

CANADA AND THE STRANDED CANADIANS

Introduction



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Focus

Canada's reputation as a human rights champion came under serious scrutiny in 2009. That is because two Canadians, Abousfian Abdelrazik and Suaad Hagi Mohamud, found themselves in a foreign country and not allowed home. This *News in Review* story explores what happened to them, how the Canadian government responded, and why some people have accused the government of abandoning its own citizens.

Did you know . . .

The Canadian Security Intelligence Service interrogated Abousfian Abdelrazik in prison and told him that, "Sudan will be your Guantanamo" (*Toronto Star*, June 24, 2009). This meant that his jail time in Sudan would be like spending time in the infamous U.S. jail in Cuba for alleged terrorists.

For some Canadians, their passports aren't worth the paper they're printed on. Just ask Abousfian Abdelrazik and Suaad Hagi Mohamud. The two Canadians were travelling from different African nations at different times and were left stranded by their own government.

In Abdelrazik's case, he was stranded for six years in Sudan before being allowed to return home. His ordeal started when the Canadian government asked Sudan to throw him in jail. Why? Because Canada claimed Abdelrazik was a terrorist. But there was no evidence that he was, or ever had been, a terrorist. Eventually Sudanese authorities released Abdelrazik because they said they couldn't continue detaining an "innocent man." In fact, both the Canadian Security Intelligence Service (CSIS) and the Royal Canadian Mounted Police (RCMP) eventually came to the same conclusion. No evidence existed that demonstrated that Abdelrazik was a terrorist. So why keep this man in jail? It seems that the United States had a hand in Abdelrazik's ordeal. They were convinced, despite evidence to the contrary, that Abdelrazik was a terrorist and implored the Canadian government to avoid repatriating him. Canada played along.

On three different occasions, Abdelrazik secured a flight from Sudan back to Canada, and on all three occasions the Canadian government denied him travel documents. Over the

six years that Abdelrazik fought for his repatriation (his return to Canada) he received only one concession: he was allowed to live in the Canadian embassy in Khartoum. In 2009, a federal judge issued a court order forcing the government to get him back to Canada without further delay. A grateful Abdelrazik made his way home in June 2009 and thanked those who helped to secure his release. Meanwhile, the United Nations and the United States still maintain he is a terrorist.

Then there's the case of Suaad Hagi Mohamud. She flew to Kenya to visit her sick mother. At the end of her two-week stay she made her way to the airport where an airline employee said her face didn't match her passport photo. Mohamud stood her ground and maintained that she was the person on the passport. She was promptly detained, charged by Kenyan authorities, thrown in prison, and had her passport voided by Canada. Fortunately, friends in Kenya bailed her out of jail eight days after her arrest, prompting Mohamud's crusade to prove she was really herself. She offered her fingerprints, multiple pieces of identification, and photographs to prove her identity. Eventually it was a DNA test to confirm her identity that got her a ticket home. What started as a two-week visit to her ailing mother turned into an almost three-month battle to force Canada to validate her citizenship.

To Consider

1. If it is truly the role of government to protect its citizens shouldn't public officials protect *all* Canadian citizens, regardless of their ethnicity or religion?
2. In the modern age where terrorist groups do target Western nations, how should governments determine who is "safe" and who is a potential "threat"?

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Video Review

Focus for Viewing

Before watching the documentary, answer the following questions with a partner or in a small group.

1. What is the purpose of a passport?

2. What rights do you think a passport provides for Canadians when they are travelling?

3. Suppose you were trying to leave a foreign nation to return home and an immigration official denied you the ability to leave. What would you expect the Canadian government to do on your behalf?

4. Imagine that you were unexpectedly arrested as you were trying to leave a country. What response would you expect from the Canadian government?

Questions for Viewing

1. (a) Why was Abousfian Abdelrazik arrested in Sudan?

- (b) Why did Canada prevent him from returning home?

- (c) Were any of the allegations against Abdelrazik proven?

2. (a) What were Abdelrazik's lawyers eventually able to achieve through the courts?

- (b) What did the judge have to say about Canada's conduct during the Abdelrazik affair?

