to this special podcast series by rabble.ca and the Tommy Douglas Institute (at George Brown College) and with the support of the Douglas-Coldwell-Layton Foundation. In the words of the great Tommy Douglas...

**VOICE 4:** Courage my friends; 'tis not too late to build a better world.

**COURAGE MY FRIENDS ANNOUNCER:** This is the *Courage My Friends* podcast.

**RESH (HOST):** All over the world, people are moving across borders, many in search of refuge. Why are they fleeing? What is that journey like? And what should be our obligations to those seeking asylum?

**RESH:** In this episode of the Courage, My Friends podcast, *Conflict, Climate and Refugees: Borderless Crises in a Bordered World and the Politics of Asylum*, we are very pleased to welcome Loly Rico and Rachel Bryce.

Loly Rico is Executive Director of the FCJ Refugee Center in Toronto, which she co-founded with her husband, human rights activist Francisco Rico-Martinez, who sadly passed away last year. From her own experience as both a refugee to Canada from El Salvador through her work, including as Past President of OCASI, Ontario Council

of Agencies Serving Immigrants and the Canadian Council for Refugees, she is a steadfast and powerful voice on anti-trafficking and refugee rights and status.

Rachel Bryce is the co-Chair of the Climate Migration Working Group for the Canadian Association of Refugee Lawyers or CARL. She has worked at Landings, LLP, a leading immigration refugee and human rights law firm in Toronto since January, 2021. And before that in the international migration law unit of the UN migration agency in Geneva, Switzerland, as well as the International Development law organization in the Hague, the Netherlands. She holds a Juris Doctorate, Masters of Global Affairs joint degree from the University of Toronto's, Faculty of Law and the Munk School of Global Affairs and Public Policy.

Welcome to you both.

**RACHEL BRYCE:** Thank you very much. I'm happy to be here.

**LOLY RICO:** Thank you Resh

**RESH:** It's lovely having you here. So Loly, let's start with you. Can you tell us a bit about the work of FCJ?

**LOLY:** Yes, the FCJ Refugee Center, we are going to have 31 years of existence. We work with refugee claimants and people with precarious migration and we accommodate women and children. We run three houses where we accommodate them - who are refugee claimants or victims of human trafficking; but more on the international cases. As well, our motto is "We walk with uprooted people." That means we walk with them to go through the refugee and immigration process and to accompany them to have access to what we call to justice; access to services, access to be legally represented. And in that way, we have been seeing these 31 years that walking with them, that they can have at the end a success story.

**RESH:** Thank you so much. And it really is a port in the storm for so many who are coming to this part of Canada, and as someone who is working on the front lines, through the FCJ Refugee Center, could you give us a brief overview of some of the major challenges that refugees are facing today in Canada?

**LOLY:** Well, in Canada, we work with refugee claimants and one of the main challenges that they have been facing is that there is not any specific service for them. Like for example, there is not a Reception Center where they can go and stay. There is no settlement services funded by the federal government. It depends in which city they arrive; that's the type of services that they will receive. And that's why in the major cities in Canada, we have a big number of refugee claimants; especially Toronto, because Toronto is one of the cities that has specific programs for refugee claimants. Like us, we help to remove them from the homeless shelters to put them in hotels in a way that they can start looking for a place. But there is not a Reception Center, which is a big difference between the government assisted refugees and even private sponsorship refugees. Refugee claimants, here they come and it

depends on who welcomes them. That's how they go through the refugee process. That's one of the major challenges that we see.

The other one is that they are not seen as refugees, even though they are claiming. But there is a stigma against the refugee claimants. And this stigma have been used by the governments and also they have been impacted in the community.

**RESH:** And just to go a bit more into this. So refugees they're in a very vulnerable place then, right? So as you've mentioned, they're facing homelessness, they're in the shelter system, or there's a lack of shelters they are vulnerable to exploitation as well. And I know that part of the work that you do is looking at the issue of trafficking.

**LOLY:** It's not just refugee claimants. Anyone who comes with precarious migration here in Canada; they come with a very vulnerable situation because there is not the clear pathway to permanent residence. And in that case, the traffickers have been using the immigration programs to attract them and say that they will offer that pathway for permanent residence. And that's how it started the exploitation. We see more, everybody talk about sexual exploitation that is human trafficking. But here in Canada and my organization, we are seeing more and more what is the labor exploitation. They find cheap labor and that's how they can start with a continuing exploitation just to offer them.. that they will get permanent resident immigrant status.

