

REFUGEE UPDATE

ISSUE NO. 74 A JOINT PROJECT OF THE FCJ REFUGEE CENTRE AND THE CANADIAN COUNCIL FOR REFUGEES SUMMER 2012

BILL C-31 AND THE FUTURE OF REFUGEES IN CANADA

BY MICHELE MILLARD

As we know, Bill C31 was supposedly put forward to discourage smuggling, when in fact it punishes the very people we're supposed to protect. Bill C31 – where under certain designations there is mandatory detention, you can't apply for permanent residence for 5 years, and for which there is essentially no family reunification even though you've been accepted as a refugee. You are able to apply for permanent residence and sponsor members of your family but you've already waited 5 years, and family reunification cases can take another 3-5 years, if you're lucky, with the result that you may not see your family for 8-10 years.

When you have young children, you've lost the opportunity to be a parent and to build relationships with them – essentially you've been made a stranger. Being separated from your spouse for such a length of time is not good for any marital relationship. It's no coincidence that divorce rates can be quite high in refugee families – disruption of family relationships can only be worsened under this legislation. You won't even be able to travel to see your family within those first 5 years. And this is AFTER you've been recognized as a refugee.

I think there's something quite wrong about a government that demands loyalty (and even

though they don't quite come right out and say it – gratitude) from the immigrants and refugees who come to Canada, but are quite unwilling to respect the bonds of family, the right of the child to have parents, the right to have a family life, and the right to be treated with dignity and respect and to enjoy the social, political and economic rights enshrined in our national and international covenants.

I must wonder, given the so-called “Dickensian meanness” of this legislation, if, at some level, the policy makers, legislators and certain members of the public believe that these rights should only be enjoyed by those who have “proven” their worthiness.



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The architects of this legislation would deny this, of course, with great defense and offence, as their vision of themselves as the “good guys” is threatened by the outcomes of their policies.

Make no mistake, I think their concerns are often quite legitimate: countries do need to know who comes to their borders, public safety can be a concern, smuggling is a criminal activity, even though it is often the only way someone can escape, there is a limited absorptive capacity for newcomers, and in the cases of so called fraudulent marriages – betrayal and exploitation by someone who you are supposed to build a life with is a terrible thing to experience.

They are just choosing to pick on the wrong people. They are picking on the weak, the unprotected and the fragile. They blame them for these problems in the same way ultra conservatives blame poor people for being poor. Why are they doing this? Simply put – because they can. Asylum seekers don’t vote, they don’t speak up, generally, and they don’t have extensive support networks in the host country.

Canadian society in general seems to have swallowed the government’s message that these groups of people are threats, alien, not respecting of so-called “Canadian” values. As with all bigoted ideology, the actions of a few individuals represent the whole community – thus one Muslim or Tamil Tiger terrorist means they are all terrorists. One “economic” migrant means the whole group is made up of economic migrants. It’s also the easy way out – by focusing on the arguably visible evidence of “queue jumpers” and “bogus” refugees, the government, and indeed all governments of receiving countries don’t have to do the hard work of really dealing with the root causes of displacement, including their own complicity in some of the causalities.

With these punitive measures, and reduced access to other civil, social and economic rights, they won’t kill you, but they won’t let you thrive either.

Unwelcome as this legislation is, it’s also unsurprising that it exists. Canada is following a pattern set a number of years ago by countries like Australia and the UK. Draconian policies enacted there in the hopes of deterring asylum seekers have clearly been shown not to work. People still come and live in misery, with all the concomitant social, mental and physical health problems attached.

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I think what these governments don't realize is that the only way you keep people from coming is to become yourself the very monster they are fleeing from. If we have border guards, police and members of the host community who rob, beat, torture and sexually assault, then maybe the numbers will go down.

If we implicitly encourage or turn a blind eye to the exploitation and trafficking of undocumented migrants, populate our brothels, massage parlours and strip clubs with the daughters, sisters and wives of the asylum seeker or undocumented migrant, and make servants or indentured labourers of the rest, then maybe numbers will go down. If we arbitrarily jail people without papers and then demand bribes to free them, don't protect them against criminal activity, and disappear them, maybe numbers will go down. Otherwise, anything else is an opportunity for a better life. And people will still come.

