

REFUGEE UPDATE

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SANCTUARY OR PRIVATE DETENTION?

BY HEATHER MACDONALD

The church, the state and ordinary Canadian citizens have an obligation to stand with and protect the most vulnerable among them. How then do we, as institutions and individuals, balance our democratic need to respect the rule of law and our ethical need to seek justice for credible and desperate refugees?

In the past, churches took only exceptional cases into 'sanctuary' and operated as if such cases were 'discretionary sponsorships' - this, of course, was not officially recognized as such by the government. (Although under one minister, department officials did propose a compromise or deal that allowed some churches a limited number of discretionary sponsorships per year. But it was not a form of church sponsorship we sought, it was system change.)

For the church, "sanctuary" is/was public witness; it is/was not hiding people in church basements. Rather we aspired to a Ghandi-like form of civil disobedience in the hopes of making a real difference. Sanctuary action was never taken in defiance of government, but in hopes of working with them to help one case and open the door to corrective (policy and practice) change. In the late 90's and early 2000's, we felt justified in our actions because we saw a correlation between the non-implementation of RAD and the requests for sanctuary. From our perspective, the government was not respecting the rule

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of law. As we saw it, 'sanctuary' was never a solution, seldom a viable option but it was a last resort for some particular refugees. It was to be considered only when no other recourse was left.

We understood the concept of 'sanctuary', rooted in the Bible (Deuteronomy), to be rights based (not discretionary) and despite its questionable status in the modern state where civic, not church law, prevailed, it had precedence and justification. It was an act of obedience to a higher authority. "Sanctuary" served as a safety valve against the arbitrariness within the refugee system.

By opting for the public witness of sanctuary, a congregation

- offers immediate protection to a refugee at risk
- asks for a public review of the decision and decision-making-process
- highlights the importance of taking personal and social responsibility in a democratic state

However, it must be emphasized that responding to a request for 'sanctuary' - even after careful screening of the applicant- was and is a difficult decision for a congregation and rarely a particularly good decision for the applicant. A congregation that agrees to receive someone into 'sanctuary' is risking a justice stance, and putting themselves at financial and emotional risk. Yet sometimes that risk is the only response that upholds life. Taking time to make ethical, well-informed and faithful decisions, before any action is taken, is key to a congregation's surviving the 'sanctuary' process. This same investment of time and thought is also the basis for broader public support. A truly moral stance cannot easily be dismissed. In our experience, principled action resonated with the Canadian public and offered its own safeguard.

The Montreal Gazette claimed there had been 33 cases of Sanctuary between 1983 and 2003 - 19 of which were given "legal status". Between 1983 and 2007, 14 cases of 'sanctuary' in United Church congregations were known to its General Council Offices. We were also aware of another 11 cases not directly involving United Church congregations. In all 25 cases,

News / World

Failed refugee claimants find sanctuary in Toronto churches

Four Toronto churches have agreed to hide asylum-seekers whose refugee claims have been rejected and others say they are considering request.

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VINCE TALOTTA / TORONTO STAR

Jozsef Pusuma, his wife Timesa Daroczi, and 4-year-old daughter Viktoria, a Hungarian Roma family, are seeking asylum in Canada and hiding in a Toronto area church after the Immigration and Refugee Board denied their claim and ordered them to be deported.

'sanctuary' was a clear and PUBLIC cry for justice denied.

Resolution of these cases, however, was becoming increasingly difficult and energy harder to sustain. It had been possible, in the 80's and 90's, to negotiate viable outcomes (discretionary compassion or the immigration shuffle). After 2004, any process for resolution more or less deteriorated into "who could wait out whom". While officials generally opted not to violate 'sanctuary' (they took the political risk in only one case), they began to play an exhausting, dehumanizing waiting game. As months of confinement turned into years, 'sanctuary' effectively became 'life imprisonment' for the refugee(s) confined. It became very difficult to justify the practice of 'sanctuary' when it increasingly looked like a form of private detention. Essentially, it came/comes down to one question - "Is this 'sanctuary' to the refugee's benefit?"

After 2007, I connected with 3 'sanctuary' cases in the United Church. In two cases, 'sanctuary' did eventually prove to be to the refugees' benefit, but both required

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the intervention of well-connected, skilled legal expertise. In the third case, there is no foreseeable resolution for the individual whose life languishes in limbo. 'Sanctuary' -when no viable exit strategy exists - can be pitiless and cruel. Few people can survive its ongoing, daily tedium.

In 2013, with Refugee Reform and RAD in place, can 'sanctuary' still be justified? When I reflect on Mikhail Lennikov, in sanctuary at First Lutheran Church since June 2009, I know that the tradition must be upheld. But is he the exception or the rule? 'Sanctuary' is truly not for the faint of heart.

At least six United Church congregations are currently asking themselves is 'sanctuary' an appropriate response to people facing persecution and deportation. In one case, an appeal is pending; in another, a pregnant woman, facing deportation, has been released into the care of a

congregational guarantor. I pray that for these women humanitarian solutions can be found before any declaration of 'sanctuary'. The church should not have to try to correct the errors of the state.

There are real problems within the reformed refugee system and sad human consequences. Errors in deciding refugee claims and drafting refugee policy are easily made. If protection of refugees is not paramount; if streamlined processing and designated discrimination takes priority; if the appeal is inaccessible or meaningless - then practice of public 'sanctuary' needs to be preserved by those who believe in justice. It is after all our spiritual and civic duty to love and to protect one other.