And, we have been seeing cases that had been brought to Canada to work and not being paid, not to give them right housing and at the end they owe the trafficker. Canada is very sad, but they don't see it as a situation of trafficking. Because in Canada they have a different concept about what is the labor rights when it is with an immigrant or with a refugee claimant.

**RESH:** Rachel, tell us about CARL and some of the critical issues that you're dealing with.

**RACHEL:** The Canadian Association of Refugee Lawyers was founded in 2011. It's membership now includes over 350 lawyers, academics and law students from across the country. And really we aim to act as a national voice on refugee law and the human rights of refugees and forced migrants.

Our mandate is quite broad. As a result, we represent the rights of refugees across all areas of their journeys and hope to, speak on entry to Canada on rights, while in Canada on the issue of obtaining permanent status, as Loly so aptly pointed out. We, act in Canadian courts before the parliamentary committees and in the media,, like these lovely podcasts with you Resh.

**RESH:** Thank you. And what is pulling people to Canada? And Rachel, if you could just continue on to that. So, why are they coming to Canada? What are some of the pull factors?

**RACHEL:** I think it's very important to recognize the phenomenon of mixed-migration; where refugees and migrants, whether forced or voluntary, come for a multitude of reasons in their individual selves. You have, various effects on livelihood in, what we call "sending countries" their countries of origin where life might no longer be, comfortable to live- whether it's climate impacts, which I know well as co-Chair of the Climate Migration Working Group or whether it's any other economic impacts or lack of safety in their home countries, or a desire for a new opportunity. All of these push factors, as you pointed out, overlap and interweave to make it a complicated question to identify one single reason they come. Which we see as well, connects to a complicated response for Canada to create programs that recognize this mixed-migration phenomenon.

**RESH:** Right. And Canada in many senses, tends to be a high ground, right? As you mentioned, an economic high ground, climate high ground. But when discussing newcomers, within the mainstream certainly, we often tend to get stuck on the pull factors, right? What makes Canada such a great place? What attracts people here. But Rachel, as you started to discuss, there has to be something that is pushing people out of places that they once called "home"; which has to be a devastating decision to make. And it brings to mind, that very powerful poem ["Home"] by Warsan Shire, that came out a couple of years ago, where she says, and I just want to excerpt, some of that: *No one leaves home, unless you only run for the border, when you see the whole city running as well/When home is saying, leave, run away from me now, I don't know what I've become/ But I know that anywhere is safer than here.*

Loly, what are some of the major push factors that are driving people out of their homes? Where are they coming from?

**LOLY:** I think that maybe it's very, cliché, but it's poverty. And also with poverty you could see that many countries of the Global South start building a lot of conflict and start with a worse situation, civil war. Also with corruption in different governments. And I can speak from where I am from originally, from El Salvador, that was a country with a civil war. And now that there is not, we can put it in quotation, "no civil war", there is still a lot of violence. And the violence is provoked because many of the Global South countries, they have been totally exploited that what it is left right now is almost nothing for the population.

And one main impact is also the climate change because also they are natural disasters that they are pushing them to get out of their countries. In the last 20, 25 years we are seeing more and more woman fleeing. And seeing the genderization of migration. And it's because also women, they are not feeling safe to stay in their country because their gender. And that's what is one of the main push factors that is happening with that I've been seeing when I welcome women here in our office - That is level of poverty provoke violence against them, but also gender violence that have been increasing.

**RESH:** That's interesting. So you're seeing that intersectional factor where women, who tend to be on the front lines of every crisis, as most vulnerable populations are, that now there's a strong gender component to those who are fleeing to Canada.

**LOLY:** Yes.

**RESH:** Rachel, in terms of the populations that have been coming really over the last two or three years, where are they coming from?

**RACHEL:** In my line of work, Landings Law, we see clients from a range of different countries. I think that, really the influx of refugees and migrants responding to crises, has been a focus of our work at our private firm. But that doesn't mean that, the refugees and migrants from other countries around the world have ceased to exist. There's still very much present. But speaking to the crises, we of course, are seeing a larger number of Ukrainian applications, a larger number of Afghan applications, and still a number of Syrian applications.

But I do think it's important to recognize that refugees and forced migrants are coming from all over the world because of these push factors; because of poverty, because of gendered violence. And they often go to community centers like FCJ, where they know other people from their communities have gone before. You see this phenomenon, especially in Toronto of the word of mouth explanation of where to find safety.

**RESH:** And that is a very good point because certainly in terms of climate, we know that this is a global crisis. But also the increasing, disparities throughout the world, between the richer areas of the world, and of course the poorer, largely speaking the Global South.