I am in no way saying that the Canadian government is condoning any of these activities – they are not. But we have to realize that we are all on the same continuum of human rights. One country may not torture, but they emiserate people by not providing them access to decent food, shelter and healthcare. A country may not sweep neighborhoods for asylum seekers to extort, but they may practice mandatory, arbitrary and indiscriminate detention in the name of public safety.

They may not support slavery or labour indenturement, but run temporary worker programs that have some disturbingly similar elements. It's really not us or them. It's just us.

If we keep pushing the bar lower and lower, which is what we've been doing, then how will things get better? This legislation may not turn us into the monster, but the road to it is short indeed.

I recently listened to a keynote speech by Lorne Waldman, the president of the Canadian Association of Refugee Law Judges and the recent CARFMS conference (you can view the entire speech at www.youtube.com/refugeeresearch). He made some very good points. Speaking from the perspective of someone who has worked in the field of refugee protection for over 30 years, he pointed out that this moment is but one moment in history – it's really a pattern of waves, with high moments and low moments, and we are currently in a low moment.

He noted that when the legislative or the executive go too far, courts push back. And he noted that there has always been one constant – that there are broad and diverse communities of people dedicated to the protection of the refugee and asylum seeker. That their fight for the rights of refugees are generally successful, and that they're in it for the long haul. The civil actions that have been taking place across the country recently in response to Bill C31 and the changes to the IFH program indicate the robustness of these communities.

So let me end by saying that yes, it is appalling that Bill C31 has been passed. In my opinion, it's criminal that the IFH program has been gutted, leaving particularly vulnerable people without access to lifesaving medication. And I'm sure that the current Canadian government, like the gift that keeps on giving, will continue to try and create laws or eviscerate programs that excludes, marginalizes and punishes.

But, we live in a country where if nothing else, politicians want to be re-elected, and if there are enough people complaining about something, they must be responsive. The refugee advocates are organizing themselves – the NGO community has strong and effective organizations such as the Canadian Council for Refugees, the lawyers have CARL, the academics and researchers have CARFMS, faith groups have ecumenical movements and more and more bridges are being built between different faiths. For example, it's been interesting in seeing how the Sanctuary movement has been spreading beyond the boundaries of the Christian Church.

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The courts are reasonably strong and independent, and have reined in some of more egregious legislation in the past, and will no doubt continue to do so. Everyone has a part to play in resisting this demonization. Everyone has a part to play in granting greater, not lesser, protection to the refugee and asylum seeker.

So... let the litigation begin!

Michelle Millard works at the Centre for Refugee Studies, York University.



FIRST PAGE OF THE BASIS OF CLAIM FORM, BOC, DOCUMENT THAT REPLACES THE PERSONAL INFORMATION FORM, P. I. F.

Immigration and Refugee Board of Canada / Commission de l'immigration et du statut de réfugié du Canada

Client I.D. Number

Claimant's name(s) and family name(s)

PROTECTED WHEN COMPLETED

RPD file number (for IRB office use)

Basis of Claim Form (BOC)
(for persons claiming refugee protection in Canada)

ANSWER ALL THE QUESTIONS ON THIS FORM.

- If you are making your claim at an Immigration office inside Canada, bring the completed form and one copy with you to give to the officer who will decide if your claim is eligible.
- If you made your claim on arrival at a port of entry into Canada and received a blank form, you must provide the completed form to the Immigration and Refugee Board of Canada (IRB) and one copy to the Minister. You must make sure that the IRB and the Minister have received the completed form within 15 calendar days.
- Make sure that you make a copy for yourself.

If they have not received your completed Basis of Claim Form (BOC Form) by this date, the IRB will have a special hearing and may decide to declare your claim abandoned which means you would not be allowed to continue with your claim.