3. Who was Mohamed Hussein waiting for? How long had he been waiting?

4. Why was Suaad Hagi Mohamud prevented from leaving Kenya?

5. What test did Mohamud have to undergo before the government of Canada would agree to let her come home?

6. What does civil rights lawyer Marlys Edwardh mean when she says that Canada's abandonment of some of its citizens "smacks to me of two classes of citizenship"?

7. What did Canada's vice-consul in Kenya say about the investigation into the Suaad Hagi Mohamud case?

8. What does Passport Canada recommend if your appearance changes significantly from the picture on your passport?

9. (a) How does Mohamud plan on dealing with Canada's handling of her case?

(b) What does the government plan to do in relation to the handling of Mohamud's case?

Post-viewing Activity

The inside inscription of the Canadian passport reads, "The Minister of Foreign Affairs of Canada requests, in the name of Her Majesty the Queen, all those whom it may concern to allow the bearer to pass freely without let or hindrance and to afford the bearer such assistance and protection as may be necessary."

1. What does this mean?

2. Did the Government of Canada fail to live up to this pledge in the cases of Abousifian Abdelrazik and Suaad Hagi Mohamud? Provide reasons for your answer.

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IV *Abousfian Abdelrazik*

Did you know . . .

Sudan is the largest country in Africa and the 10th-largest country in the world. Located in northeastern Africa, the country is bisected south to north by the world's longest river,

Focus for Reading

On September 23, 2009, Abousfian Abdelrazik filed a \$27-million lawsuit against the federal government and Foreign Affairs Minister Lawrence Cannon for allegedly arranging to have him detained in Sudan from 2003 to 2009. The lawsuit—which singles out Cannon for \$3-million in damages personally—holds the government responsible for “encouraging or condoning his torture at the hands of Sudanese authorities, and actively obstructing his repatriation to Canada for several years” (*Calgary Herald*, September 24, 2009).

As you read the following information on the Abdelrazik case, ask yourself whether you agree or disagree with his claim that the government and Lawrence Cannon “acted in a bad faith and a callous manner at every turn, resulting in significant physical and psychological harm to the plaintiff.”

The Case

Abousfian Abdelrazik probably knew his trip to Sudan was a risk. After all, he was returning to the nation that had imprisoned him for his political views in 1989 when an Islamist-backed military coup took over the government. Upon his release from prison in 1990, he fled to Canada and applied for and received refugee status. By 1995 the native of Sudan was a Canadian citizen living with his family in Montreal.

Suspicious Begin

Abdelrazik first came to the attention of the Canadian Security Intelligence Service (CSIS) in 2000 when they were investigating radical Islamic groups in Montreal. Ahmed Ressam, who was later dubbed “the millennium bomber,” was a member of one of those groups. Ressam had been living in Canada illegally and, in late 1999, planned to detonate a bomb-laden car on New Year’s Eve at Los Angeles International Airport. He was caught trying to cross into the U.S. and was later convicted on terrorism charges and sentenced to 22 years in prison. One of the prosecution witnesses was Abdelrazik, who testified by video link that he knew Ahmed Ressam but had no knowledge of the bombing plan.

Detention and Alleged Torture

CSIS kept an eye on Abdelrazik after Ressam’s trial and when they got word that he had made his way to Sudan to visit his sick mother in 2003 he was arrested. Government documents obtained by the *The Globe and Mail* clearly identify that Abdelrazik was arrested by request of the Canadian government, with most experts suspecting CSIS of pushing for Abdelrazik’s detention (CSIS asked Sudan to arrest the Canadian, files reveal, April 10, 2009). While in prison, he was repeatedly beaten and, at times, tortured by his Sudanese jailers. At one point, two CSIS agents interrogated Abdelrazik. They told him he was never going to get back to Canada and “Sudan will be your Guantanamo.” Eventually, the Sudanese authorities released him, in July 2004. After close to a year in prison, and over a year since he had seen his family in Montreal, Abdelrazik hoped to return to Canada.

Return to Canada Denied

Two things happened to Abdelrazik prior to his departure from prison. First, his passport expired, so he was dependent on the very people who arranged his imprisonment in the first place: the

Did you know . . .

