

REFUGEE UPDATE

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WINTER 2014

FROM: STRENGTHENING CITIZENSHIP OR WEAKENING DEMOCRACY? HOW THE CONSERVATIVE'S BILL C-24 SEEKS TO DRAMATICALLY CHANGE CANADA GERALDINE SADOWAY

A strong democracy is one in which those who are governed participate in choosing their representatives through the process of the franchise, so when residents are excluded from citizenship and the right to vote, democracy is weakened. The title of Bill C-24 “Strengthening Canadian Citizenship Act” is **classic doublespeak**. The amendments to our thirty-year old *Citizenship Act* will weaken democracy in Canada by making Canadian citizenship more fragile: citizenship will be harder to get – excluding many refugees and family class immigrants. It will be easier to lose for those who are dual citizens or naturalized citizens.

Canada’s first hundred years as a country, from the BNA Act (1) of 1867 up until 1967, was a period of blatant racism and discrimination in our immigration laws. Canada was a “white settler society” that excluded the indigenous peoples, through the systems of reservations and residential schools. The “White Canada” immigration policy excluded people of colour – even immigrants who were “British subjects” such as the passengers on the Komagata Maru in 1914. We also excluded people with disabilities and people who were poor. (2)

The 1960s saw a shift away from blatant racism and discrimination, both inside Canada and towards the world, through immigration laws. Indigenous peoples were granted the right to vote in 1960. The colour-blind “points” system was established for economic immigration in 1967. In 1969 Canada signed the UN Refugee Convention and developed fair procedures for determining refugee status. We embraced the resettlement of refugees from abroad through government and private sponsorship programs. (3)

The provisions of the 1985 *Citizenship Act* reflected Canada’s position as what Audrey Macklin refers to as a

“normative country of immigration” that “embraces and celebrates immigration as constitutive of the nation”. (4) The 1985 *Citizenship Act* encouraged all permanent residents to become Canadian citizens. The requirements were straightforward: residence for three out of four years, with credit given for up to one year of residence prior to becoming a permanent resident; **adequate knowledge** of one of the official languages, **adequate knowledge of Canada** and the **rights and responsibilities of citizens**. Furthermore, Canada recognized dual citizenship. Newcomers were encouraged to become Canadian citizens without renouncing one’s birth citizenship. Immigrants and refugees were welcomed as part of the project of Canadian nation building, which included granting them citizenship. (5)

Immigration law transformation and refugee “reform”



INSIDE:

1. *From: Strengthening citizenship or weakening democracy?*

How the Conservative's Bill C-24 seeks to dramatically change Canada by Geraldine Sadoway

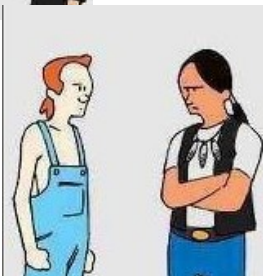
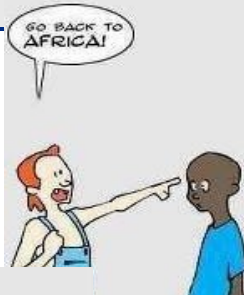
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In the last few years Canada's immigration system has been transformed and the refugee process has been radically "reformed" – some would say, "deformed" – as it has been distorted to the extent that it is now full of inequities that are being challenged in our courts.

Canada as a "guest worker" state

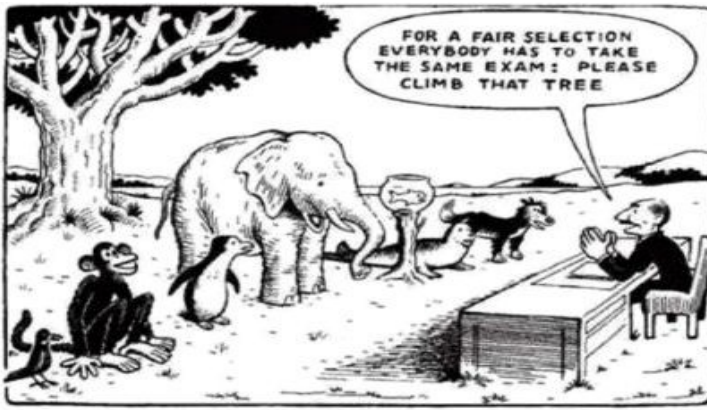
One of the most radical changes in the past ten years is the phenomenal increase in temporary foreign workers – described by some as "permanently temporary" (6) - coming to Canada in astounding numbers. Although the total number of new permanent residents has remained almost constant, averaging about 250,000 per year, the total number of temporary foreign workers has tripled - from 143,822 in 1994 to 491,547 in 2012. Since 2008, each year the number of temporary foreign workers has surpassed the number of new permanent residents entering Canada. The increasing number of temporary workers in Canada, who live and work here, pay taxes and contribute to our economy **but with no access to permanent residence, let alone citizenship** – is growing evidence of a fundamentally different Canada from the "nation building" Canada of the latter part of the 20th century. Supposedly these are temporary jobs being filled by temporary workers, doing the "dirty, difficult and dangerous" jobs that Canadians don't want to do. They are easily exploited and have little access to protections of their legal rights; many of the temporary foreign worker programs appear to be racially and ethnically biased. (7)

To summarize the transformation in the last 15 years, note the following:

- ◆ The development of a 'guest worker' state through increasing **"temporary" workers** from the Global South, and racialized and gendered employment programs for so-called "low-skilled" workers with no access, or limited access, to permanent residence and citizenship.
- ◆ Increased numbers of **international students** – a cash bonanza for our universities and colleges. A convenient source of talented young potential immigrants; almost quadrupled from **97,626** in 1994 to **328, 672** in 2012. International students become are part of a new "two-step" or probationary immigration program – dependent upon employment in Canada after they finish their studies.
- ◆ A **shrinking family class**, which according to CIC Facts and Figures, has been reduced from almost 40% of total new immigrants to fewer than 22% between 1994 and 2012. Changing rules for who can be sponsored in the family class particularly impacts family reunification for low income immigrants; since October of 2012 **conditional permanent residence** is in place for some sponsored spouses.
- ◆ Economic immigrants have increased from 48% in the mid-1990s to 65% of total new immigrants. However, rather than selecting "the best and the brightest", selection of economic immigrants is based more and more on the demands of private sector employers for highly skilled professionals. This has resulted in a **privatizing of immigration selection**. Refugees have dropped from an average of 15% to 20% of the yearly total of immigrants in the 1990s to **9% in 2012**. As part of the *Faster Removal of Foreign Criminals Act* of 2013, we have new provisions for **cessation of refugee status which can result in deportation from Canada** even after the refugee has been granted permanent residence.
- ◆ Finally, in addition to the changing criteria for 'who gets in', we have **greatly extended the category of permanent residents who can be deported from Canada**. Deportation has skyrocketed to a rate equaling and surpassing the rate of deportation in the 1930s during the Great Depression years. In 2012, 18,000 deportations took place, which is .28% of our population. (8)