INSTRUCTIONS FOR COMPLETING THIS FORM

IMPORTANT: You can find instructions to help you complete your BOC Form both in the appendix at the end of this form and in the *Claimant's Guide* in your IRB kit. Please read these instructions carefully. Before giving your original BOC Form to the IRB, **remove the appendix.** If you have written additional information on other sheets of paper, please provide those sheets of paper with your BOC Form.

Your information is confidential
The Privacy Act protects the confidentiality of the information you give in your BOC Form, as well as the confidentiality of any other information the IRB may have about your claim. The information may be released only in the circumstances set out in the Privacy Act and of the Access to Information Act. Please read the appendix at the end of this form about the use of our information in other claims.

PLEASE TYPE OR PRINT LEGIBLY.

Date Stamp (for IRB office use)

Version française disponible sur demande

Immigration and Refugee Board of Canada
<http://www.irb-cisr.gc.ca>
Basis of Claim Form
Page 1 of 14

Canada

*It is important to remember that the **Basis Of Claim (BOC)** is NOT the same as the **P. I. F.** While the PIF must be submitted within 28 days, the Basis Of Claim (BOC) must be given to the officer, entirely filled, **in the moment of the claim if you are claiming for refugee protection in an inland office.** If your claim is made in a port of entry, you will receive a blank BOC form and must send it to the IRB and the Minister **within 15 calendar days.***

THE REFUGEE APPEAL DIVISION— DISAPPOINTING RESULT CALLS FOR CONTINUED PRESSURE

BY RICK GOLDMAN

On June 29, 2012, Bill C-31 received Royal Assent. After two decades of advocacy work there will finally be a right of appeal for refused refugee claimants in Canada in the form of a Refugee Appeal Division (RAD). Unfortunately, rather than being a cause for celebration, the result is a bitter disappointment.

The Importance of a Refugee Appeal Division

Many international human rights bodies have called on Canada to introduce a proper appeal on the merits for refused refugees. For example, in 2002, the United Nations High Commissioner for Refugees stated:

UNHCR considers an appeal procedure to be a fundamental, necessary part of any refugee status determination process. It allows errors to be corrected, and can also help to ensure consistency in decision-making. Canada, Italy and Portugal are the only industrialized countries which do not allow rejected asylum seekers the possibility to have first instance decisions reviewed on points of fact as well as points of law.

Likewise, the Inter-American Commission on Human Rights stated in a 2000 report on Canada:

Given that even the best decision-makers may err in passing judgment, and given the potential risk to life which may result from such an error, an appeal on the merits of a negative determination constitutes a necessary element of international protection.

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Restrictions on the RAD under Bill C-31

Under Bill C-31 a wide variety of claimants will be denied access to the RAD:

- 1. Asylum seekers from Designated Countries of Origin (so-called “safe country list”)** – These claimants will have super fast-tracked hearings to be held as soon as 30 days from the moment of filing the refugee claim. This will make it difficult to prepare a case adequately, as it will be extremely challenging to obtain documentary evidence from the home country, medical or psychological reports and even identity documents, as well as to secure legal counsel. This is in addition to overcoming the consequences of trauma such as torture and rape. The risks of human error by a single-panel decision-maker are particularly high under such circumstances and a right of appeal is all the more important.
- 2. Claimants arriving in Canada as part of an “irregular arrival”:** this has no relation whatever to the merits of a refugee claim. Indeed, from certain countries with the very worst human rights records, the only way to make it to Canada would be with the assistance of a smuggler providing false documents, given that passport offices

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(or even the central government) may not be functioning. There is no logical basis for presuming that a group of such claimants coming from, say Iran or the Democratic Republic of the Congo are making “frivolous” claims which do not even merit a right of appeal.

3. Persons who claimed asylum at the Canada-U.S. border - Under U.S. – Canada Safe Third Country Agreement, it is already the case that few potential claimants who pass through the U.S. can claim asylum at the Canadian border and be permitted to enter Canada to pursue their asylum claim here. There are few exceptions. The most frequently-invoked is that of having a relative in Canada with a legal immigration status. Indeed, the presence of such a relative is often the reason why the refugee has chosen to claim asylum here rather than in the U.S..