Many Western nations created “no-fly” lists after the September 11, 2001, terrorist attacks on the United States. Individuals placed on the list were not informed that they had been selected for airline restrictions. Many people did not discover they were on a no-fly list until they showed up at an airport and were prohibited from flying.

Canadian government. Second, he was placed on the United States government’s “no-fly” list. The no-fly list, sometimes called the terrorist watch list, is a secret list created and maintained by the U.S. government of people who are not permitted to board a commercial airline for travel in or out of the United States. As of spring 2009, it included over one million names. The list was created after the September 11, 2001, attacks.

When Abdelrazik tried to purchase a ticket to fly home he was refused because his name was on the no-fly list. Abdelrazik took his concerns to the Canadian embassy, where officials told him they could only help him if he was able to secure a reservation on a plane bound directly for Canada. This proved impossible—no one was going to fly a person anywhere if they were on the no-fly list—and there were no direct commercial routes from Sudan to Canada.

The situation for Abdelrazik got worse when in October 2005 he was arrested a second time. By the time he was released in July 2006, the United States had labeled him a full-fledged terrorist, and the United Nations had added him to their no-fly list. Meanwhile, Canadian officials maintained they would not issue him a passport or emergency travel papers unless he was able to secure a reservation on an airline that would fly him back to Canada.

The Sudanese government got tired of detaining Abdelrazik. After honouring Canada’s requests to imprison Abdelrazik on two occasions without levying any charges, they told the Canadian government that they could no longer arrest or detain an “innocent man.” In fact, subsequent investigations by the RCMP and CSIS also came to the conclusion that he was innocent. Abdelrazik was not the terrorist that the United States government claimed he

was. Sudan volunteered to fly Abdelrazik home on at least two occasions at their expense. The Canadian government rejected the offers.

“Temporary Safe Haven”

Abdelrazik’s situation changed in 2008 when *The Globe and Mail* broke his story. His case began to receive a great deal of publicity. As publicity increased, he turned to the Canadian embassy one more time. This time they told Abdelrazik they would provide him “temporary safe haven” in the embassy. They set up a cot in the embassy exercise room where he could sleep, and he was allowed to spend his days sitting on the couch in the embassy lobby. Abdelrazik was extremely fearful that he would be imprisoned if he left the Canadian “temporary safe haven,” so he pretty much stayed put and hoped some good fortune might come his way.

In the fall of 2008, Etihad Airlines, the national air carrier of the United Arab Emirates, agreed to fly Abdelrazik back to Canada with one stopover in Dubai. The Canadian government refused to grant the necessary travel documents. Then, in December, the government changed the rules altogether: now Abdelrazik had to provide authorities with a fully purchased airline ticket before they would fly him home. But this was impossible because Abdelrazik had no money. Since he was a suspected terrorist, Canadian authorities had been able to use anti-terrorism laws to freeze his assets. As well, his inclusion on the United Nation’s no-fly list gave the Canadian government the right to seize the assets of anyone who tried to help him buy a ticket out of Sudan.

Public Pressure

News of Abdelrazik’s situation caught the attention of some concerned Canadians. In the spring of 2009,

over 100 people defied Canadian anti-terrorism laws and purchased Abdelrazik a ticket home. Foreign Minister Lawrence Cannon used his ministerial privilege to deny Abdelrazik a passport, thus thwarting the efforts of the 100 Canadians. Cannon also told Abdelrazik he should get himself off the terror list—but this was the job of the government, not Abdelrazik's.

In the meantime, a legal team had begun working to secure the return of Abdelrazik to Canada. In a federal court they argued that the government had violated Abdelrazik's Charter rights

and that he should be repatriated. The judge agreed, and the government was ordered to fly the stranded Canadian back home. Meanwhile the group of Canadians willing to help Abdelrazik had grown and had bought another ticket, this one for June 12. That day came and went with the ticket unused. Finally, on June 18, Prime Minister Stephen Harper announced that the Canadian government would honour the court order and fly Abdelrazik home. On June 27, 2009, he stepped off a plane in Toronto and headed home to Montreal. It had been six years since he had seen his family.