These are people with full, complex lives. Many escaping traumatic situations; from poverty to conflict to climate and the list goes on. They're coming to a new place where they have to start over. What does this do to them? Loly, what are the impacts that you're seeing within these people?

**LOLY:** Well, one of the main impacts, especially for the adults, is to restart your life. You left a life that you have been building for 30 years, and then to come to a place where nobody recognized what you have done, what is your experience, is quite traumatic. We have been seeing an impact on mental health, but also in children. We are seeing more and more children coming to Canada with their parents or unaccompanied. Where they leave what is their roots. They leave their grandparents. They leave their relatives, their cousins, their friends, to come to a place where they don't know even some of them the language. I use a term here in our office -with the houses. That it's like you come to build, to study, in a cocoon, in a place where they submerge internally to start learning and adjusting to a new society.

And when they focus on how they can stay in this country and how they can deal - when they have a success story, like they have been accepted, you could see how they flourish like a butterfly. It's a very nice way to say that you are totally traumatized to move. Because it's not a nice experience.

I came 32 years ago as a refugee and I came as a government assisted refugee. And for us it was really hard in a way that how we can start being two persons that we were working on human rights. And not being recognized here was a long journey that we did with Francisco; but for my kids as well. And now they're successful. But we were put in a cocoon, traumatized, and then we start flourishing. It's very traumatic to move from one place to another place.

**RESH:** And it's a strength very much borne of this trauma. Because so often we see that these kids have to do a lot of growing up and very quickly. And in many situations they can become the primary negotiators or mediators, for their parents or along with their parents into this new reality of Canada. Yeah.

And Rachel, as you mentioned now, we're seeing large populations that are fleeing the incredible violence in the Ukraine. And with respect to Ukrainian refugees, Federal Immigration Minister, Sean Fraser recently said in a CBC interview, that Canada is "trying something new". And I wonder if you could speak to this "something new" and how does it likely differ from the current approach and why the difference?

**RACHEL:** Certainly the program that was introduced, March 17th was announced "Canada-Ukraine Authorization for Emergency Travel" or the CUAET. This is a relatively new ad hoc program that was introduced for Special Accelerated Temporary Residents for Ukrainians seeking safe haven in Canada. This is from, my angle, aggregation of various ad hoc efforts that have been introduced for previous populations fleeing conflict or crisis.

This allows for Ukrainians and their family members to come to Canada as temporary residents for up to three years. They must apply overseas for the Visitor Visa, provide their biometric information, or if they had previously done so, indicate as much. And while here, once they've arrived to the safety in Canada, they are given the opportunity to apply for an Open Work Permit or to apply for a Study Permit for elementary and high school students. This creates a very clear and open path for individuals fleeing this war to restart a life temporarily in Canada.

As it stands, there is not discussion around a path to permanent residency as the Ukrainians and the government of Canada wish for this to be a safe place to land before they may return home. As I think we've discussed before, many people would like to live their lives in their chosen home countries and coming to Canada is a second option.

**RESH:** And this seems to be a very good approach, right. A more expedited or a quicker approach than we've seen with other populations. And I think questions are coming up about that. Why haven't we seen this with other refugee populations that have been facing a similar type of crisis?

**RACHEL:** Yes. Yeah. I think that's a very important point. It is something that CARL has spoken publicly about. This need for the same level of energy and attention given to specifically those fleeing Afghanistan. These conflicts existed right on the

heels of one another. And I think it provides a very important spotlight on how Canada responds differently to these different conflicts.

The Government of Canada has shown awareness of, and interest in providing protection for Afghan refugees and forced migrants. But it certainly has resulted in serious delays that we don't seem to be seeing with the response to Ukrainian refugees. And those delays have caused serious disruption in the lives of many Afghans who are fleeing and many who are still stuck, stranded in Afghanistan or surrounding countries. So we hope that the government will be able to have concerted efforts on both parts. Not prioritizing one group over the other, but recognizing all refugees deserve protection

**RESH:** And in terms of other refugees, such as people coming from Afghanistan, people coming from Syria, and there are many other conflicts raging throughout the world right now. So we have conflicts in Eritrea, Ethiopia, the Congo it's a long list. And part of the journey seems to be refugee camps where people can be stuck for a couple of days to a couple of years, or even longer than that. Is that part of, the normal journey that we have been seeing?