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REFUGEE UPDATE



In *Making People Illegal: What Globalization Means for Migration and Law*, Catherine Dauvergne describes how migration laws and citizenship laws work in tandem to create borders and exclusions in our global world: “The messy policing of national boundaries by inquiring into debt and disease, criminality and qualifications, is left to migration law.... migration law does this dirty work. ...The two legal texts work together to construct the border of the nation: as such they are both implicated in excluding and drawing a line between inclusion and exclusion. ...Though the majority of permanent residents can move comparatively easily to citizenship status in the “new world” nations of migration, the final screening of citizenship law still has teeth. Its bite is felt in exclusions” (9)

The increasing exclusivity of Canadian citizenship – without changing the *Citizenship Act* - is already evident in the marked decrease in the numbers of citizens being admitted since the Harper government took office in 2006. We have a decreasing number of new citizens despite the fact that immigration has remained almost constant, and despite the continuing high numbers of applicants. (10) Two aspects of the changes that particularly affect refugees and family class immigrants are “adequate knowledge of one of the official languages” and “adequate knowledge of Canada and the rights and responsibilities of citizenship”. (11)

I have been working as a staff lawyer at Parkdale Community Legal Services in Toronto since 1997. In 2008 we began to see two specific classes of people who were being denied citizenship: those sponsored as members of the family class, and those who had been accepted as refugees in Canada. In most cases these were people whose first language was neither English nor French and who had experienced serious deprivations, such as interruptions in their schooling. They were often survivors of war or serious trauma; many had literacy challenges. We recognized that these applicants had not been required to meet any language or education criteria in order to become permanent residents, unlike economic class immigrants, international students and temporary workers. Members of the family class are selected based on their relationship to their sponsor or to the principal applicant. Refugees are granted protection in Canada due to a

well-founded fear of persecution in their country of origin.

While family class immigrants and refugees did not have any apparent mental disability and in most cases, were employed, raising families, and leading productive lives, some could not retain the factual information contained in the new “Discover Canada” citizenship guide. (12) If their first language was not English or French, they could not acquire the expected language proficiency despite sincere attempts through years of ESL classes. In fact, some of these clients had serious literacy issues. Literacy is a problem even for many Canadians whose first language is English or French. (13) Canadians with literacy issues, who are citizens by birth, are nonetheless regarded as full members of our society, with the right to vote and obtain a Canadian passport. Refusing them would be contrary to our *Charter of Rights*. However permanent residents who have literacy and language acquisition challenges are now being excluded from Canadian citizenship.

In one case, Mr. G., a Tibetan refugee born in 1964, came to Canada in 2002 and was granted Convention refugee status. He had lived as a nomad in Tibet, had no formal schooling and was illiterate in Tibetan. In Canada he tried to learn English, attending ESL classes, but had great difficulty remembering English words. Nonetheless he got a job and is an excellent worker, described by his employer as an “asset” to the company. He became a permanent resident in 2004. In 2006 he made his first application for Canadian citizenship, but was refused on grounds that he did not have adequate knowledge of English or of Canada.

Citizenship for permanent residents who are refugees has never been more important. But citizenship is becoming harder to get and easier to lose.

He continued to try to acquire English language skills and applied twice more for citizenship, but was refused both times. He sought the assistance of Parkdale Community Legal services in 2010. We made a new application for citizenship, seeking accommodation for his learning disability or an exemption from the language and knowledge of Canada requirements, pointing out that Mr. G. is a Convention refugee, is stateless and his only home is Canada. We provided evidence from his ESL teacher, his employer, and community members and we documented his learning disability with a professional report. In August 2013, Mr. G. took an oral test with the citizenship judge: he had to rely on the assistance of a Tibetan interpreter but he answered 15 of the 20 knowledge of Canada questions correctly. However, the citizenship judge was not satisfied that he had an adequate knowledge of English. In March 2014, Mr. G. was advised that his citizenship application had been refused again. We are now appealing to the Federal Court concerning the refusal to grant him an exemption on humanitarian and compassionate grounds.

FROM KISMAYO TO CANADA: SUPPORTING OLDER ADULTS TO AGE WITH DIGNITY IN THEIR OWN HOMES.

(IN CONVERSATION WITH JACINTA GOVEAS)

Fousiya Yusuf came to Canada as a young teenager. When she was fourteen years old, she left Somalia with her mum and five siblings, the youngest of which was two years old.

The first attempt to leave from Kismayo to Kenya was a story in itself. They tried to take a boat to Kenya. The boat was sunk by the USC (United Somali Congress), while they were still in it. With bullets hitting the water and all their stuff floating around them, they got to the shore with the help of the boat men. They went back to their house. Her mother who is from the same clan as the fighters paid the USC to 'protect' the family. Fousiya is from a different clan (Somalis take the clan of the father). Her mother got the neighbours into their house as well, to protect them. Then her uncle came looking for them and got them to Mogadishu by bus. At this point, the President of Somalia escaped while other members of the tribe were killed. Fousiya's uncle was trying to get them out of Mogadishu but he was found killed on the street. At this point they lost hope of getting out of there. Her mother was grieving for her brother and had no will to do anything. During all this time Fousiya's father was in Canada. He had been studying in the US during the uprising in Somalia and escaped to Canada as a refugee in the 1990s.