Analysis

1. Describe your overall impressions of the story of Abousfian Abdelrazik. How did you feel when you read the story? What conclusions were you able to draw from the story? What does this story say about Canada?
2. Based on what you have read, do you agree that the government and Lawrence Cannon "acted in a bad faith and a callous manner at every turn, resulting in significant physical and psychological harm to the plaintiff"? Make sure you give reasons for your answer.
3. Do you feel citizens should have the right to sue their government for failing to protect their rights while they are abroad? Why or why not?

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Suaad Hagi Mohamud

Quote

"I wouldn't be stopped at the Kenyan airport if I'm a white. The Canadian High Commission wouldn't be treating me the way they treat me. If I'm a white person, I wouldn't be there in one day. I wouldn't have missed the flight." — Suaad Hagi Mohamud (cbcnews.ca, August 21, 2009)

Suaad Hagi Mohamud had come to Canada from Somalia to live the Canadian dream. Since immigrating to Canada, she had lived a simple life alongside her son in Toronto. She had grown to love her adopted homeland. She also loved her mother and when she found out her mother was sick she made travel arrangements to fly to Kenya to be by her side. Unfortunately, a trip that was supposed to last for two weeks turned into a nightmare that lasted almost three months.

Problems at the Airport

At the end of her two-week stay in Kenya, Mohamud made her way to the airport and prepared to leave the country. She approached the KLM Airlines counter to check in. The ticket agent checked her ticket and her passport before making a surprising allegation: he claimed that Mohamud did not look like the person in her passport photo. Specifically, he said that her lips looked different from those of the person in the picture. Mohamud suspected he was looking for a bride and refused to play along. Before she knew it, the ticket agent had summoned immigration officials, and a short time later Mohamud was told that she was not getting on the plane until she proved she was the person in the passport photo.

She produced her driver's licence and health card—both compelling pieces of photo identification. The officials weren't convinced. They told her that they would not permit her to board the plane. They sent her away and told her she needed to sort things out with the Canadian High Commission if she wanted to leave Kenya.

The Canadian Embassy

The next day, Mohamud went to the Canadian embassy for help. But instead of helping, Canada's lead diplomat in Nairobi declared her an imposter, voided her passport, and told Kenyan officials to throw her in jail. Mohamud was charged with identity fraud and being in Kenya illegally. She spent eight days in prison before friends and family could come up with the \$2 500 bail to get her out. Once released she knew she was caught between a rock and a hard place: she was broke, she was a Canadian in Kenya without a passport, and she was under indictment for a number of serious offenses.

Upon her release from jail, Mohamud agreed to be fingerprinted. She hoped that her fingerprints could be compared with her immigration records back in Canada and the whole mess would be cleared up. Several days later, immigration officials told her that her fingerprint records had been destroyed so matching the two files would be impossible.

Fighting to Return Home

For over a month, Mohamud lived in a hotel in the slums of Nairobi and begged the Canadian government to expedite her case. She even agreed to undergo DNA testing to confirm her identity. She was not able to make any progress, however. In fact, back in Canada, Foreign Affairs Minister Lawrence Cannon claimed "there is no tangible proof" Mohamud was Canadian. He also said, "All Canadians who hold passports generally have a picture that is identical in their passport to what they claim to be" (cbcnews.ca, July 24, 2009).

Did you know . . .

Abdihakim Mohammed, an autistic 25-year-old Somali-Canadian, has been in Kenya for three years, accused by Canadian diplomatic officials of being an imposter. Mohammed's mother took him to Somalia five years ago because doctors believed being around extended family could help him. When his mother tried to bring him back to Canada three years ago, he was denied the right to travel because he didn't look like his passport photo.

In late July, two months after she tried to board that flight home, the Canadian government agreed to run a DNA test on Mohamud. Mohamud's DNA was gathered in Nairobi and her sample was sent back to Canada. Her son and ex-husband gave their samples in Toronto. On August 10, the results came back: Suaad Hagi Mohamud was who she said she was; her DNA proved that she was the mother of her son.