**RACHEL:** Yes. That is the case for many in these conflict zones and conflict zones that don't seem to gather as much of the public eye. There are various long pathways that refugees in these areas can take. But it does seem to be a protracted and prolonged process resulting in requirements to stay in refugee camps, requirements to find temporary stay in third countries, in urban settings. All of which are less than ideal. And I think point to a need for a global response that better recognizes the scale of this issue.

**RESH:** Okay. And Loly, do you see this being rolled out for all refugees?

**LOLY:** No, I don't see that this is going to happen. It's very clear that the government of Canada, they are making decisions because they are running by their political decisions. And also how they can show around the world where is the political will. One of the challenges and concerns that we have in relation to bring Ukrainians on the temporary basis is that they are moving far from what is a permanent protection. Because they are given a temporary protection to people from Ukraine, which is good because they are facing a war, but they won't have access immediately to permanent residence. But we are seeing in my office, more and more women coming from Eritrea that they have been walking through Africa, going, even in boats, risking their life to come to Canada and to make a refugee claim. Because to stay in the refugee camps, even there is no safe for them because they can be also raped, they can be assaulted, they can stay there for 10 years or forever. And that's an unfair situation that the government's putting. And also, it's very clear the preferences. And I can say a racist decision that the government have been done. If you review the Immigration Act in different times of the years, like in the 60s before 67, before they changed to Multiculturalism, there was only the selection on bringing people from Europe. Europeans were the ones coming more.

And then, when we start seeing people coming from Africa, from other parts of the world; the immigration laws start being more tightening and tightening. You could see what is the difference. They are seeing people coming from the Global South. And that's really the calls that we have been doing, many organizations, to the government. That the appearance is really nice that they are bringing people from Ukraine - that is a bad situation. But also they should take the same approach and better approach to provide and consider them as a refugees or people from other parts of the world.

**RESH:** And to that point. We've been hearing this rhetoric about refugees who are more deserving and refugees who are less deserving, refugees who are coming from "more civilized" places and refugees who are coming from "less civilized" places, who are being judged in terms of where they're coming from, but as you say, Loly, also really on what they look like. So yes, the race component seems to be playing powerfully here. And so it's interesting that, Canada, which introduced the world's first "race-free" immigration system in the 60s, that you're seeing this playing out here.

**LOLY:** Yes. And I want to add something, Resh. Because we are talking about Ukrainians. But in Ukraine also the government make a big difference. Because in Ukraine, they were refugees from Africa. In Ukraine there were students and they were from Africa. There were people of color and they were not accepted in the other borders. And there were people applying to come to Canada and they haven't been accepted. That's what is very clear, that race is a big component when they do the selection for the migration.

**RESH:** In our globalized world of communication, technology, trade, tourism, the list goes on borders seem to be getting more porous and even meaningless when it comes to the impact of, for instance, COVID. However, borders tend to get a lot stronger when it comes to desperate people fleeing terrible situations. Now the climate crisis looms very large here.

According to climate experts, if we do not act now to effectively counter climate change, we could see as many as 3 billion or more people - that's billion with a B - having to flee across borders. Most of them from the Global South, likely going to other countries in the Global South, but also coming to Canada and other places within the West as climate refugees. Yet, legally climate refugees, again, potentially half of all global humanity, don't exist. And Rachel, how is this even possible?

**RACHEL:** Yeah, it's a very important and a vital question that you raise. To add more to the scale of this issue; we already have seen between 2008 and 2018. By one estimate, natural disasters have uprooted over 250 million people. This is 3 to 10 times more than conflict and war worldwide. And the World Bank estimates by 2050, 216 million ,internal climate migrants will exist. And this is just within the countries that are most impacted by climate change.

The bleed out into the rest of the world will respond accordingly. The legal protections as you point out, just are not there. As a part of CARL, we see the vital

importance of Canada to be a leader in this field. It's wide open right now for a country to step up and create proactive, forward-looking policy that defines protection for climate migrants.

At CARL, we presented a report in November of 2021, which attempts to provide a definition for a climate migrant. And I will summarize it in brief. But perhaps we can point to the report for anyone interested.

**RESH:** And just before you do that, Rachel, I just want to go into a little bit of a background here.

So first of all, definitions, right? So when we're talking about internally displaced people, we mean people, as you say, who are moving within the borders of a nation, as opposed to refugees who are moving between borders of nations. Right? And the current conventional definition for refugees, is still coming out of the 1951 UN Refugee Convention that does not recognize climate as a push factor.

**RACHEL:** Yes. That is the core issue behind this definitional problem and this protection problem. Refugee is defined as someone who is unable or unwilling to return to their country of origin due to a well-founded fear of being persecuted on five grounds. Those grounds are: race, religion, nationality, membership of a particular social group, or political opinion. But as you so rightly point out climate is not one of those.