Her father contacted a cousin in Kenya and asked him to get the family out. Fousiya says this was "the happiest time ever; we were so happy to see him." The fighting in Mogadishu had increased at this time. Both sides were throwing missiles at each other. "It was so bad that the paint was even coming off the walls because of the vibrations and there were pieces of shrapnel in the living room of the house." Through chatting with people on the streets, the cousin found out about "the trucks" to Ethiopia. The people who drove the trucks were armed with sub-machine guns. They would layer the bottom of the truck with furniture, appliances, generators, etc., things that were probably looted that they were going to sell, and "loaded" people on top of these things. They took the routes that no one else might consider

taking, travelling through bush to avoid the USC fighters and other potential dangers. At every stop they made, more people got on the trucks, loading them beyond capacity. People's clothes would get caught on trees; they would fall off but the truck kept moving. The stench of people, vomit and other things still haunts Fousiya. One of the children died from illness and the truck stopped to bury the child. The mother did not want to leave her child behind but was pulled on by people who wanted to keep moving. As she tells this story, Fousiya was crying. She describes the stops in the middle of the night, in the bush, with the roaring of animals, animal foot prints in the mud. People had to get off the trucks to sleep, whether in



Fousiya and her mother in 2013

rain or extreme heat. Fousiya's mum would tie all the children's feet to each other so she could keep them safe. At some of the places they stopped at, they had to get water from wells. Children usually helped with this, afraid of being pulled into the darkness of the well. Fousiya's mum had carried some powder milk and packets of spaghetti; she would cook this, add a little sugar and oil and feed the kids. She shared with others too. In order to keep

the men away from her family, she would give them money to buy them khat (a drugging plant that Somalis like to chew), to keep them happy.

After what seemed like months but was actually a week on the truck, the family arrived in Ethiopia. They headed to the capital, sleeping in huts, drinking water and bathing in the same river of orange muddy water, on the way. They got to a place where they could get a bus to Addis Ababa. There were a lot of emotional goodbyes and her 10 year old sister went missing in the crowds. Fousiya's mother almost lost her mind, screaming and crying and finally their cousin found her. She had been looking for a place to pee where "no one could see" her. Finally they made it to the home of a distant family member, sleeping under the stars in her small house. The mother called the father who sent them money to get to Kenya.



Fousiya describes this as “beautiful”; nice hotels, new clothes, a shower! She does not remember how long this took but she has happy memories of this time. Her mum rented an apartment where they lived while their father started the process for them to come to Canada. Her mother used to sell clothing, jewelry, hair products, etc. in the market.

At this point, the Kenyan Government was cracking down on the refugees. By now another sister had joined them with her husband and family. The family moved to Mombasa, to the Ogtango refugee camp, under the protection of UNHCR. The mother went back to Nairobi to wait for the sponsorship process. One day there was fire in the camp. Fousiya was able to rescue the money and jewelry her mother had hidden in the ground and join some relatives in another part of the camp. While they sat looking at the black ash that the camp had become, their mother arrived from Nairobi looking for them. She took them back to Nairobi, to an apartment in a quiet neighbourhood. Soon after that the papers came for them to move to Canada. However, one of her sisters, who was over 18 years old, was rejected. Fousiya’s mother refused to leave her single daughter behind in a very precarious situation. She gave different people money to get her to another safe country. Despite several attempts, each day she would return with other girls, losing money and time. The family were starting to lose hope. Then her father got a visitor’s visa for her to come to Canada. In the meantime, her other older sister, who was married, was sponsored to Australia by her husband’s family. “Finally, some happiness”. As they travelled to the airport, her mother was bribing police, guards, whoever, so they could get to the plane safely.

While they were in transit in Amsterdam, they called their father to tell him they are on their way. A woman answered the phone, saying she was his wife. This was a new shock for the family. They didn’t want to see their father but their mother told them they had a choice – claim refugee status in the Netherlands or get to Canada and make a new life. When they arrived in Canada, they went to their father’s house. The new wife had made food and welcomed them. That evening, they moved to a friend’s house and cut off ties with the father. The next day they were taken to a shelter in downtown Toronto, where they lived for six months. The shelter staff got them on welfare and also put them

on a waiting list for housing. They went to school. While they waited, her mother rented an apartment in the west end, furnished with help of the shelter staff. After some time, their father started coming around. At that time, the children did not know that their mother wanted him to come around as she was sick. She was in a lot of pain and was hospitalized. The doctors were not able to diagnose her. Fousiya was now responsible for the family, as her elder sister had married and moved. Finally her mother got better. At this point Fousiya moved out as she could not understand the relationship between her father and mother. She dropped out of high school, married and got pregnant; soon after, her husband left the country and she was on her own. Her parents wanted nothing to do with her. She moved in with a relative and gave birth to a daughter. After a year she moved into her own place. Fousiya’s mum started to visit her granddaughter. She did not like them living on their own so Fousiya moved in with her sister and her family. Fousiya says that even though there were no bullets flying, she felt as if nothing was getting better. She decided to finish high school; graduated when she was twenty-one and did a course in hair styling. She “got her life back together”. She and her daughter moved in with her mother. When her daughter was six years old, Fousiya got married and has two sons.

A couple of years later she went to a career event. She did a test and based on the results, the counsellor suggested she should be a PSW (Personal Support Worker). She asked him what that was and when he explained it to her, she said that she could not see herself dealing with blood and all sorts of “gross things”. But she decided to do it anyway and now really loves it. She says she has met a lot of great people, lost a few people and learned a lot. She works with an agency that sends PSWs to the homes of people; they assist people to get ready for the day, helping them with bathing, dressing, preparing food and feeding them, as needed. In the process, they may deal with family members as well.

It has been a long, turbulent journey to this point in Fousiya’s life. She is now a single mother. This time, it is her mother who has moved in with her. Now she works with older adults, many of whom have also made long turbulent journeys. She is able to relate to them with compassion and genuine interest. Her sunny disposition, smiling face and caring go a long way in helping people who are at home, many living alone, missing family members who are often too busy to visit them.

"BUILDING COLLABORATION TO COMBAT HUMAN TRAFFICKING SUMMARY REPORT ON THE ROUNDTABLES

VARKA KALAYDZHIEVA

The Series of Roundtables were organized and hosted by the Toronto Counter Human Trafficking Network with the financial support from the City of Toronto. The first roundtable took place on 28th and 29th of October, 2013; the second roundtable was hosted on February 20th, 2014; the last one was on May 15th, 2014. All three events were fully attended by participants from variety of sectors including service providers, community members, law enforcement, city and provincial agencies.