Like the “irregular arrival” claimants, this choice tells us nothing about the merits of the refugee claim. Indeed, such persons may well have come from countries with the worst human rights record on earth.

4. “Manifestly unfounded” or “no credible basis” claims. It is not clear how many “regular” claimants will be left, after the above three exceptions have been applied. However, even those remaining “regular” claimants who, in principle, still have a right of appeal could also see that right disappear. This would happen if they are declared to have “manifestly unfounded claims” or “no credible basis” by the first-level IRB decision-maker.

This is perhaps the most perverse ex-

ception. If a first-level decision-maker errs in rejecting a well-founded claim, the error can, in principle, be corrected on appeal. However, if the decision-maker errs severely -- in declaring that a well-founded claim has “no credible basis” or is “manifestly unfounded” -- then the decision-maker has, in effect, “insulated” his/her decision from review and the error cannot be corrected.

Timeline for filing and perfecting an appeal at the RAD

For the indeterminate number of claimants not caught by one of the above four exceptions, yet another barrier to an effective right of appeal exists: the short timeline for filing and “perfecting” (completing) an appeal. This involves listening to several hours of recorded testimony and reading all the documentary evidence presented at the IRB and preparing a full legal argument. **Only 15 working days will be permitted for this.**

This task is similar to that of preparing a Judicial Review application under the present system, for which a period of 45 days is granted. Fifteen days is obviously inadequate and seems to have been designed to restrict access to the RAD in an indirect manner.

Elimination of other post-claims recourses



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It should also be noted that the categories of claimants mentioned above who will be denied access to the RAD will also no longer benefit from the automatic stay (suspension) of their removal that formerly accompanied an application for Judicial Review at the Federal Court. In addition, access to the Pre-Removal Risk Assessment (PRRA) and to Humanitarian and Compassionate (H&C) applications have been severely curtailed under Bill C-31.

Conclusion

The many bars on access to the RAD along with the unrealistic and unfair 15-day timeline for appeal effectively serve to “gut” the RAD, rendering it of little more than symbolic value. This, along with the suppression of other post-claim recourses means that, ironically, under Bill C-31, we will finally have a Refugee Appeal Division in Canada, yet a large number – potentially the majority – of claimants will find themselves with absolutely no avenue for re-

view of their cases following a negative decision.

On the positive side, the RAD will finally, at long last, come into existence. With minor legislative changes it could easily be converted into a true appeal for all claimants. It is therefore essential that refugee advocates maintain vigilance, continue to document the devastating impact of the absence of such a right, and press the government to finally “finish the job” of implementing a true appeal on the merits for all refused claimants.

Rick Goldman works at the Committee to Aid Refugees in Montreal



BECAUSE HEALTHCARE IS A HUMAN RIGHT...



As an answer against the healthcare cuts for refugee claimants, doctors and other health professionals organized rallies across the country. The cuts came into effect on June 29, 2012.

Doctors are launching an alternative clinic at the FCJ Refugee Centre. Every Saturday the doctors provide medical primary care and/ or counseling. You can check the calendar or look for another clinic close to your place at www.fcjrefugeecentre.org or call at 416-469 9754.



LIMITATIONS ON INTERIM FEDERAL HEALTH PLAN

BY EZAT MOSSALLANEJAD

Refugee claimants, specifically survivors of torture and trauma, need both preventive and curative health needs that include all the above. Most of our clients come from refugees camps or first or second countries of asylum where they did not have access to medical care. Their hidden diseases come to the fore in Canada due to the change of environment and cultural shock. They need immediate care.