The crux, I think of this issue is that this 1951 Refugee Convention, and it's 1967 Protocol, were responding to a human-caused push factor of war and specifically of WWII. Where as Loly pointed out, it was around European refugees who were being forced from their homes and forced from their countries of origin.

And this is a very strong legal definition that would be very difficult to change. And, that's why CARL hopes to present an alternative; to step beyond this strict definition requiring persecution and an agent of persecution. And instead defining the issue at a broader scale.

So we hope to put forward the definition of a climate migrant who exists outside of our refugee system; to, again, recognize the scale and importance of this, phenomenon; without tying it to the very specific legal regime of refugee protection. So a climate migrant, in CARL's view would be someone who again, is forced to leave their country of nationality or residence. Who has been, or will be affected by environmental disasters or degradation. And were they returned, would then face a risk to their life, their liberty, or their security of person. This really pulls together, I think, various factors and features of Canadian law already; building it around the structure of a refugee definition. Building it around our Charter right to life, liberty, and security of the person and placing it in the context of climate disasters and climate degradation.

We hope that this definition of a climate migrant would then be able to be embedded within our legal system. Whether that be through a legal change, which could be the

addition of a subsection to our definition of a "protected person" under Section 97 of the Immigration Refugee Protection Act. Or whether it's more of a policy approach where we create a specific category for humanitarian and compassionate protection, where a climate migrant might find their situation very clearly defined.

**RESH:** And we got to do something because it's the climate crisis. These are a lot of people. And in any case, the climate crisis is also recognized as a human-caused disaster as well.

Loly, you said that right now, despite the lack of legal definition, you are seeing people who are fleeing as a result of climate. Could you speak a bit more to that?

**LOLY:** Yes. And we have been seeing situations and it's very interesting what Rachel is presenting. We have been seeing cases of women fleeing places of disaster. Like one clear example, like tropical storms in Central America. And we can see perfectly women coming from Honduras that they have been impacted, flooded. And beside that, they have been in domestic violence situation. They have been presenting their cases. There is no consideration here in Canada, even on the humanitarian/compassion grounds, clear on disasters; only on the cases that we can see from Haiti. When there was the earthquake of Haiti, they open a very short program to do on the humanitarian/compassion grounds.

But we have been seeing women their houses are gone and it's because the climate change. The FCJ with some of the students from York University, just did also a small research on how we can help the women making a refugee claim and help to bring the component that climate and also natural disaster also is an effect that we need to protect. And one country had been added into their definition is Sweden. That Sweden is using that as a form of protection. And one of the suggestions that we were looking at is that they can put it either in the Immigration and Refugee - IRPA. But also to have guidelines for the board members of the Immigration and Refugee Board where they can define like the gender guidelines to have a guidelines of protection under the climate change. And specifically, how all these three elements can be intersected. And that's where they put it; the vulnerability for the person.

We have been seeing for example, when was the typhoon from Philippines, woman that they didn't have a place to go back. And we did an application under humanitarian/compassion grounds. And some of them, they were accepted, but there is not any specific guidelines for them.

And in that case it's like a lottery. Depends if you have an immigration officer that can make a good decision or another one that doesn't believe you. And that's really unfair for them. Because they managed to stay here. They are providing contribution to this country. And they want to send them to a place where they don't have anything.

**RESH:** It sounds so arbitrary, right. Within the absence of that legal definition.

Rachel, CARL has also been looking at the barring and detaining of refugees at the US-Canada border. Could you tell us a bit about this?

**RACHEL:** Safe Third Country Agreement [or the STCA], is currently going through a court challenge, going to the Supreme Court of Canada, where many CARL lawyers are involved. This attempts to point to that very issue of immigrants and refugees and refugee claimants who are attempting to cross the US-Canada border and claim asylum here in Canada. The STCA recognizes, or suggests that claimants who arrive in the United States, must claim asylum there; as the US under the STCA is demarcated as a Safe Country. What this challenge attempts to present is the various reasons why that may not be true. Why, in fact, based on what the litigants of this case see, and based on what the public interest parties - the various organizations involved in this case see - the US has not provided the protection required under its international obligations. And in fact, poses serious risk to many of these individuals who seek asylum and who are fleeing from their countries of origin due to persecution. We hope to see as CARL and as members of the Refugee and Immigration Bar here in Canada is, the recognition of those risks and the recognition that immigration detention at the US border and various other dangers to the lives of refugee claimants in the US mean that it is not indeed a safe country and the STCA cannot stand as it is.