Objectives of the Series:

- Establish and foster relations between multi-sector stakeholders. The need to bring various stakeholders to share experience and challenges in working on issues related to human trafficking within Toronto context was most pressing. This lack of collaboration was identified as a main challenge when working with trafficked persons at a human trafficking forum organized by FCJ Refugee Centre a few years before the roundtables.
- Develop a model for response and deliver services and protection to trafficked persons corresponding to the particularities of the Toronto area. The model is aimed to be flexible enough to respond to any human trafficking situation. The main point of the model is to assist anyone, including trafficked persons, service providers, community members, law enforcement among others, to provide assistance tailored to the needs of each trafficked person.
- Initiate policy development on city and provincial level.
- Identify gaps and challenges during the events to be developed as recommendations and submitted to both levels of government.



At the first roundtable representatives from the City of Toronto, Ontario Provincial Police, Toronto police, Canadian Border Service Agency, various community organizations such as shelters, health care providers, refugee and immigrant agencies, among others, shared their experience working with trafficked persons, challenges experienced and the way forward. A survivor shared her story emphasising the importance of support services and early prevention, including awareness-raising in high schools. Lastly, we heard a presentation on Ottawa's anti-human trafficking response model which is a centralized one where one agency is serving as a focal point for providing and referring trafficked persons to services.



The second roundtable continued the conversation related to human trafficking issues and challenges among different stakeholders. The key note speaker brought to our attention the tensions within different

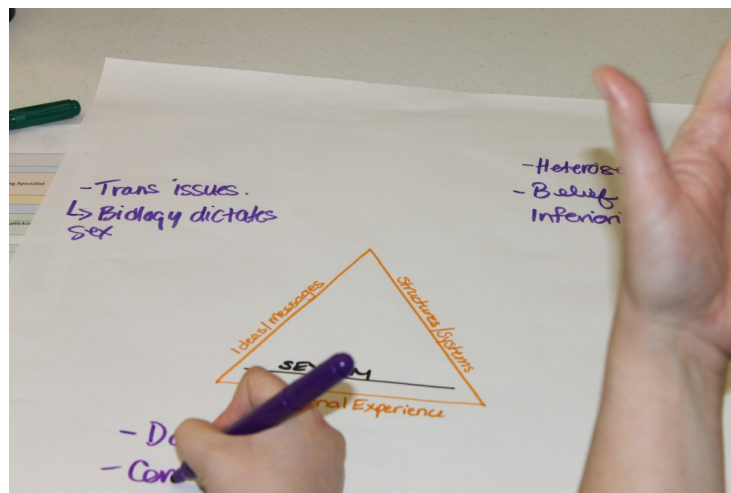
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elements of human trafficking and how to hold on to those tensions. She discussed the tensions between human trafficking for labour exploitation and sexual exploitation highlighting that the domestic human trafficking for sexual exploitation dominates the Canadian discourse. However, the lack of international human trafficking cases for labour exploitation in the Canadian justice system is explained by intersecting identities preventing non-Canadian citizens to ask for assistance. The tensions within human trafficking for sexual exploitation were also highlighted concluding that both movements, the abolitionist one and the independent sex workers and their supporters, have valid arguments which have to be taken into consideration. The speaker undertook a critical analysis of the current Canadian policies, including the lack of real protection to internationally trafficked persons. Finally, she rightly concluded that we have to learn to hold onto the tensions and suggested to take a social justice stance focused on creating change in the most vulnerable sectors in society by offering more services and support instead



of focusing so much on criminal solutions.

At this roundtable we also heard presentations from different stakeholders including Children's Aid Society, Toronto District School Board, Migrant Workers Alliance for Change. All agreed on the importance and the need for more collaboration. A survivor also highlighted in her presentation challenges she experienced in receiving services and support. The London's anti-human trafficking response model was presented which is a decentralized one based on support provided through many agencies. Lastly, a first draft of the Toronto anti-human trafficking response model was presented.



Valuable input was received through case study exercises.

The third and last roundtable was focused on three main issues. Firstly, an Anti-oppression anti-racist framework, an integral part of the human trafficking response model was presented and valuable input received through participatory exercises. Secondly, an open discussion on the possibility to establish a Toronto anti-human trafficking helpline which is the central part of our anti-human trafficking response model. This recommendation was adopted with the main characteristics of such a helpline, such as the community driven approach, resources to operate the line, etc. The recommendation will be submitted to the City of Toronto. Thirdly, final input and endorsement was received in regards to the Toronto anti-human trafficking response model.

Next steps

Toronto Counter Human Trafficking Network is committed to continue the dialogue among all stakeholders in order to respond better to the needs of trafficked persons which is our ultimate goal. In that context, our next step is to promote the anti-human trafficking response model among stakeholders in Toronto and compile a resource book on the available services and support in the city.

Summary reports from each roundtable can be found at www.fcjrefugeecentre.org

2014 Youth Action Gathering

This 21 - 23 August, the Canadian Council for Refugees (CCR) Youth Network will hold its 3rd Annual National Youth Action Gathering (YAG) in Toronto!

WHEN: Thursday, August 21, 2014 to Saturday, August 23, 2014

WHERE: United Steelworkers Hall, 25 Cecil Street Toronto, ON M5T 1N1

The YAG will engage young refugees, immigrants, youth settlement workers and allies from across Canada on common challenges and provide strategies to address them, nationally and in their own communities. As always, this will be a weekend of sharing, learning, networking, and fun!



Our theme this year is intergenerationality - strengthening connections and sharing experiences between generations.

Other topics include:

- Access to education for newcomer youth
- Unpacking gender and intersectionality
- Building bridges with indigenous youth and communities
- Violence and stereotypes
- Using art to express and connect experiences

For more information and to get involved with the Youth Action Gathering:

ccrweb.ca/en/youth/meetings/yag-join

We have successfully assisted other refugees and family class immigrants in seeking accommodation for learning disability or an exemption from the language and knowledge requirements on humanitarian grounds. Then on Nov 1, 2012, the rules changed significantly. Under the new rules, evidence of language proficiency must be provided **with the application**. Proof can be a secondary or post-secondary school certificate in English or French; evidence of success in the IELTS (14) – Canadian Language Benchmark level 4; or CLB/NCLC (LINC/CLIC) certificate. Since this change, we can no longer seek accommodation or an exemption from a citizenship judge, because the requirement for language proficiency must be provided **with the application**. Although the form allows for an exemption due to **disability**, many of these applicants do not have an easily recognized or diagnosed disability. It is actually quite difficult to obtain evidence of a learning disability. For Mr. G. it took us over a year to find an organization willing to carry out an assessment of learning disability. Finally the “Jewish Vocational Service” (JVS) provided a very thorough report. An assessment from a psychologist with JVS was not enough to persuade the citizenship judge to grant an exemption from the language proficiency criteria in Mr. G’s case, even though he passed the knowledge of Canada test. In fact, the learning disability report was discounted because he passed the ‘knowledge of Canada’ part of the test!