Heather Macdonald
(Retired UCC Refugee Program Staff)

SEEKING JUSTICE IN CANADA'S TEMPORARY FOREIGN WORKER PROGRAM SYSTEM

BY ALFREDO BARAHONA

This is not in-depth historical analysis of Canada's Temporary Foreign Worker Program (TFWP), but rather an overview of the current situation facing workers. It is important to put a human face on any discussion of Canada's Temporary Foreign Worker Program; an employer in BC commented, "We wanted workers and got people". I want to emphasize that migrant workers are people, they are not commodities like machines or robots. Migrant workers have spouses, children, brothers, sisters, friends and relatives. They miss their loved ones just like everyone else.

How much do you think Canadians know about Canada's Temporary Foreign Worker Program? Do Canadians know enough but choose to ignore the issues? What are the benefits to Canada's economy? How is the dignity, human and labour rights of workers respected or ignored? These are not easy questions, but it is our duty to generate some answers even if they seem controversial. It has been widely documented by academic researchers and community advocates that the flaws in the TFWP result in abuse and exploitation of migrant workers. Depending on which side of the fence people sit, we often hear questions such as "Why do people come to Canada as temporary foreign workers if the experience is so bad?" and "Why bring them here if we cannot protect their human and labour rights and if we cannot treat them



Fruits of Labour: The Truth About Migrant Workers in Ontario

with the dignity all human beings deserve?"

What are some of the issues of concern with the TFWP?

The TFWP is indicative of a shift in Canada's immigration policy.

The Temporary Foreign Worker Program is indicative of how Canada's immigration policy has shifted in the last decade from that of a nation building, permanent residency model to one based on temporary migration.

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Statistics from Citizenship and Immigration Canada show that in 2006 the number of temporary migrant workers (255,277) surpassed the number of permanent residents (251,640) who entered Canada. In 2011, the difference was even more striking, with 446,847 temporary migrant workers coming to Canada compared to 248,748 individuals entering as permanent residents (1) .

The graph below, based on Citizenship and Immigration statistics, illustrates that while the number of permanent residents has remained consistent around the 250,000 mark, the number of temporary workers has steadily increased over the last decade.

Canadians should be concerned about this trend. The TFWP contradicts Canadians' values and traditions. Instead of just increasing the number of temporary workers, governments should be creating the mechanisms that will create a clear path to permanent residency for workers who wish to settle in Canada.

The TFWP lacks an efficient monitoring system to ensure and protect human rights and labour standards such as health and safety and the right to unionize.

It has been acknowledged by HRSDC officials that there are no appropriate financial resources allocated to the

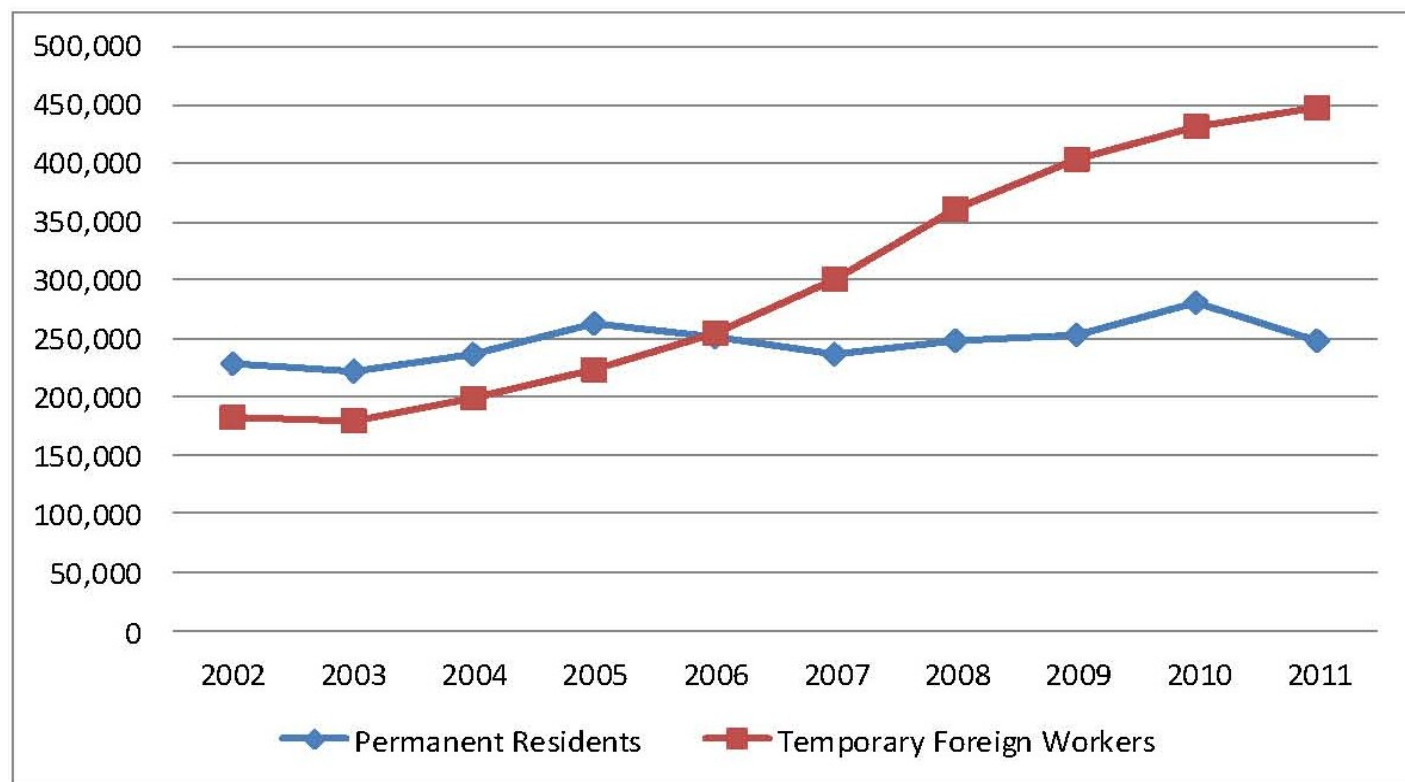
TFWP for monitoring. The argument that there is no capacity to monitor every farm or every employer is not acceptable. Provincial and federal governments have a responsibility to ensure that labour standards and human rights are respected, and should provide the necessary resources to implement an efficient monitoring system.