Refugee clients have usually experienced persecution, torture, family separation, and the death or execution of their beloved ones back home. The majority of them have risked their lives to cross the border and reach the first country of asylum. Some are left with no choice but to stay in a refugee camp where they face starvation, constant physical and psychological harassments. Life becomes extremely dangerous if they do not stay in a protected camp. The first country of asylum is normally close to their country of persecution. In the case of some clients, they have to change their names, live underground and be super vigilant against local police and agents from their countries of origin; smugglers are luring everywhere to rob the money they have borrowed or have earned by selling all their belongings. They are not even immune from their fellow-asylum seekers or their compatri-

"With the lack of medical care, refugee clients may go to places where incompetent people deliver services. It may lead to illegal and underground medical practices that are harmful to the health and safety of the society as a whole."

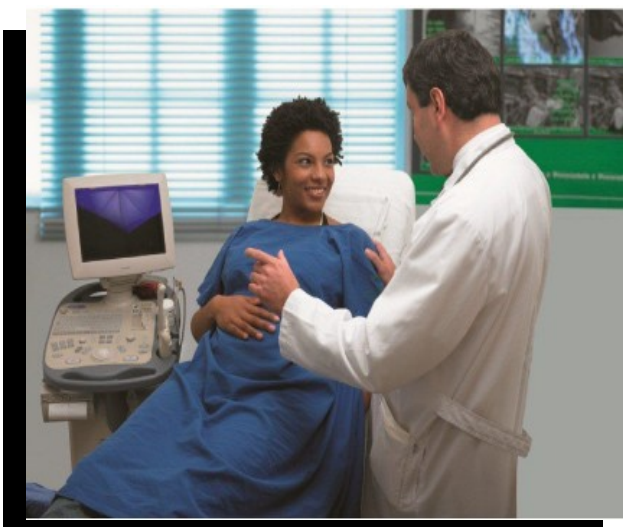
ots whom you expect to help.

All these accentuate their Post-Traumatic Stress Disorder that should be taken care of before it leads to deep and incurable depression or paranoia. In my view the first priority is the mental health needs of our clients. Another priority is the whole area of reproductive health of women. This applies to LGBT clients, specifically transsexual ones, as well. Refugee women come with complicated health problems that should be addressed before other complications arise. I have served pregnant women by using the IFHP and in two cases by getting help from the Midwifery College. My next priority is the dental care of clients. It adds to the traumatic condition of clients. It is not adequate today, but at least emergency dental care is covered. Finally, the physical and mental health of children have always been our topmost priority.

Under the new policy medication for cardiovascular disease, diabetes, hip osteoarthritis, or heart attack (following a discharge from hospital) will not be covered. Medical needs such as eye glasses, cavity fillings, or medication for arthritis are not covered. The worst impacts will go to rejected refugee claimants and those who have come from designated countries of origin or safe countries. They are not eligible for any kind of medical services except conditions that threaten public health or safety, such as tuberculosis, HIV, or mental disorders with psychotic symptoms. If a woman in this category delivers a baby or undergoes emergency surgery for a heart attack at a Canadian hospital, she will have to pay out of her pocket.

Pregnant women from countries not on the safe list who give birth in hospital would have their required tests, delivery, hospital stay, and initial post-partum follow-up covered, but not any further basic medications or the use of reproductive health techniques.

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Government has announced that protected persons and refugee claimants from non-designated countries of origin would be covered for most basic health needs such as hospital, medical, diagnostic, and ambulance services in most cases, but not for services such as long-term care or home care. The loss of prescription coverage is a matter of grave concern. The following groups of our clients will suffer most from the new policy:

Children who suffer from fever or infection and need medications on an urgent basis.

Clients who suffer from PTSD and severe mental health complications and cannot live without medications. Lack of treatment will increase the risk of suicides, will lead to paranoia or drug abuse that can have the consequence of involving them in criminal activities.

Women will be disproportionately affected by the lack of access to reproductive health services. This may result in infant mortality, unwanted pregnancies and higher rates of sexually transmitted infections.

According to the government's figure, the cost for the Interim Federal Health Program (IFHP) was \$84.6 million in the fiscal year of 2010-11. It has further been mentioned that the planned changes would save the government \$100 million over the next five years.

This is just an illusion. In Toronto, the cost for a hospital bed is around \$1,100 per night. This is not obviously affordable by refugee clients. They will be left with no choice but to go to the emergency sections of hospitals. This would put a new burden on the provincial system that must bear the costs.