Changes proposed under Bill C-24

The changes proposed through Bill C-24 introduced in February of 2014 will delay acquisition of citizenship for all newcomers and greatly reduce the number of permanent residents able to become citizens. If Bill C-24 becomes law, it may no longer be possible to seek exemptions from language and knowledge of Canada requirements, or to appeal a refusal to grant citizenship. The amendments in Bill C-24 extend the language and knowledge of Canada criteria to applicants between the ages of 14 and 65, eliminate the right of appeal to the Federal Court, substituting judicial review if leave is granted, increase the fees for applications for citizenship, increase the residency requirement to four out of the previous six years, with no credit for years spent in Canada prior to being granted permanent residence, add new grounds for revocation of citizenship, and allow for the stripping of citizenship from dual citizens for “treason” or “terrorism”. I will deal with the exclusion issues that will affect many refugees and family class immigrants.

Extending the language and knowledge requirement

Knowledge of one of Canada’s official languages promotes successful integration in Canada. It is an important determinant of income and employment, as is education in general. It is also a benefit to Canada that new members of the community learn about Canada’s history, culture and governing process. But some will have great difficulty meeting these requirements as now being interpreted. In the case of refugees, the very experiences that caused them to become refugees may be factors impeding their ability to learn a new language and could also affect their ability to pass the knowledge of Canada test. These refugees and family class immigrants may be able to communicate adequately in English or French to work and live productive and fulfilling lives in Canada. But if they cannot achieve citizenship, they are denied full civic participation.

Broadening the age range of those who must pass the language and knowledge test from age 18 to 55 to age 14 to 65 does not strengthen Canadian citizenship: rather it excludes a larger number of immigrants and refugees from full civic participation and may actually impede the integration of newcomers. Children aged 14 to 17 will have to provide proof of language proficiency and pass the knowledge of Canada test. They won’t have a secondary school certificate as they will not have completed their secondary schooling. They may have to take a private IELTS test or pay for private language classes, in addition to attending school full time, in order to pass the language test. They will have to study the 68 page “Discover Canada” guide and to know facts about Canada’s history, that their Canadian peers are not required to know.

The “best and the brightest” will probably do fine, but some of the average new immigrant students, especially those from refugee families, who have experienced deprivations in their schooling and are still learning English or French, will have difficulty passing the language and knowledge test. Being denied citizenship, especially when younger siblings or peers are successful, will be humiliating for these young people and will not assist in their integration in Canada.

The extension of the age to 65 years is also counter-productive. Mr. G. is now 40 and after 11 years of trying he is still unable to speak English adequately according to the citizenship judge. Excluding him from citizenship until he is 65 does not serve any purpose, except to further marginalize and humiliate him and cause him hardship. New immigrants and refugees who have not been able to acquire the necessary language proficiency before turning 55 are unlikely to acquire this proficiency in the years from 55 to 65. They will simply continue to be excluded from full participation in Canadian society, deemed “not good enough to be citizens” even if they are working, paying taxes and raising their families in Canada.

For refugees who are legally or practically stateless, this exclusion from citizenship **in the only place where they can be a citizen** is a particularly harsh result. They cannot get a passport to travel, are excluded from voting in Canada, and continue to live with the insecurity of statelessness, and of potential deportation if they are subjected to a cessation application.

There is also an element of racism in the greater stringency of the language and knowledge requirement and the extension to those aged 14 to 65 for this requirement. A study commissioned by CIC in 2010 found significant difference in English language acquisition results for new immigrants based on their immigration class and their mother tongue: refugees scored the lowest among all immigration classes and South Asian and South East Asian language groups had the most difficulty with English language acquisition. (15) Thus Level 4 proficiency in one of the official languages as a pre-requisite to applying for citizenship has a disparate impact on refugees and on certain immigrant groups.

Canada has a legal obligation to **facilitate access to citizenship for refugees**. According to Article 34 of the Convention relating to the Status of Refugees, “The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.” (16)

Loss of appeal rights

Mr. G. has a right to seek judicial review of the decision by the citizenship judge not to exempt him from the language requirement on humanitarian grounds, considering his disability and his need for citizenship. Bill C- 24 would eliminate the appeal **as of right** to the Federal Court. It substitutes the right of appeal with the cumbersome and expensive process of seeking leave for judicial review

based on an error of law in the record. This is not an improvement as judicial review is less accessible to the average person. Lawyers must be employed and they are expensive. The Federal Court does not give reasons when leave for judicial review is refused; there is a great discrepancy in the granting of leave by different judges. (17) If leave to seek a review in Federal Court is refused, then the only recourse is to start the long and expensive application process all over again.

Increase of fees for citizenship applications

The application fee has already been changed from \$200 to \$400 as of February 6, 2014. There are now additional costs for the language exam (average of \$275), unless one has a secondary school certificate and further cost to undergo private language training. The increased fees and other additional expenses discriminate against low income immigrants and refugees and those living in poverty. The doubling of the fee, and other added costs, suggests that Canadian citizenship **is for sale**. This degrades the value of Canadian citizenship, rather than strengthening it.