The TFWP ties work permits to a specific employer.

Tying work permits to a specific employer puts migrant workers at a disadvantage. In the event of conflict the employer often has the upper hand. For example, if a migrant worker is abused and exploited, he/she does not have the option to easily move and work for a new employer. The process of changing employers can take months and during this time workers find themselves without an income. Many workers will not complain about abusive and exploitative situations for fear of being deported.

There is no consistency in the treatment of workers in the different provinces and different sectors.

The Canadian Council for Refugees, with the help of a national migrant justice and advocacy network, compiled and released a series of report cards which highlighted the gaps and achievements, on the part of the provincial and federal governments, in protecting the rights of





migrant workers. The report cards provide general information and statistics which are useful tools to advocate for improvements in the treatment of migrant workers. For example, not all provinces fund settlement and community agencies to provide support services to migrant workers. Even though provinces such as Alberta, British Columbia, New Brunswick and Nova Scotia provide some funding, not all migrant workers are eligible to receive support services.

The TFWP separates families for long periods.

Family separation is perhaps the most difficult issue facing migrant workers. Javier, a migrant worker in the Seasonal Agricultural Worker Program (SAWP), explained that, “My wife and my three children are the reason I am in Canada. But I miss not seeing them and not being able to speak with them.” A well-intentioned volunteer in a BC agricultural community asked Javier if he could “Skype” with his family. Javier’s short answer was a sad “No”, and then he added, “How? We don’t have a computer. We live in rural areas where there is no internet access”. This exchange highlights how day-to-day privileges we take for granted, such as access to computers and the internet, are not options available to many migrant workers.

The work of migrant workers represents a tremendous and key contribution to Canada’s economy. Media reports and academic research widely documents how Canada’s economy has become dependent on the labour

of migrant workers. Canada’s agriculture sector, for example, relies on thousands of foreign workers, and although they pay taxes such as Employment Insurance, they are ineligible to collect benefits once they return to their home countries.

As citizens we all share the responsibility to do everything possible to ensure that our way of life is not sustained on the backs of less fortunate brothers and sisters from the south. We can do better than the current practices found in the Temporary Foreign Workers Program in Canada.

Recommended resources:

<http://www.cbc.ca/thecurrent/episode/2013/06/27/jumas-journey-the-plight-of-temporary-foreign-workers-in-canada/>

[Juma's Journey: The plight of temporary foreign workers in Canada, aired June 27 on the CBC's "The Current", and clearly illustrates many of the issues discussed above. The CBC's website offers this description:

“Some of the hardest working and lowest paid people in Canada... aren't Canadians. A program that allows employers to hire temporary foreign workers helps fill the positions Canadians often don't want. And often those can be very vulnerable positions for the workers.”

<http://themainlander.com/2013/05/16/review-tomorrow-were-all-going-to-the-harvest-temporary-foreign-workers-in-canada/>

This is a review of a book which reveals that “in recent years a few farms have been subject to spontaneous work stoppages in protest of low wages and substandard housing conditions or unfair treatment.” The reviewer states, “We should stand in solidarity with them, recognizing that this trend violates some of our deepest values, and that we cannot have a just society without justice for temporary workers.”

(1)<http://www.cic.gc.ca/english/resources/statistics/facts2011/temporary/01.asp>

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ADDRESSING THE SIDE EFFECTS OF THE CHANGES TO THE IMMIGRATION SYSTEM

BY JACQUELINE CHU

Before the recent policy changes, Canada had been viewed as a global leader in protecting refugees. Canada's immigration and refugee protection system reflected our values of tolerance, multiculturalism, and compassion. However, in the past year, we have seen some drastic changes. In December 2012, the Protecting Canada's Immigration System Act came into effect, overhauling the existing system with many controversial changes. The changes include shorter timelines for refugee claimants, categorical treatment of refugee claimants based on their countries of origin, and limited access to procedural justice such as access to appeals. Moreover, changes to the Interim Federal Health Program (IFHP) reduced healthcare coverage for many refugee claimants. Whether these changes will be effective in "protecting Canada's immigration system" is yet to be determined. Nevertheless, as advised by many experts and critics, the changes will hurt vulnerable refugee claimants and people living in Canada without status. To address this concern and to counteract other side effects of the changes, the FCJ Refugee Centre is proposing implementation of three programs: (1) a mass regularization program for non-status people, (2) an immigration ombudsman, and (3) the "Minister's Own Initiative" Program. Each program will be discussed in detail in our report to be released soon. In this article, I will briefly discuss the rationale and objective for each program.