Mental health clients will remain with no choice but to use the services of NGOs and crisis centres that are suffering from downsiz-

ing.

The Canadian public is the final loser by paying for the increased rates of suicides, death, drug abuse, crimes and venerable diseases that may come as a consequence of the implementation of this policy.

With the lack of medical care, refugee clients may go to places where incompetent people deliver services. It may lead to illegal and underground medical practices that are harmful to the health and safety of society as a whole. The government has announced that the cut aimed at discouraging "unfounded" refugees from coming to the country. This is another illusion. Refugees would continue to come as long as root causes of refugee flow exist. Most of the claimants who come to Canada do not know about the Canadian health system.

Government has also mentioned that it is "only a short interim measure" due to fast refugee determination process and the expedited removal of rejected refugee claimants. If it is short, there will be very little cost to the Federal government and the new policy would lose its *raison d'être*.

Finally, it should be mentioned that a great number of refugees are future citizens of Canada. Protecting and improving their health is an investment that benefits our Canadian society.

Ezat Mossallanejad is a Settlement Counsellor and Researcher & Policy Analyst at the Centre for the Victims of Torture in Toronto.

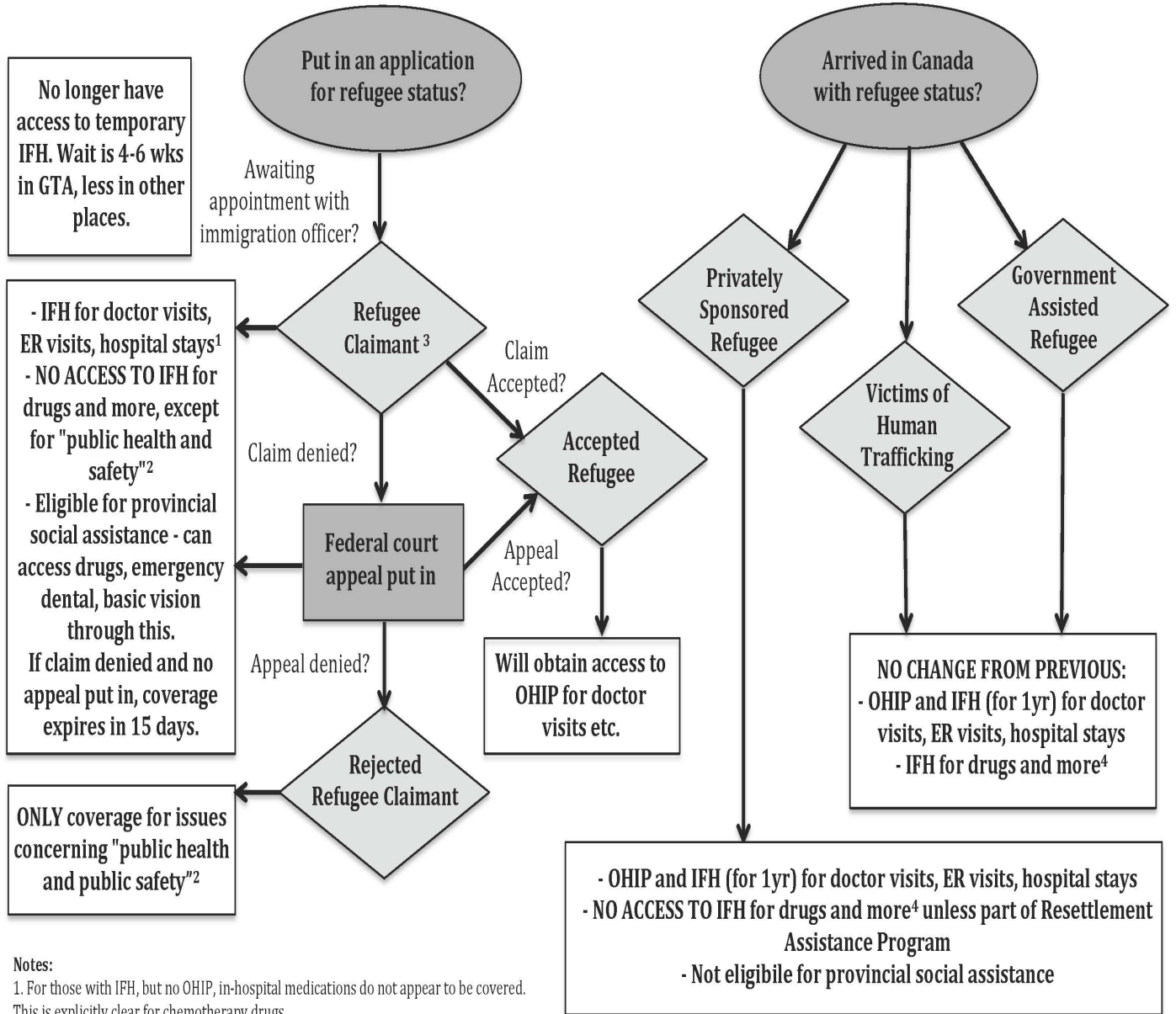


REFUGEE HEALTH CUTS FLOWCHART IN ONTARIO

BY NO IFH CUTS COALITION

REFUGEE HEALTH CUTS FLOWCHART FOR FRONTLINE WORKERS IN ONTARIO

Last update: August 19, 2012 - Created by the No IFH Cuts Coalition including: healthcare, law, shelter and other frontline workers in Ontario



Disclaimer: This tool has been developed by a coalition of clinicians and lawyers to assist frontline workers. Changes are frequent and updated versions will be provided. Since the changes, many people are being wrongly denied services, and some have been told to call Blue Cross for pre-approval. To see Citizenship and Immigration Canada's interpretation of the cuts, go to : <http://www.cic.gc.ca/english/refugees/outside/summary-ifhp.asp>

YOUTH REFUGEES ARE NOT A THREAT

BY ALBERTO GAONA-PUERTA