Within days, the charges against Mohamud were dropped, her bail money

was returned, and on August 15, 2009, she arrived in Canada. Shortly thereafter the Canadian government promised a complete investigation of the case. Mohamud responded by filing a lawsuit against the Canadian government for \$2.5-million. She says she is not so much concerned about the money as she is in seeing that the Canadian government thinks twice before it leaves another one of its citizens stranded outside the country.

Analysis

1. Does it seem reasonable to you that if airport security or government officials are concerned about a person's identity that they should be able to deny people the right to board an airplane? Explain your answer.
2. If a Canadian citizen is denied the right to board a flight in a foreign country, what help should the Canadian government provide to that citizen? Provide reasons for your answer.
3. In an interview with the CBC, Suaad Hagi Mohamud said that she believed the colour of her skin played a role in her ordeal (see the quote in the margin of the preceding page). What do you think about this comment? Do you believe that white people are less likely to be targeted or detained by airport or security officials? Explain.
4. Identify two similarities and two differences between Mohamud's case and the case of Abousfian Abdelrazik.

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Stranded Canadians and the Charter of Rights

Definition

Habeas corpus gives a person the opportunity to appear before a judge without unnecessary delay. It also gives the accused the opportunity to challenge the legality of any charges brought against him or her.

The fundamental issue that arises from the ordeals of Abousfian Abdelrazik and Suaad Hagi Mohamud concern the obligations of the state to its citizens. In Canada, these obligations are very clearly laid out in the Charter of Rights and Freedoms. In this feature, your task is to take a look at the Charter rights listed below and see how they apply to the cases of Abdelrazik and Mohamud. The first one is done for you. Note: Use the profiles of Abdelrazik and Mohamud on pages 9-12 in this guide as your main source of information.

Example: Mobility Rights

Section 6: "Every citizen has the right to enter, remain in, and leave Canada." In the cases of Abdelrazik and Mohamud, their right to enter Canada was blocked by a foreign nation when they tried to return home. To make matters worse, the Canadian government, instead of protecting the mobility rights of its citizens, worked with these nations to prevent both Abdelrazik and Mohamud from coming back to Canada. It is interesting to note that, in Abdelrazik's case, a federal court ruled that the government had violated his mobility rights and ordered the Harper government to make sure the stranded Canadian got home.

Instructions

Now it's your turn. Working with a partner, determine if and when the Charter rights of Abousfian and Mohamud were violated. Write your points down and be prepared to share your position and supporting information in a group discussion.

Legal Rights

Section 7: "Everyone has the right to life, liberty, and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

Section 8: "Everyone has the right to be secure against unreasonable search or seizure."

Section 9: "Everyone has the right not to be arbitrarily detained or imprisoned."

Section 10: "Everyone has the right on arrest or detention (a) to be informed promptly of the reasons therefore; (b) to retain and instruct counsel without delay and to be informed of that right; and (c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful."

Section 12: "Everyone has the right not to be subjected to any cruel and unusual treatment or punishment."

Equality Rights

Section 15: (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability."

Source: Department of Justice Canada, at <http://canada.justice.gc.ca/eng/dept-min/pub/just/06.html>

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A “Kafkaesque” Tale

The plight of Abousifian Abdelrazik has often been referred to as “Kafkaesque” in the media. But what exactly does this mean?

Franz Kafka was one of the most influential fiction writers of the 20th century. The native of Prague wrote compelling short stories and novels that challenged traditional narrative themes and styles. Most of his work achieved notoriety after his death thanks to the work of his friend Max Brod, who extensively edited and reorganized Kafka’s work after the author died. The term *Kafkaesque* is really suggesting that some real-life event is something like a Kafka story.

So what does this have to do with Abousifian Abdelrazik? The CBC radio show “The Current” prepared a radio documentary highlighting the parallels between Abdelrazik’s ordeal and the plight of Joseph K in Kafka’s novel *The Trial*. This is a brief summary of what was presented in the documentary.