Regularization Program for Non-Status People

According to an estimate by the FCJ Refugee Centre, there are up to 350,000 people without status, or precarious migrants, living in Canada. This number includes refugee claimants, humanitarian and compassionate applicants, rejected refugee claimants waiting to be removed and others who are under removal procedures by the Canada Border Services Agency, and people who overstayed their permits or visas or undetected by the authorities. The problem of having such a high number of non-status people living in our country is manifold – it is not only inhumane but also harmful to national security and the economy. As one can easily imagine, people without status live each day in fear of detection and have limited hope for the future. They worry constantly that they will be caught and removed from the country, in which case they may never be able to see again their friends and family in Canada. They cannot go to hospital when they are sick. They cannot have meaningful careers because their education options are limited and they do not know what will happen to them in the near future. Critics may argue that they can voluntarily return to their countries but in many cases, that is not a viable option. Many non-status people have built their lives in Canada, working to support themselves and their families despite the difficulties. The FCJ Refugee Centre believes that ignoring this population is inhumane and harms the economy as they cannot pay taxes. Furthermore, having such a high number of underground population poses a threat to national security and may distort policy decisions. For these



reasons, we recommend a mass regularization program for non-status people.

A mass regularization program is different from the humanitarian and compassionate (H&C) application. Strictly speaking, the H&C application is a type of regularization for people without status: it gives them a chance to become “legal”, using similar criteria used historically by other regularization programs. However, in this case, the H&C application is inadequate in solving the issue. Current processing time for H&C applications is 30-42 months. With limited human resources and the amount of evidence to be reviewed, it is not surprising that it normally takes years to process an H&C application. Given the estimate of up to 350,000 people, we need a more efficient and streamlined mechanism to successfully achieve the objective of regularizing non-status people. A mass regularization program with simplified criteria will provide such a mechanism.



Immigration Ombudsman

An ombudsman observes and investigates conduct of government agencies. Anyone may make a complaint to the ombudsman to trigger an investigation, and the ombudsman is impartial in that it represents neither the government nor the complainant. It is often referred to as a “watchdog” that ensures fair exercise of power by the government. For example, in a 2012 case, the Ombudsman Ontario helped a victim of sexual and physical abuse in Alberta and Ontario claim compensation from the Ontario Criminal Injuries



Compensation Board (CICB). The CICB had previously denied her request, stating that she had already been compensated by the Alberta board even though the damages awarded were only limited to injuries suffered in Alberta (1). As the example above shows, an ombudsman provides a relief where complainants would otherwise have been left without any solution. This means the complainants would have been forced to accept unfair results caused by mistakes from the government. Everyone makes mistakes, and this applies, of course, to the officials of Citizenship and Immigration Canada (CIC), the Canada Border Services Agency (CBSA) as well as the Immigration and Refugee Board of Canada (IRB).

Currently, there is no ombudsman overseeing the above organizations. This is concerning as there is evidence to suggest that these organizations are as prone to errors and inefficiencies as others watched by ombudsman organizations. For instance, a sponsorship applicant was forced to accept a significant delay in his application due to a mistake by CIC. When the applicant contacted CIC to inquire about the status of his application, he was told that CIC received but could not find his documents. He was told to resubmit the documents and wait. He had not been provided an alternative solution such as expedited processing, as CIC’s procedure for handling this type of situation is to ask the applicant to resubmit his or her documents and wait for CIC to reprocess their application, which could be months to years. Another concerning aspect of this story is that CIC failed to contact the applicant even though it was aware that his documents went missing. Had it not been for his inquiry, he could have been forced to wait much longer or his

application could have been rejected altogether. This kind of conduct is not only unfair to the applicant but unprofessional and undermines the public's trust in the system.

The FCJ Refugee Centre believes that the current oversight of the immigration system is inadequate. Because of the recently implemented shorter timelines, the current system is likely to experience an overload. This is especially true given that the organizations are expected to handle the increased workload without significant additional resources. The overload may make the organizations susceptible to making mistakes. Also, given the additional workload and limited resources, the organizations will need to be much more efficient. Thus, we propose creation of an immigration ombudsman. Like the Ombudsman Ontario and other federal ombudsman organizations, the immigration ombudsman must be independent from the government and have plenary investigatory powers. By helping to resolve various problems and conflicts, the immigration ombudsman will ensure administrative fairness as well as efficiency.

“Minister’s Own Initiative” Program

Section 25.1(1) of the Immigration and Refugee Protection Act (“IRPA”) gives the Minister the power to grant a foreign national permanent resident status on humanitarian and compassionate grounds. What makes this section special is that the Minister can do so on his or her own initiative. We believe this may provide relief for non-status people in dire circumstances. For example, Ms. N., a woman with a serious chronic, debilitating illness, had been left without treatment options because the changes in the IFHP disqualified her from healthcare coverage (2). She could not return to her country, a fact recognized and accepted by the government as Canada has a moratorium on sending anyone back to that country. Thus, she was stuck in limbo, having to choose between whether to put herself in a very dangerous situation by going back to her country or die slowly in Canada, suffering from her debilitating illness. Although the Quebec government eventually stepped in to cover her healthcare costs, there are others in similar situations who may not receive timely help.