**RESH:** Right. And this is Section 102 again of Canada's Immigration and Refugee Protection Act. And I just want to read the definition - "permits the designation of Safe Third Countries for the purpose of sharing the responsibility for refugee claims. Only countries that respect human rights and offer a high degree of protection to asylum seekers may be designated as Safe Third Countries.

And to date, Rachel as you say, the United States is the only country that Canada has designated as "Safe". So that's pretty interesting.

Loly, is there such a thing as a "Safe Country"?

**LOLY:** No, I'm sorry. I laugh because it's not. I bring it back what is within gender-based violence in the United States. To make a claim and to be protected, if you have been in domestic violence and living in United States for more than a year, you cannot make a claim and you cannot look for protection.

When it was the time of Trump, they don't have the legislation of domestic violence as a way to do protection. And I think it's also, if we have been seeing and knowing what is foreign policies from the United States. They have been involved in too many interventions or wars, civil wars. That they have been part of the repression in some of the countries and their policies haven't been on protecting the people. Have been more on their own policies, like, their own protection. For example, how they have been intervening in the nineties and the eighties with the Central America. They have been sending people from the army and at that time, there was a massive fleeing from Guatemala, and from El Salvador. And they ended up in United States and they were not accepted and recognized as refugees. I think that the United States still is not considered a country that you can look for protection. And also I think that

Canada being a signatory country is violating the Refugee Convention. Because the convention says that anyone who show up at your borders, you must provide access for protection. And with the Safe Third Country Agreement, they don't provide that. They just limited the access for protection to many people.

**RESH:** So, this is a violation of that principle of non-refoulement. That people who are fleeing a dangerous situation, should not be sent back into that dangerous situation.

Now, the term Safe Country as applied to refugees in Canada, came into popular usage during the last Conservative administration under Prime Minister Stephen Harper. In 2012 then Immigration Minister, Jason Kenney announced a "Designated Countries of Origin" list that was comprised of mainly European nations and the US. And this list could then be used to reject refugee claimants from those countries that were deemed to have no human rights violations because they are "safe".

One of those populations were Roma people who were fleeing Hungary. But Canada said, no, Hungary's great, so there's no issue there - though Roma people had something very different to say, because they have suffered persecution, marginalization, and the list goes on.

Loly, you Francisco, refugee agencies and advocates were very active in condemning this policy shift. At that time, what was going on there?

**LOLY:** Well, Jason Kenney never had been my best friend and will never be my best friend. He was the Refugee Minister because not just with that he cut a lot of services for refugee claimants; but he believed that there was an abuse on the system and his intention was to show to the world that Canada was not the safe-haven that they were mentioning.

But if you see Europe as a safe country, especially for the Roma community, knowing how they have been persecuted and like how it is in Canada, treating Indigenous people here. We can do that comparison, what is happening over there; that they didn't even recognize as human beings the Roma community.

We were really uproar on that situation because also at that time, if you remember around the war, was not receiving asylum seekers in his own country. They were sending them to other countries that they were providing money, which is a concern with what is happening right now with the UK.

Who defines who is the refugee? It's not the situation of violence or people fleeing, it's the governments that they are looking who they want to have a refugee. And their definition for refugee, at that time with Harper was a person that didn't have a strength, people that was fleeing war - they were portraying with pictures, women were even like a poor that you need to give charity and not to give real protection.

**RESH:** And anti-migrant sentiment has been such a trend all over the world.

Rachel, is that something that we're seeing here in Canada now is anti-migrant sentiment driving policy?

**RACHEL:** It's a good question. And it's a question that I think many in our field grapple with because of the rhetoric in the media cycle.

What I lean on as a point of hope is that it still seems that the majority of Canadians, at least, those that are polled, indicate a belief that people should receive protection from war and persecution. In 2021, 72% of Canadians had this belief according to the Ipsos Reid poll. And although this does not take away from, I think the very real rhetoric that exists, I think it points to a willingness of Canadians to recognize the need to live up to the identity that Canadians profess and welcome those that are in need into our country. It also, I think recognizes that, immigration writ large is quite popular in Canada because of a need that Canada has. And that many, rich Western nations have, to welcome new immigrants into our society; both because of demographic needs and because of economic needs.

So, whereas we see, political unrest and the exploitation of fear to target the vulnerable and to target migrants and spout. I think of a lot of misinformation; I think we also see in Canada, a unique opportunity for politicians to leverage relative interest in creating pathways for migrants and for refugees.