The Trial

In the novel *The Trial*, Joseph K is hauled out of bed one morning and arrested by a nameless authority. The two government agents who take him into custody do not inform him of the charges against him; they just tell him that the charges are very serious. He is released on his own recognizance. Throughout the novel, Joseph K is summoned to appear before the courts in pre-trial proceedings that neither inform nor progress toward any kind of outcome. He undergoes bizarre interrogations by the two agents that are equally pointless.

When he tries to discover the nature of the charges brought against him, he gets mired in the massive government

bureaucracy designed to keep him from discovering the truth. He is never able to get close to the mysterious branch of government that brought the charges against him. He is simply held in limbo, waiting for his trial to begin. The entire process drives Joseph K to the verge of suicide.

In a sense, *The Trial* is the story of a bureaucracy gone mad. The plight of Joseph K is the story of the quest to achieve the unachievable because the system is so fundamentally flawed that it has lost its own sense of humanity.

The Trial of Abousifian Abdelrazik

The story of Joseph K mirrors that of Abousifian Abdelrazik in a number of ways. First, Abdelrazik was held in suspicion by Canadian authorities but was never formally charged with anything. Canada requested his detention, and the Sudanese authorities complied. In a sense, he was perpetually held in suspicion and forced into a position where he had to prove himself innocent without knowing what he was guilty of in the eyes of the authorities.

Second, like Joseph K, Abdelrazik was interrogated by two government agents who reveal to him the seriousness of the trouble he is in. The CSIS agents tried to squeeze information out of Abdelrazik, but because he is an innocent man, he had no idea how to answer their questions.

Finally, Abdelrazik’s case speaks to the absurdity of some bureaucratic institutions: why did the Canadian government continue to fight Abdelrazik’s lawyers in court when the government of Sudan, the RCMP, and CSIS had all declared that he was not the terrorist that they thought he was? Instead of putting Abdelrazik on a

plane bound for home, the government kept blocking his efforts to return to his family in Montreal—that is, until a federal court judge forced them to.

Sources: CBC's "The Current," June 29, 2009 (www.cbc.ca/thecurrent); Raphael Alexander's *National Post* blog "Franz Kafka and Abousfian Abdelrazik's return" (www.nationalpost.com).

Activity

Listen to the documentary about Abdelrazik on "The Current" at www.cbc.ca/thecurrent/2009/200906/20090629.html and then answer the questions below.

1. Do you think the story of Abousfian Abdelrazik is "Kafkaesque"? Provide reasons for your position.
2. How do you think you might respond emotionally and psychologically if you were ever detained, held without being charged with an offense, and denied access to a lawyer or your government?
3. Do you think Abdelrazik is a stronger man than the character Joseph K? Explain.

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Activity: Letter Writing

As Canadians, we pride ourselves on the human rights that are enshrined in the Charter of Rights and Freedoms. But as the cases of Abousfian Abdelrazik and Suaad Hagi Mohamud indicate, it takes more than the Charter of Rights to protect Canadians. We also need honest government officials, airport personnel, immigration officials, consular officials—and affordable access to lawyers and the legal system. One way to help ensure that the rights of Canadians are protected is to let elect politicians know your feelings on important issues.

Your Task

Your task is to take the information you have learned in this *News in Review* story and write a letter to a Canadian government official stating how you wish they had acted in the cases of Abousfian Abdelrazik and Suaad Hagi Mohamud. Make sure your teacher approves your letter before you send it to one of the cabinet ministers below.

You may chose to view the *News in Review* video again and use the profiles of Abousfian Abdelrazik and Suaad Hagi Mohamud in this guide as your main sources of information.

Write to:

The Honourable Lawrence Cannon
Minister of Foreign Affairs
House of Commons
Ottawa, ON, K1A 0A6
Canada
(Postage is free from within Canada)

Fax: 613-992-7559
E-mail: CannoL@parl.gc.ca

Salutation: Dear Minister

The Honourable Peter Van Loan
Minister of Public Safety
House of Commons
Ottawa, ON, K1A 0A6
Canada
(Postage is free from within Canada)

Fax: 613-992-8351
E-mail: VanLoP@parl.gc.ca

Salutation: Dear Minister