The FCJ Refugee Centre believes that the “Minister’s Own Initiative” Program can help people like Ms. N. Using the power granted by IRPA, the Minister should actively seek and examine cases of people living without status in extreme situations. This can be done through obtaining referrals and recommendations from different organizations or offices of Members of Parliament, paying attention to stories from the media, or through any other ways the Minister may become aware of such cases. This Program is not designed to help non-status people gain permanent residence on a large scale like the proposed regularization program. However, for people like Ms. N., the “Minister’s Own Initiative” Program can be a lifesaver.

Conclusion

The regularization program for non-status people, the immigration ombudsman, and the “Minister’s Own Initiative” Program each aims to redress negative side effects of the recent changes in the immigration system. Our recommendations will not only help protect vulnerable refugee claimants and people without status but also restore and strengthen the public’s trust in the system and the government by achieving administrative justice as well as efficiency. For details, please see our report to be published in our website www.fcjrefugeecentre.org

(1) Ombudsman Ontario, *Beyond borders*, 2012. Available at <http://www.ombudsman.on.ca/Investigations/Selected-Cases/2012/Beyond-borders.aspx>

(2) Canadian Council for Refugees, *Nastaran's story: Healthcare in limbo*, December 19, 2012. Available at <http://ccrweb.ca/en/nastarans-story-healthcare-limbo>

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INSTRUMENTS OF HUMAN RIGHTS PROTECTION AND THE INTERNATIONAL RULE OF LAW: A CRITIQUE OF CANADA'S NON-ACCEDENCE

BY ARON ZALTZ

This article will examine the positions of non-accedence which Canada has taken on four important international treaties: 1) The Optional Protocol on the Convention Against Torture 2) The 1954 Convention relating to the Status of Stateless Persons 3) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 4) The United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD). Canada's indifference to the ratification of these vital instruments is deeply problematic, because Canada's leadership in the international community necessitates a stronger and more principled commitment to the collective action these multilateral efforts require.

Optional Protocol to the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Optional Protocol or OPCAT).



The OPCAT, which entered into force on June 22, 2006, functions to strengthen the Convention against Torture by laying out a framework to ensure state compliance with the prohibition of torture as an abhorrent violation of human rights. To this end, the OPCAT establishes a systematic regime for regular national and international level inspections of detention centers, in order to identify and remedy the conditions in which torture and other forms of abusive mistreatment take place. The OPCAT gives jurisdiction to the UN Subcommittee on the Prevention of Torture to carry out such inspections, the first international expert body to be authorized with these powers towards the express objective of preventing torture.

Canada's position as a non-signatory to the Optional Protocol marks a stark contrast from the leadership Canada showed during the early stages of the Protocol's development and adoption. Canada played a very

progressive role in the UN working group on the Optional Protocol, and voted in favor of it at the UN Commission on Human Rights on 22 April 2002, and at the UN General Assembly, on 18 December 2002.

Canada's delay in ratifying the Optional Protocol has been largely related to the jurisdictional complications that the federal government faces in its implementation. The focus of the OPCAT is the regular inspection of prisons and detention centers that are predominantly under provincial jurisdiction. Accordingly, ratification of the Protocol requires the consent of all of Canada's provinces and territories. However, over a decade has passed since Canada voted in favor of the OPCAT at the UN General Assembly, while no agreement has been reached with Canada's provinces and territories. If Canada is to exert effective global leadership in the international struggle to eradicate torture, it must signal its commitment by joining the 63 states which are parties to the Optional Protocol, by acceding to this crucial instrument.

1954 Convention relating to the Status of Stateless Persons



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The 1954 Convention deals with the regulation and improvement of the status of stateless persons, granting a minimum of rights, freedoms, and protections towards ensuring their stable existence. 77 states have ratified or acceded to the Convention, but Canada is not among them. While Canada is signatory to the 1961 Convention on the Reduction of Statelessness, addressing the causes of statelessness, Canada has not developed any internal mechanism to protect stateless people, who languish in Canadian detention centers or live in indefinite limbo as a result of this lack of status.

The last 60 years have seen the intensification of the geopolitical convulsions of violence and displacement, making the need to establish a minimum of concrete protections for this extremely vulnerable group all the more imperative. In bringing the concerns that this Convention articulates back to the forefront of international legal discourse, Canada could signal by its belated accession to this Convention that the protection of stateless people remains a global human rights priority. The fact that Canada has acceded to the 1951 Convention relating to the Status of Refugees does not function as a justification for the governments continued refusal to ratify the Convention relating to the Status of Stateless Persons, because these are two different instruments, addressing the specific vulnerabilities of two distinct, though overlapping groups.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The connection between migration and human rights is becoming an increasingly critical global policy concern, especially in its social and economic dimensions. The Convention recognizes the rights of migrant workers and their families to the same protections afforded by their fundamental human rights as nationals, whether those workers are legal or undocumented migrants. Although the Convention entered into force in 2003, no migrant-receiving state in Western

Europe or North America has ratified it. While recent changes to Canada's Temporary Foreign Worker program, and in particular, the withdrawal of the rule allowing migrant workers to be paid 15% less than Canadians, are significant, migrant workers in Canada remain vulnerable to exploitation because of their precarious status. Canada's non-accession to this Convention typifies the refusal of the world's migrant-receiving nations to take the clear stance on migrant workers' social and economic rights as human rights that would be necessary to effectively implement these objectives multilaterally, as norms.