**RESH:** And that's a good point. Canada first country in the world by constitution to be a multicultural country. Immigrant populations, refugee populations, very much a huge part of what we are. And so Loly your take on why Canada needs these people who are seeking refuge, what do they bring to us?

**LOLY:** I believe and something that I really love with Canada, even as I came as a refugee, it's all the tapestry that is building what is the society of Canada. At this moment we can see from everywhere, and that's the enrichment that they give to this country. And also I agree with Rachel, that there is a lot of opening in the Canadian society. The welcoming from the Canadian society is really high. Even at one point we received the Nansen medal. The Canadian society received that, not the Government of Canada. It's the Canadians, because they opened the doors for the boat people. And now if you see with Syria, and even now with all the number of refugee claimants coming here, there is people that call to my office to say, "I have a place for a refugee". And that's something that we have that humanity that we keep here in Canada, that make this beautiful tapestry as a country.

But also in the other hand, there is an economical interest, because we need to be realistic. The population is decreasing in Canada. We need to bring in to continue to be a rich country. And the government have realized that because if you see in the last a year, even with COVID, the number of immigrants coming to Canada were more than 400,000 and went a little bit higher to the levels that the government put in place. And they need migrants.

The challenge is that yes, it's welcoming refugees. Yes, is welcoming migrants. But many of them, and that's my concern, that they are seen in a temporary basis. That

they can stay here to maintain and increase the economy of the country and then from there, they will select who can stay here. And that's one of the challenges that we have been seeing. But also what Rachel was saying with this openness from the Canadian society, this is the opportunity to the government to really create pathways for permanent residence for many people that they are undocumented. That they can regularize. And also to open up to welcome refugees.

**RESH:** Right. And, going to that very excellent point We are a shrinking population. We're not reproducing as quickly as we would like in order to build Canada up. And there are actually two pools of population that we really need to invest in. As you say, immigrants and refugees. And of course the other one are Indigenous populations who are also the youngest and fastest growing.

I want to just go back a bit to this question of the border, because something interesting is happening. And Loly, you had mentioned this So in a recent Guardian article, reporter Kenan Malik, looked at the trend of border security and refugee processing being done. And being done pretty far from borders of those nations where people are seeking asylum. According to the article, the US now has border guards, not just on the US-Mexico border, but also on the Mexico-Guatemala and the Guatemala-Honduras borders. And the UK seems to have sub-contracted out their refugee process to Rwanda in this agreement that was recently announced.

So Rachel is this potentially true of Canada, and probably through the Safe Third Country agreement we have with the US - Where is the Canadian border when it comes to those seeking asylum?

**RACHEL:** It is a very good question. And a very interesting question academically, with very serious consequences practically. The border system has always been about creating pockets of rights around the world, and has always been exclusionary. By definition you create a border, it means someone must have access to cross that border. Interestingly, although I won't go into too much depth, the history of the nation-state had a different conception in the earliest days of the ability to cross between lands.

But to your point, Canada and many other Western countries have begun this process of externalizing, their borders, of pushing the gate-ways, the paths to come to the country further and further out of the country. This is for various reasons, but without going into those, just pointing to the phenomenon of Canadian Visa agents in sending countries where individuals are applying to come to Canada, but must do so at an embassy, must do so at a Visa center that inherently pushes the border outside.

In Europe, for example, the European Union has various agreements with, for example, Libya, where instead of having individuals in their minds cross the Mediterranean in a very dangerous pathway, which is objectively true- it is a very dangerous pathway. They are saying " oh, let's have Libya take responsibility for these migrants", which is a politically fraught decision.

**RESH:** Yeah.

**RACHEL:** Yeah, it was seriously, problematic and to say the very least.

**RESH:** So it seems that, as we do with quite a few things, we seem to be contracting out our responsibilities again, to the Global South. Loly. I just want to get your thoughts on that in terms of where Canada's border actually is.

**LOLY:** Well, it is everywhere, Resh? Because I'm sorry. You mentioned physically in United States. Mexico, Guatemala, El Salvador, and Honduras by more with Honduras. But everywhere when you travel, and if your final destination is Canada, you always have been intercepted. I been seeing people with CBSA, the Canadian Border Services Agency in countries like Mexico. That they are there and they check your passports over there. And that is really, it's very sad to see because you see the signs of CBSA into the sovereignty of a country.

That's how Canada is doing their way to keep the gate-guards. Also, they were doing the same when you're in Europe. You can be stopped if you look weird or that they can check with your passport and that's how they intercept.