In July 2012 one of the worst tragedies in Toronto's history related to gang violence occurred in a Scarborough neighborhood named Danzing, where more than 20 were wounded and 2 killed in a burst of gunfire among a large group of youths that were supposedly having fun at a BBQ.

It was the kind of event that triggered alarms about what could be happening with the young people in this city. And the alarms sounded loudly with statements from almost all the sectors: City Hall, the police, the press, the non profits... There were voices who pushed for fast and tough action against gangs.

Somebody said there were enough studies and diagnostics and not enough actions; there were even people who said that the youths involved in gang violence should be expelled from the city and forbidden to come back.

A few days after, in the press, there was the news that one of the youths under suspicion for the crime was a young 19 year old, who was a former refugee from Somalia to whom citizenship had been granted and then "*fell in with the wrong crowd*". (Toronto Sun, July 29, 2012: "**Alleged gunman arrived as a refugee**", written by Tom Godfrey).

The news includes the opinion of a CBSA officer (who chose to remain anonymous), for whom the citizenship status of the boy was an obstacle to deport him to his country of origin, in case of conviction.

While I was reading that I felt appalled: there was a young suspect who was being treated as if guilty before any legal judgment and, according to the news report, by extension you could get the idea that all refugees are a potential threat. In thinking on the matter more deeply I realized that, if the young man was 19 and had been already granted citizenship, he had to have come to Canada several years ago, at a time in which he surely was still a child.

So I thought that this young man was part of a family that came to Canada seeking a safe place to live, but doubtfully he was consulted about this movement. In other words, he did not ask for refugee

status but his parents did in his name. And, as the CBSA officer said, he then "*fell in with the wrong crowd*".

It seems that we are in the forefront of what could be taken as the criminalization of child refugees. I guess it could be useful to examine certain considerations around the matter of a child trying to adapt to a different country, with a different culture and language, and all of this just because one day, his parents –surely with good reasons, but likely their own good reasons- told him that he must leave the country where he born.