United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD)

Entering into force in 1996, between 194 countries and the European Union, the UNCCD is the first and only internationally legally binding framework to address the problem of desertification and to mitigate the effects of drought. Drought and desertification are major issues affecting the food security of populations dependent on subsistence agriculture, the precarity of their living conditions, and their basic survival. The UNCCD depends on

Instruments of Human Rights Protection and the International Rule of Law

- **Optional Protocol to the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Optional Protocol or OPCAT).**
- **1954 Convention relating to the Status of Stateless Persons**
- **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**
- **United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD)**



multilateral international cooperation to implement these long-term strategies protecting the ecological conditions necessary to ensure the basic human rights to food and an adequate standard of living.

Canada helped advocate for the formation of the UNCCD in 1994, and held the presidency of its decision making body between 2001 and 2003. As of 2013, Canada is no longer party to the UNCCD, having withdrawn its participation and financial support. Canada's characterization of this decision as a cost-saving measure is unjustifiable when the \$350,000 per year of Canada's annual investment is compared to the hundreds of billions of dollars in world agricultural production that drought and desertification costs the global economy annually. Canada's withdrawal from

the UNCCD is indicative of the profoundly troubling pattern of non-accedence to the international instruments of human rights protection that once defined its global role. In so doing, the Canadian government does more than abdicate its capacity for leadership on the international stage: by signaling its disregard for the international rule of law, and the collective action required to uphold it, Canada is actively undermining it.

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POVERTY IN CANADA: A REFUGEE'S LOT?

BY JOE GUNN

What do we know about poverty in Canada?

CPJ reports that 2007 marked an important benchmark in Canada, as the poverty rate dropped to a 30 year low (under 10% of the population)

Statistics on poverty in Canada should make Canadians cringe – but mainstream society often seems inured to the realities and implications of this social ill. How much more does poverty in this country affect newcomers, especially refugees who arrive in our midst?

To begin with, it is most difficult to tell. There is no official measure of poverty in Canada, and yet there are many studies which describe the situation analytically. Persons who work with newcomers can provide many anecdotes of specific instances of newcomers living in financially challenging situations – but national data are harder to find. One is left with the impression that poverty among newcomers, especially refugees, is not tabulated since knowing the reality would force us to reinvent our settlement and social service responses.

What do we know about poverty in Canada? Recent research reports from Citizens for Public Justice, a faith-based social justice organization located in Ottawa,

paint a troubling picture. You can view these easy-to-read, 2 page Fact Sheets, or sift through the most recent Statistics Canada data, from 2010, at <http://www.cpj.ca/files/docs/poverty-trends-scorecard.pdf>

CPJ reports that 2007 marked an important benchmark in Canada, as the poverty rate dropped to a 30 year low (under 10% of the population). With the October 2008 financial crisis, however, poverty rates rose precipitously. In most provinces, only by 2010 had poverty rates returned to this same level. So while we can say that over the past 15 years, much progress has been made against poverty, the vagaries of the economy often leave large populations of Canadians in difficulty. Canadians have not solved the problem of poverty, in spite of our growing prosperity as a nation.

Moreover, several groups are especially vulnerable to economic disadvantage and persistent low income, including Aboriginal peoples, recent immigrants and racialized communities, unattached individuals aged 45 to 64, and persons with disabilities.



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Economic disadvantage, in turn, is strongly correlated to poor health outcomes, lower educational attainment and employment, and lower levels of community connection and engagement. CPJ presents evidence that suggests that poverty and disadvantage are becoming increasingly concentrated as the divide has widened between the very affluent and the poor in Canada.

Poverty Among Newcomers

What do we know about poverty among newcomers, defined as persons who have lived in Canada less than a decade?

First of all, about 40% of Canada's population over the age of 15 is a migrant or has a parent who was born outside the country (I count myself among this group.) At the same time, The Maytree Foundation's Ratna Omidvar stated in 2011 that "recent immigrants to Canada are 2 to 3 times more likely than those born in Canada to experience low income, regardless of sex, level of education, family type or province of residence."

According to data from the 2006 Census, while 9.7% of Canadian born persons fell below the poverty line, a notable 34.1% of recent immigrants (2 years or less) lived in poverty. It took about two decades in Canada before newcomer rates of poverty reached those of the Canadian-born population.

http://www.amssa.org/files/Info_Sheet/AMSSA%20Info%20Sheet%20Issue%206%20-%20Final.pdf

Omidvar also argues that, "the hard truth is that brown and black faces are making up an increasing proportion of the country's poor. Migrants who are visible minorities are more likely to experience poverty than other migrants. This is true even among migrants who have been in Canada for more than 17 years."

<http://maytree.com/speeches/the-next-dream.html#sthash.a2OicyS9.dpuf>

Citizens for Public Justice is about to release another study this summer which looks at Labour Market Inclusion, another important aspect related to poverty. A good, safe, well-paying job, providing enough hours and a suitable benefits package is essential to allow those able to work to provide for their families.

The CPJ study will report that there is a significant gap between the employment rates of immigrants and Canadian-born workers. In 2012, 57.5% of immigrants over age 15 were engaged in the paid labour force,



compared to 63.3% of Canadian-born people.

This employment gap has begun to narrow, however, notably in the past year, as employment levels among immigrant workers have improved, and those of Canadian-born have stagnated. New immigrants, in particular, posted positive employment gains. Their rate of employment rose from 56.9% in 2009 to 58.2% in 2012. (Their rate of unemployment, however, is still almost twice the average for Canadian-born workers.)