This is not new. I remember. After September, 2001, when the towers fell down they were intercepting and that's how CBSA started. They built CBSA in a way that they can keep the gate-guards of Canada from other parts. Because the only border that we have is [with the] United States, and then the sea.

And if you remember, at the time of Jason Kenney, he was going to Thailand to the South Asian to try to stop the boats over there, that were coming from Sri Lanka, after the only boat that arrived in Vancouver. And that's how Canada have been using their policy.

I want to mention something that is very quiet, nobody knows., But Canada is a member of the Conference for Regional Migration. This includes Canada, United States, Mexico, Central America, Dominican Republic and Colombia. And they have there as observers, the UNHCR and the IOM and also civil society, but the government select civil society. We were part of that because the Canadian Council for Refugees, when I was president of the CCR, we were participating in the bilateral meetings with the government. And Canada was one of the countries pushing to define their immigration policies in the Global South.

And they have three permanent committees. One is the Consulate Committees and that's with the borders. The other was to stop Trafficking, the anti-trafficking. And the other was Organized Crime. And in every meeting you'll see, that was in both the RCMP and CBSA beside Immigration, Canada. And they were pushing - their called, if you read it, it's very interesting. Because is a leverage and to help the countries to really have at the same level of the refugee, like, with the Refugee Convention refugee. And if you see Mexico, Canada was involved in their definition on the refugee; that they have a system in Mexico as well in Costa Rica. And that's how Canada have been using their safeguards put in there. But nobody knows about

these meetings. And that's where they impact and they define the immigration lines in the Americas.

**RESH:** So Canada is not just defining refugees for ourselves, but we're actually doing it for other countries as well. That is interesting. Final question. What is Canada's obligation to refugees? And what should be our obligation to refugees? And Rachel, I'm going to start with you.

**RACHEL:** Canada has very specific international obligations that have been adopted into our domestic legislation under the Refugee Convention, which we have cited before. Canada has an obligation to protect refugees fleeing persecution. This applies to the very specific definition of refugee, as someone outside their country of origin as, someone facing persecution from an agent of persecution on one of the grounds listed in the Convention. But I think Canada's obligations to refugees as we've discussed today, must end does extend beyond this specific definition.

Canada is also a state party to multiple international human rights legislations, which lay out a broader basis for protection. The International Covenant on Civil and Political Rights, for example, guarantees the right to life and freedom from cruel, inhuman or degrading treatment. This is a much stronger guarantee against what you referenced before -the principle of non-refoulement - which is the principle underscoring Canada's obligations to not send refugees and migrants back to countries where they would face a serious risk to their life.

This I think, and the many other hard law or international legislations or soft, law international agreements, that Canada has signed on to, must be taken much more seriously I think; when we see the scale of the issues that we're facing. Whether it be climate migration or domestic violence, or the variety of conflict and mixed-migration factors behind migration. And Canada has the opportunity to respond to this international obligation as a leader and as a country that recognizes its position, its need and the global need, to create systems of protection.

**RESH:** Beyond our moral obligation, Loly, as a wealthy carbon-emitting Global North country, that is also a leader in, for instance, mining operations around the world. Does our obligation go beyond moral? Do we owe asylum to those who seek it?

**LOLY:** Yes. And beyond the moral. Because one of the thing is that the people that are coming also, they are fleeing from displacement and the taking away of their own land. We are seeing more and more Indigenous people coming from other parts of the world, because the Canadian mining. And it's not just a moral, it's a real obligation for Canada, not just to provide them or to select them as a refugee. It's also to recognize anyone, no matter who they are, to recognize them, when they make a claim refugee to provide them the services that they deserve here and the access to justice. Because we are talking about justice.

Canada has two faces. The one that we say we are leader on refugees, and you could see how we are leading in many things politically. But in the other hand, privately, they are allowing all the Canadian mining and all the international

companies to go and do whatever they want in the different countries in the Global South. And the government has an obligation to really make accountable what is the private sector, when they go and exploit to other countries. Because that's how Canada is producing refugees as well and impacting around the world.

**RESH:** Loly and Rachel, I want to thank you both very much for an excellent conversation.

**RACHEL:** Thank you very much, Resh.

**LOLY:** Thank you Resh, for the invitation.

**RESH:** Lovely. Thank you.

**RESH:** That was Loly Rico, Executive Director of the FCJ Refugee Centre and Rachel Bryce with the Canadian Association of Refugee Lawyers.

I'm Resh Budhu, host of *The Courage My Friends* podcast. Thanks for listening.

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