



UNDERSERVED COMMUNITIES RESEARCH

NON-STATUS POPULATIONS (INCLUDING EMERGING GRADATIONS)

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Introduction

The purpose of this tool-kit is to identify the impacts and relevance of the recent refugee system changes to non-status migrating individuals. This tool-kit addresses problems that are expected to result from the changes and problems that have already been identified with the recent changes. In particular, this tool-kit aims to outline the emerging challenges by providing details about the new classification scheme within the refugee system. The research below is based on community research initiatives and tangible data collected at FCJ Refugee Centre.

Please note that this tool-kit **does not** aim to explain all the recent changes to the refugee system.

For a clarification of the all the changes in the refugee system please see <http://www.fcjrefugeecentre.org/canadas-refugee-process/>

Changes that impact Non-status Populations (Including Emerging Gradations)

- **Background**

*Definition: Non-Status Immigrants are People who do not have legal status which would allow them to live in Canada.*¹

People usually become non status when their permits (ie: work, study, visa) expire or when their refugee claims are rejected; essentially, when an individual lacks the documentary evidence to prove they are in Canada legally, they are deemed to be non-status. This also refers to a person staying in the country without legal permission. The issue with non-status persons is that the government does not collect information about them, and yet they work, raise families, pay taxes and contribute to the local communities. “For non-status immigrants, the Canadian border is not just a wall around the country; it creates walls inside the country as well”².

- **Regularization of Non-Status Persons**

The regularization of non-status migrants is a human rights concern because entire families live in a state of fear and stress, without adequate and affordable access to healthcare. Children of non-status immigrants are denied educational rights, while their parents and other non-status workers are being exploited³. In other words, regularization

¹ <http://accessalliance.ca/sites/accessalliance/files/documents/3.5.1%20&%206-%20Regularization%20Report.pdf>

² Ibid, p. 6.

³ http://w.ocasi.org/downloads/Status_Questions.pdf

is an issue of justice and self-determination.⁴ Currently there are between 200,000 to 500,000 people living without status in Canada, although this number is hard to estimate given that they do not appear on official records. The attempt to regularize non status people has created a dichotomy in society between those who have legal permission to remain in Canada and those who do not. Regularization programs often discriminate between those from designated countries of origin (DCOs, such as the UK, Australia, etc) and those other immigrants (ie: from the Caribbean). Since 2004, the regularization program has been focused on Humanitarian and Compassionate Applications. However, the regularization program has many hurdles to go through. There have been calls for the regularization of Construction Workers, Domestic Workers and particular ethnic groups, however the most important objective is to create an “inclusive regularization program that would fulfill the needs of all non-status immigrants and refugees”⁵. Besides its inclusiveness, a regularization program needs to be non-discriminatory, give way to principle of family reunification, there should be no application fees, nor should non status people be subject to double punishment.⁶

- **Mandatory Arrest, Detention, and Deportation**

The recent changes to legislation ensure mandatory detention of all illegal migrants for up to one year to allow for the determination of identity, inadmissibility and illegal activity.⁷ However, there are no formal time limits on detention, and they must solely be “reasonable in accordance with principles of fundamental justice”⁸. This detention policy is often seen as arbitrary and as violating s.7 of the *Charter of Rights and Freedoms*. Non status people live in fear of deportation particularly if they belong to a DCO. In 2004, a *Don’t Ask Don’t Tell Campaign* was launched in Toronto with the initiative to enable non status immigrants to have access to services and to avoid living in fear, under the premise that No One is Illegal.⁹

Canada deports between 10,000 to 13,000 people per year, most of whom are sent to countries where their wellbeing is at risk.

- **Barriers to Rights of Non Status Persons**

Without legal status, persons do not have political rights such as the right to vote and participate in the electoral process; they lack workers’ rights to join unions and often work for minimum wages¹⁰. Similarly, they could be treated unfairly by their boss and be in an unsafe work environment without the ability to claim human rights abuses, claims

⁴ <http://toronto.nooneisillegal.org/node/377>

⁵ <http://accessalliance.ca/sites/accessalliance/files/documents/3.5.1%20&%206-%20Regularization%20Report.pdf>
p 34.

⁶ <http://toronto.nooneisillegal.org/node/377>

⁷ <http://www.cic.gc.ca/english/department/media/releases/2010/2010-10-22a.asp>

⁸ <http://toronto.nooneisillegal.org/node/376>

⁹ <http://toronto.nooneisillegal.org/sanctuarycity>

¹⁰ Ibid



which all Ontario residents are entitled to. Language is also a barrier for many non-status refugees experience verbal rather than physical abuse.¹¹

References:

http://w.ocasi.org/downloads/Status_Questions.pdf

http://www.thestar.com/news/insight/2013/08/17/are_they_illegal_or_illegalized.html

<http://toronto.nooneisillegal.org>

<http://accessalliance.ca/sites/accessalliance/files/documents/3.5.1%20&%206-%20Regularization%20Report.pdf>

<http://www.cic.gc.ca/english/department/media/releases/2010/2010-10-22a.asp>

¹¹ http://www.thestar.com/news/insight/2013/08/17/are_they_illegal_or_illegalized.html