For those unable to work, the picture remains especially bleak. As we know, many refugees arrive in their new homeland, needing to upgrade language skills in English or French and struggling to gain recognition of their educational and experiential equivalencies. Before they find a home and job, it is common to rely on social assistance, and those families struggle to make ends meet. For example, the total income of a single person living on welfare in Toronto is a mere \$7,878 annually. Each month they are expected to find adequate shelter with a meager \$376, while the average rent for a one-bedroom apartment in greater Toronto and surrounding area is \$1,010. Without community support, emerging from this situation may take months and even years.

Continued on page 13

Employment Rate by Immigration Status, Population 15 years and older, 2008-2012						
Immigrant Status	2008	2009	2010	2011	2012	2007-12
Born in Canada	65.4	63.3	63.3	63.5	63.3	-2.1
Landed immigrants	57.6	55.9	56.3	56.4	57.5	-0.1
Immigrants, landed 5 or < yrs	59.5	56.9	56.7	56.6	58.2	-1.3
Immigrants, landed 5-10 yrs	64.4	62.2	64.3	65.1	65.8	1.4
Immigrants, landed > 10 yrs	55.9	54.4	54.7	54.8	55.7	-0.2

Statistics Canada. Table 282-0104 - Labour force survey estimates (LFS), by immigrant status, sex and detailed age group, Canada, annual (persons unless otherwise noted)

What Can Be Done?

Addressing poverty in Canada demands a national strategy. Already, 8 of Canada's 10 provinces have, or are developing, poverty reduction strategies. The United Nations has asked Canada to do the same – but the federal government has refused. Without federal participation and financial contributions, poverty reduction plans in Canada's regions will remain uncoordinated, or worse, haphazard and counter-productive.

Over 600 organizations have joined Dignity for All: The Campaign for a Poverty-free Canada. This coalition calls for three things: a federal anti-poverty plan, legislation to ensure regular reporting to Parliament on progress, and a financial commitment by the federal government towards making poverty eradication possible. Groups can join this campaign by visiting www.dignityforall.ca

More specifically, what can be done to address poverty among newcomers, especially refugees? This is precisely the kind of question a national plan could and must address.

Some initial remedies could include increases in social benefit measures, such as the Child Tax Benefit. Canada has had some success in lowering child poverty since the introduction of such measures. More success could be easily achieved, with very limited new administrative cost, simply by increasing such benefits for those who need them. Seniors' benefits, such as Old Age Security and Canadian Pension Plan benefits have lowered poverty among the elderly from over 30% to fewer than 5% in the last decade. This proves that government interventions can work to eliminate poverty – should the political will be applied to a problem. However, recent announcements of

postponing benefits under OAS, and making it harder for newcomers to receive benefits, all work against improvements for eligible seniors.

Of course, there are also very specific programs that could be applied to the cases of persons who arrive in Canada as refugees. For example, the Canadian Council for Refugees has long advocated against the various processing fees that refugees pay when applying for permanent residence. Other refugees must pay to reimburse the federal government for travel costs they incurred so as to arrive in Canada. One wonders why such fees and repayments could not be eliminated, so as to allow refugees a better chance to succeed in their new homeland.

Further, targeted investments in immigrant and refugee settlement support programs (rather than cutting these as the federal government has recently done) can help newcomer families emerge from poverty. As well, the cuts to the Interim Federal Health Program will have negative effects on the health and well-being of certain classes of refugees, and will place many in financially vulnerable situations if catastrophic health emergencies arise.

Canadians can reduce and even eliminate poverty in Canada today. There is no reason for inaction, especially when we could be successfully and specifically addressing the cases of vulnerable newcomers and refugees.

Joe Gunn serves as Executive Director of Citizens for Public Justice, www.cpj.ca, an ecumenical organization that promotes justice, peace and the integrity of creation.



DOCTORS, COMMUNITY WORKERS AND REFUGEES PROTEST HEALTH PROGRAM CUTS

BY OSCAR VIGIL

A year has passed since the Citizenship and Immigration Minister, Jason Kenney, announced severe changes to the health program that protects refugee claimants who come to Canada. In the past twelve months, the health and therefore the quality of life of all these people have been in a clear decline, refugee advocates say.

That is why thousands of refugees, doctors and workers of community organizations held a day of protest last June 17, which included 19 cities across the country. In Toronto, the protest was in front of the offices of Citizenship and Immigration Canada (CIC) located at 25 St. Clair Avenue East, at Yonge St.

"What we are seeing in the last year as a result of these cuts is that refugees, in effect, are not able to access primary care," said Dr. Doug Gruner, a member of the organization Canadian Doctors for Refugee Care.

We must remember that in June 2012, the Canadian government changed the way it provides basic health care to refugees in Canada under the Interim Federal Health Program (IFHP), therefore "some refugees who have come to Canada in search of safety are now being denied basic, emergency, and life-saving medical care," according to a report by Amnesty International.

The report states the changes in the IFHP have created many problems because there are now five different categories of health coverage for refugees, causing confusion for refugees as well as for health care providers. This is because the refugees are treated differently depending on the country they come from, the stage of refugee processing, and how they came to Canada.

"This means that some refugees cannot see a doctor. And some are denied treatment because it is not clear if they are eligible for care," the report states.

The National Day of Action on June 17 was coordinated by the group Canadian Doctors for Refugee Care, an organization that brings together dozens of doctors working in the health system who have opposed cuts in consideration of their impact on Canadian society as a whole.

"The previous IFH program provided access to medical care, diagnostic services and laboratory testing very similar to what is provided by provincial health plans. It also provided access to medications, emergency dental care and vision care similar to what is available to people on provincial social assistance plans," explained the doctors.