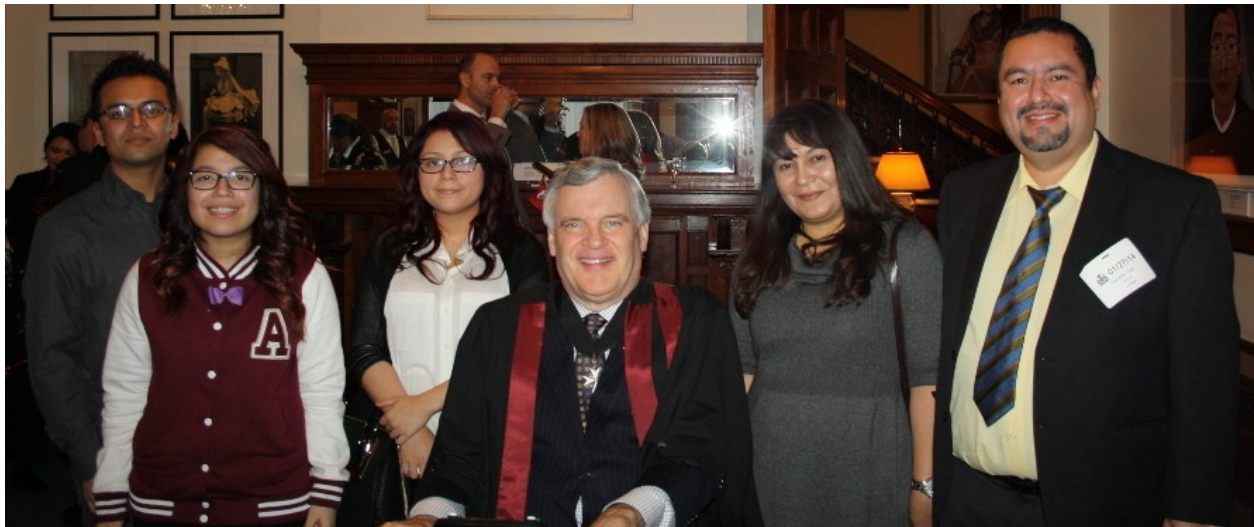
Increased residency requirement with no credit for prior residency

Bill C-24 proposes increasing the residency requirement to four out of the previous six years with a requirement of actual physical residence in Canada for 1,460 days in the previous six years, and at least 183 days of physical presence in each calendar year of the four years being counted. Under Bill C-24 no credit will be given for the time residing legally in Canada prior to becoming a permanent resident. These provisions will actually **delay citizenship** and **discourage** some residents from applying, especially if they have valid reasons to be living outside of Canada, such as education or employment or because of family circumstances.

These provisions have a discriminatory impact on refugees and on some groups of immigrants, such as live-in caregivers, in-Canada spousal applicants, international students seeking landing through CEC, and other temporary workers in

THE TRADITION AND THE CONTRADICTION: FIGHTING TO STAY WITH HIS CANADIAN FAMILY

JACINTA GOVEAS



Oscar Vigil (right) during the citizenship ceremony of his family. It was a special ceremony with the Honourable David C. Onley, Lieutenant Governor of Ontario (centre).

Canada is a country of contradictions. On the one hand, we have this incredible reputation of being a model country, where people of every ethnicity can call themselves ‘Canadian’ and where we uphold the Charter of Rights and Freedoms, but on the other hand, we have many historical realities that are violations of the very human rights we profess to uphold. We even reprimand other countries on human rights violations and call on them to shape up.

My friend Francisco wrote, on the birth of his third grandchild: “How privileged my family is... of course it is not me, it is not that I am special...it is just related to the time when I came to Canada with my family. Yes, I came at a time of Canadian decency... Back in El Salvador... in a very poor and oppressive country, from which I escaped persecution, I never expected to see the delivery of my grandchild in a hospital fully covered by our public health system. That was a privilege out of reach.... When I was in the hospital, I had flashbacks... wondering... are there privileged people like me or are my privileges of fully covered health system out of reach for them? How many of them, in silence, are hoping that nobody comes and asks them the indecent question? ... I am so compromised in my happiness ... I was so sad, so worried... a new era of Canadian indecency is materialising in front of me...”

What is the Canadian indecency that he refers to? Is it the unwillingness to honestly look at the UN Special Rapporteur’s report on child poverty in Canada? Or the challenge to review and explore the lack of sufficient

response to the disappeared aboriginal women? Or is it the unwillingness to review policies and decisions when new information becomes available that could save a family from being separated; save a father from being torn away from his wife and children?

While this is the story of one man; one family, it is also the story of countless others – individuals and families who wait. Some wait in this country, others wait in camps and other precarious places, hoping that Canada’s reputation of welcome will be held up for them too.

Oscar Vigil fled El Salvador in 2001 with his wife, Carolina and their three children. Both Oscar and Carolina had been receiving death threats because of their work as journalists. They claimed refugee status. Carolina and the three children were approved and have since become Canadian citizens. However, Oscar was excluded for his involvement with El Salvador’s FMLN (the once opposition group that have won the last two Presidential elections). Oscar has been denied refugee status and is being threatened with deportation back to El Salvador.

In the late 1980s and 1990s, Oscar worked as a journalist in El Salvador, a country that was ruled by a repressive government widely recognized to have been committing gross violations of human rights, including most famously the execution of 6 priests at the Central American University in 1989. According to the United Nations Truth Commission, they were also responsible for the assassination of beloved Archbishop Oscar

Romero who had been speaking out against the abuses of the government and its indifference to the poverty of its people.

During this time, there was no outlet to express democratic opposition to the government, or to safely work for social justice. As a university student Oscar became involved with university organizations that had links with the “Farabundo Marti National Liberation front” (FMLN). He also used his journalist skills to peacefully advance the position of this then opposition movement which is now the government of El Salvador.

Oscar was also running a radio station, where he started receiving death threats. Like many people during that period, Oscar fled to Canada. When he claimed refugee status, Oscar disclosed everything to the Canadian government authorities. However, he has been excluded from refugee protection, despite the fact that in August 2012, Canadian Border Services Officials concluded that there was no evidence that his previous involvements with the FMLN constituted a danger to the safety and security of Canada.

“According to lawyer Steve Foster, who is handling the case pro-bono, Vigil has been snared by an extremely broad provision of Canada’s Immigration and Refugee Protection Act that bars admission to anyone who has ever belonged to an organization that “engages, has engaged or will engage in” the subversion of a government by force (or, in the case of a democratic government, by any means at all, forceful or otherwise).

“That’s the hook they’ve caught him on,” said Foster. “The act would catch Nelson Mandela in the same way.” **(Oakland Ross, Toronto Star March 31, 2014)**

About Oscar and his family.

Oscar and his family have been living in Canada for over a decade. During this time they have contributed greatly to Canadian society. Oscar has remained a committed father, a journalist and a valued member and represent-ative of the Hispanic community in Toronto. He has also contributed his fair share financially, paying his taxes every year. Carolina works at a local centre for refugees that offers shelter and assistance to women and children. She also helps people like her family, that have fled persecution from around the world. Oscar and Carolina’s two daughters and their son have built significant lives in Canada. Their daughter Larissa (20), is working, with plans to continue her studies at the post-secondary level; their 23 year old son Yarince is studying full time in college and Frida (17), is in high school. Oscar demonstrates

Oscar has also served as the Co-chair of the Toronto Working Group of the Canadian Centre for International Justice.



Oscar has met with the current and past Federal Immigration Ministers and other Ministers and Members of Parliament both federally and provincially, as well as municipal leaders, to discuss matters of importance to the Hispanic Community and other members of Canadian society.

Despite Oscar’s contributions to Canadian society and contrary to the best interests of his children, immigration officials have recently rejected his application to stay in Canada on humanitarian and compassionate grounds and have ordered him to return to El Salvador.

The Vigil Campaign is taking the lead on fighting for Oscar to remain in Canada with his family. A “vigil” is a “watch” or a period of “watchful attention”. This is about keeping Canadians aware of what is happening regarding refugees and national security. Canadians need to be “vigilant”. *Vigil* educates Canadians about what is happening with refugees and national security and mobilizes them for action. For more information visit:

<http://vigilcampaign.ca>

his commitment to the education of his children and others by his involvement in various community activities. He has served as Treasurer of the Parents Council of his children’s school, and on a “Partners in Motion” committee, working to reduce the drop-out rate of Hispanic and Portuguese youth.

Oscar continues to put his journalistic skills to productive use. He has helped shape the media landscape in Toronto. He has worked as a journalist for Toronto based newspapers El Correo Canadiense, El Centro Newspaper, Diario El Popular and also is the founder and publisher of Debate Magazine since 2008. His work has also been published in Our Times and New Voices Magazines.

Despite the insecurity he must experience because of his uncertain status, Oscar continues to demonstrate a commitment to human rights and social justice and to be a leader. From 2009 until December, 2013 Oscar worked as the Executive Director of the Canadian Hispanic Congress. In this role, he advocated for the rights of immigrants and refugees; he also supervised a mentoring program for new immigrant professionals of Hispanic background.

Many Salvadorans can be wrongfully persecuted by (Canadian) immigration officials and also get deported, as the majority of individuals or their family members have civil society links to the FMLN. Entire communities may get persecuted and suffer if the Canadian government continues to ignore their stories of who they are and how they came to Canada.

It is hard to avoid the uneasy parallels to the treatment of Japanese-Canadians in World War II, but instead of being sent to internment camps, these communities can be thrown out of the country altogether. Canada cannot claim to embrace values of multiculturalism if it persecutes individuals and communities due to political and cultural ignorance.

The case of Jose Figueroa <http://wearejose.wordpress.com/canada/>

Continued from page 9 — Citizenship

programs that lead to permanent immigration status. The purpose of the increased residency requirement is purportedly to ensure that persons seeking Canadian citizenship have physical residence in Canada, so that they become “Canadianized”. According to some of the jurisprudence in the Federal Court, prospective citizens become Canadianized by “rubbing elbows” with Canadians in every aspect of life in Canada – “in shopping malls... corner stores, libraries ... auto repair shops, elevators, churches, synagogues, mosques and temples...wherever one can meet and converse with Canadians”. (18)

For some new immigrants, the clock will start running for the residence requirement from the first day of their arrival in Canada and they will be eligible to apply for citizenship as early as four years after their arrival. However those who have been granted refugee status in Canada, seldom acquire permanent residence until two or three years after their arrival. Under our current law, they may count up to one year prior to receiving permanent residence towards the three years residency requirement, to be eligible to apply for citizenship. As a consequence of the proposed change, accepted refugees will not be eligible to apply for full membership – i.e. Canadian citizenship, until **two or three years later** than the immigrant who is granted permanent residence upon arrival. (19)

The proposed changes also discriminate against residents who are in the Live-In Caregiver and other two-step immigration programs. Live-in caregivers are doing more than “rubbing elbows” with Canadians – they are caring for the children or the elderly parents of Canadians and living with Canadians twenty-four hours a day. It is not fair to fail to recognize this mode of work and residency as qualifying for citizenship, when on the other hand, working in the federal or provincial government services **outside of Canada** will qualify as residency for citizenship eligibility under Bill C-24.

Persons who apply for permanent residence in the Canadian

Experience Class will also lose credit for the years they have spent studying and working in Canada prior to becoming permanent residents. For spouses who have been landed through the In-Canada Spousal class, the processing time of their In-Canada application (one to two years on average) will not count towards their residency for citizenship.

The required period of residence has been three years out of four during the past thirty years. Processing of citizenship applications which used to take a few months, now takes two to three years. The proposed longer and more complicated residency requirement, added to the long delays in processing, will result in serious hardships for many permanent residents, and send the message to newcomers, that Canada does not appreciate their contribution and is not sure whether to accept them fully. Refugees will live with insecurity about whether they will be able to remain in Canada, with the threat of a possible cessation application hanging over them. They will also face practical problems with travel to other countries, as they are legally or practically stateless until obtaining Canadian citizenship.

New powers for stripping citizenship from dual citizens

Bill C-24 proposes that the Minister of Citizenship and Immigration or the Federal Court will be authorized to strip Canadian citizenship from a dual citizen if he/she has been found guilty of “treason” or “terrorism”. This means that a Canadian who has dual citizenship is not equal to one who has only Canadian citizenship. If implemented, this change will violate the fundamental principle that all Canadian citizens are equal, creating a two-tiered citizenship, with lesser rights for some citizens.

Stripping citizenship from naturalized citizens on grounds that they have committed an act of treason or terrorism is a particularly dangerous idea. In recent history, Maher Arar, a naturalized citizen of Canada and a dual citizen, was only able to clear his name after he returned to Canada and won a public

inquiry into his case. From Canada's past history, we know that stripping Canadians of citizenship because of their race and perceived connection to enemies of Canada, as happened to Japanese Canadians (20), can result in great hardship and subsequent demand for reparations. Citizenship should not be treated as an honour or a privilege that some citizens can lose by bad behaviour; our criminal justice system is fully capable of dealing with that. Stripping citizenship is a form of banishment and exile, an outdated practice that is unacceptable in the modern age.