However, since the recent changes, all refugees (excluding refugees brought to the country directly by the government) have lost access to drug coverage, vision and dental care through IFHP. Similarly, refugee claimants arriving from Designated Countries of Origin (DOC) no longer have access to any type of health coverage, including emergency or essential care.

There are only two exceptions for which all refugees are entitled to medical coverage. First, in the case of health problems where there are concerns around the transmission of infectious diseases. These are included in the lists of diseases of the Public Health Agency of Canada as possible transmission or spread. But these do not include common infections such as pneumonia, pyelonephritis, etc., or even diseases like malaria.

The second exception is for situations of public safety concerns, which are defined as a psychotic condition



where a person has been identified as a danger to others (not including suicidal intent).

Eusebio Garcia, a community worker who daily serves claimants distressed by health program cuts, called on all those who are concerned about these issues to get involved in the effort to achieve health care for all, regardless of immigration status.

"For now we see these things at a distance, but suddenly we have a friend, a family member, someone we love living that bad experience. So we have to get involved

because I think we are not doing enough to stop this sort of thing the government is doing and that is not good for all people," he said.

Oscar Vigil is a Salvadoran journalist who works as Director of Debate Magazine. Currently, he is co-chair of the Toronto Working Group of the Canadian Centre for International Justice (CCIJ).

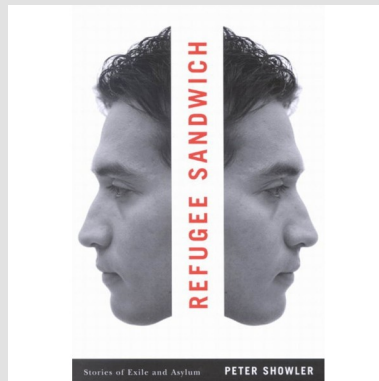
TRIBUTE TO PETER SHOWLER

BY FRIENDS OF PETER SHOWLER

At the end of June 2013, Peter Showler officially left his post at the University of Ottawa, retiring as Director of The Refugee Forum and as Professor of Refugee Law. This change is not so much a retirement as a shift in focus to writing and other projects that need more attention than what a busy professor and think-tank director can give them. Even so, it's a good time to reflect on the mark that Peter has left on refugee rights in Canada, and on the countless individuals whose lives he has touched along the way.

Peter is a dedicated advocate for refugee a refugee lawyer, a Member of the IRB, a Professor of refugee law, Director Advocacy Committee Co-Chair for the who have had the privilege to call him his story goes much deeper.

To say that Peter goes out of his way to keeping an impossibly busy schedule, colleagues. He knows the ever-changing knowledge at every opportunity – in the conferences and guest lectures; in the difficult situation requires humour, and he delivers it.



rights. His resume would tell you that he has served as Immigration and Refugee Board (IRB), Chair of the of the Refugee Forum, and founding member & Canadian Association of Refugee Lawyers. Those their teacher, colleague, or friend, would tell you that

help people would be an understatement. Despite Peter shares his time liberally with his students and refugee system inside and out, and he shares this classroom; before parliamentary committees; at news; and in open-air protests. He can see when a political incorrectness, or outside the box thinking,

If you've ever heard Peter interviewed on the morning news, you can appreciate the clarity that he brings to complex conversations. At a time when the debate around refugee policy in Canada is clouded by misinformation, confusion, and polarizing rhetoric, Peter's is a coherent and thoughtful voice. He brings us back to basic principles and simple truths that are hidden among the absurdities of these debates. He brings compassion and common sense to conversations that desperately need it.

Even though we may not find Peter in front of a classroom this coming September, we won't have to look far to find his lessons in action. They are alive in his former students now working in refugee law, his friends and colleagues of all stripes, and in countless reports, op-eds, and stories that he has already put on paper. We have all benefited in some way from his leadership and tenacity. Even as Peter steps back to enjoy some well-earned quiet writing time, the impact of his important work will continue in those whose lives and careers he has changed for the better.



HOW ARE YOU SHOWING THAT YOU ARE PROUD TO PROTECT REFUGEES?

Proud to Protect Refugees Campaign

Recent changes in Canada have increased negative talk and make it tougher for refugees and others to find protection and to feel welcome.

Let's change the conversation. This is an opportunity to create long-term social change. Help promote a positive vision of what we want for refugees in Canada and of the important contributions refugees make to our communities. Promote respect for refugees and others seeking protection in Canada by sharing information and raising voices in your community.

Since launching the Proud to Protect Refugees campaign earlier this year, we've seen creative actions in cities across Canada:

- Wearing and sharing buttons
- City councils declaring why they are Proud to Protect Refugees
- Former refugees demonstrating why welcoming refugees is a valued Canadian tradition



It's not too late to join! How are your group and community showing you are Proud to Protect Refugees? We're sharing great ideas on our Proud to Protect Refugees webpage to inspire you and your future projects. Here's what you can do:

AS AN INDIVIDUAL:

Ask local groups to show why they are proud to protect refugees

Talk to others about why you are proud to protect refugees, and why they should be too

Bust myths and misconceptions about refugees

AS AN ORGANIZATION:

Adopt 'Proud to Protect Refugees' as a slogan

Wear and share buttons

Invite other groups to declare they are 'Proud to Protect Refugees'

Share stories of refugee contributions and promote positive messages

Raise refugee voices

For information, pamphlets, toolkits, activity ideas and more to show you are Proud to Protect Refugees: ccrweb.ca/en/proud-to-protect-refugees

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