Revocation of citizenship for misrepresentation as to intention to reside in Canada

A new ground is proposed for revoking citizenship of naturalized citizens on the basis of "misrepresentation" of the intention of residing in Canada permanently as a citizen. The proposed new power to revoke citizenship from naturalized citizens on grounds of misrepresentation at the time of their application for citizenship drastically weakens the value of Canadian citizenship and also sets up two tiers of citizenship.

Canadians who are citizens by birth sometimes move away from Canada and may even obtain citizenship in another country. They are not stripped of Canadian citizenship for acquiring a new citizenship, although they may face limitations in accessing certain rights attached to residency in a province. For example, Canadian citizens living abroad who return to Ontario would have to wait for three months before having access to OHIP coverage. Naturalized citizens should also have the right to live and work outside of Canada without the risk of having their citizenship revoked on grounds of misrepresentation. Dual and multiple citizenship is a reality in the increasingly globalized world. (21)

If implemented, many of the proposed changes violate the fundamental principle that all Canadian citizens are equal. They will create a two-tiered citizenship, with lesser rights for naturalized citizens. Citizenship is a "right to have rights" (22) and once it is acquired, the only basis for revoking it should be if it was obtained fraudulently. (23, 24)

Rather than building our nation through balanced immigration programs that welcome refugees and members of the family class and skilled workers in the economic class, rather than encouraging integration and full participation of all newcomers through acquisition of citizenship that would strengthen Canadian democracy, the project of this government appears to be one of making Canadian citizenship increasingly exclusive - out of reach for many newcomers - and weakening our democracy by converting Canada into a "guest worker" state. At the same time, the government seeks to have new powers to strip Canadian citizenship from dual and naturalized citizens. Ironically, in the year 2014, the 100th anniversary of the infamous *Komagata Maru* incident, and the 75th anniversary of turning away the Jewish refugee passengers of the *S.S. St. Louis* in 1939, the Conservative government is implementing immigration, refugee and

citizenship laws and policies that represent a return to the racism and xenophobia of the early years of the 20th century.

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**We welcome letters to the editor
and other contributions.
Send to Carolina Teves at:
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CCR REPORT—CESSATION: STRIPPING REFUGEES OF THEIR STATUS IN CANADA

Recent changes in Canadian law may lead to stripping refugees of their status in Canada through cessation, which means that a person is found to no longer need protection as a refugee... Although a cessation application is not new, recent changes make the consequences much more dramatic for persons who had previously been granted refugee status and are permanent residents of Canada: they could lose their permanent resident status and be deported.

Some of the law-abiding and tax-paying members of Canadian society who have cessation applications made against them are people who have been living in Canada for over a decade, people whose children are Canadian citizens, people whose spouse who is either a permanent resident or citizen in Canada and people who have a successful business in Canada.

Since the change in the law, the Canada Border Services Agency (CBSA) has made cessation applications a high priority. According to an internal document, CBSA has an annual target of 875 applications to strip refugee status, a significant increase from previous years.... According to IRB statistics, 178 applications for cessation were made in 2013, compared to fewer than 40 in each of the four preceding years. "The existence of a target.. raises grave concerns that CBSA officials are under pressure to identify and pursue cases without regard to the merits of the case, the consequences to the individual or the costs to society." (*CCR Report*)

Priority is given to cessation applications over others at the IRB. When CBSA files a cessation application, the IRB schedules a hearing very quickly, while there are refugee claimants who have been waiting for years for a hearing. A person goes immediately from being a permanent resident to being inadmissible, without any rights in Canada... There is no opportunity for consideration of humanitarian factors or the best interests of the children, a violation of Canada's international legal obligations."

The cessation clause carries harsher implications than any conditions for loss of status in Canada, such as violation of the residency requirement or even committing a crime.

The government argues that affected persons can have Humanitarian and Compassionate factors considered through a section 25 application. However, they must wait for a year. The only exception is cases involving best

CESSATION CASE

Gabriela is facing a cessation application and possible deportation, despite being well established in Canada, where she has lived for over ten years. Her common-law partner is a Canadian citizen, as is their 4 year old child. She also has a 15 year old son who has done all his schooling in Canada.

Gabriela's cessation problems started after she applied for citizenship. On her application she reported four visits she had made to her country of origin, to attend to sick or elderly family members or for a funeral. This information was transmitted by citizenship officials to the Canada Border Services Agency, which launched a cessation application against her.

Like countless other newcomers, Gabriela worked hard to build her life in Canada. When she first arrived, she took night classes in English while working at a fast-food restaurant. She has since worked her way through several promotions into a supervisory position in a freight company.

Gabriela is currently the family breadwinner as her partner is attending school for retraining. She is a volunteer soccer coach. She and her partner own a home together. A few months ago, Gabriela was looking forward to becoming a Canadian citizen. Now she is awaiting a hearing at the Immigration and Refugee Board. If the cessation application is granted, she will be without status in Canada and subject to deportation.

interests of the child, but these applications take months, if not years, to process. A person with a Canadian citizen spouse might be able to regain permanent residence through a spousal sponsorship. However, in the meantime they would have to give up their job as they have no legal status in Canada and they might well be deported into precarious situations.

Apparently, “the original motivation for the amendments to the law regarding cessation was to catch people who returned to their country immediately upon receiving refugee status, the assumption being that perhaps they never needed protection. This is clear in the statement made in March 2012 by then

Minister of Citizenship and Immigration Jason Kenney: “Too often we see situations where people who claim persecution from a country receive Canada’s protection and immediately go back to that country that was supposedly the source of persecution.” Are there any statistics that indicate how many people actually did this? CBSA is investing significant resources in preparing and pursuing cessation applications which taxpayers are paying for.

The shadow of cessation creates a climate of fear in all permanent residents. This situation could be addressed by the government committing to a clear policy to limit cessation applications to proven situations.

We are accustomed to thinking of permanent residence as a status that, once legitimately acquired, is independent of the grounds on which it was acquired. Canada is a nation built by immigrants: people need to feel that they belong before they set down roots in Canada, etc. People won’t feel they belong if they know that at any moment they can be asked to leave.

To read the detailed report, go to the CCR website <https://ccrweb.ca/>



REFUGEE UPDATE

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