Although children seem to have better adaptation capabilities because of their youth, it is not a secret that they suffer deeply from the challenges of the change. While we the parents are usually thinking about the practical issues for the wellness of the kids, such as food, clothing, the distance to school or the health solutions for them, the apparently simpler issues such as finding new friends or entering into a peer group at school are left almost entirely to the child alone.

From the very first moment, they have to find a way to understand and to be understood in a new language. Also, they must detect right away the cultural differences that exists among other children, and be able to match that in an environment of which, most times, they have no prior knowledge. And, while they have to develop similarities or commonalities with other children to gain a place among them and not to be shamefully rejected, they must also manage ways to build their own self esteem.

And if all of this is true for any child that grows into any culture, it is harder for a child who came from abroad. In that context it is very easy to "fall in with the wrong crowd".



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And I think it is even harder if the foreigner children are seen as a potential threat.

And in not a few cases, all those struggles must be made from a different social context from which the kid was accustomed. Despite the high standard of life here in Canada, for many different reasons it is not easy for parents to adjust in the job field in the same way they had in their countries of origin. Here in Canada the foreigner –especially if it is a refugee- finds s/he is nobody and has to start over, from nothing.

So, you can easily find former lawyers working as cabbies, former teachers sweeping malls or former social workers working in warehouses, most of them earning just the minimum wage. It often means that the child cannot get things that were normal in the other country, because the parents simply cannot afford it. This can be a serious problem for boys in the process of building relations with other children in a new country.

It also means that in most cases both parents have to work hard all day to get what they think they need for the family, or to get an average level of life and, therefore, there is less time to give to the kids. In this situation, I would consider it almost as a miracle if the kid manages to fall with the “right crowd”.

I also find it highly unfair to see the problem only as a security issue, and to blame foreign cultures as the source of the threat. There are other local conditions, not only the struggles in the adaptation process that I tried to show above, that have a determinant role in this problem. The marketing system that targets the youths with all kind of offers,

almost always on the basis of “having fun” has a role, too. To treat all the kids just as “fun-seekers” in an idea of “enjoy the moment” could be good for business, but not for the youth. Some of them will end up believing that the sense of life is having certain goods or services.

On the other hand, the cuts in resources dedicated to facilitate the adaptation of children and of new families in Canada also have a strong impact. The reduction of budget and personnel in the social front could be seen as a way to save money now, but it has a high price in terms of social stability in the middle and long terms, and this price cannot be avoided with more police, or security measures only. Also the racialization of poverty and the building of “ghettos” for the poor are just the seeds for new and worse problems.

All youth should have a wide range of opportunities, but it will not be possible if they are just seen as thoughtless consumers in the case of rich youths, or as potential criminals in the case of the poor.

According to the statistics, Canada is a country which is aging. The local, provincial and federal governments must consider this fact as an unavoidable process and face it with the most creative efforts.

It also should include investing widely in the best ways to assure the wellness of the youths and creating better possibilities for their personal development. This is not a spending but an investment that would be highly profitable in terms of all kind of positive values, not only money.

We need all young people capable to apply their potential in the building of a stronger country and a wider future for all of us. We all have the responsibility to help them find their opportunities.

And I mean all youths, not only those who fell into the “right crowd”.

Alberto Gaona-Puerta



THE HISTORY OF SETTLEMENT FUNDING IN ONTARIO: THE RECENT HISTORY AND IMPACT OF RECENT CUTS

BY DEBBIE DOUGLAS

For more than five decades, non-governmental organizations have provided the services that help refugees and immigrants settle into their new life in Canada. These services are free-of-charge, and can include employment services, language training, information and referral and para-professional counselling. Services are funded primarily by the federal Department of Citizenship and Immigration (CIC).

Being the largest funder of settlement services, any funding decision by the federal government can significantly affect the immigrant and refugee-serving sector. In December 2010, the federal government cut more than \$43 million in settlement funding to Ontario.

This article is a brief look at the recent history with immigrant and refugee settlement funding in Canada, excluding the Refugee Assistance Program (RAP) which is funded separately.

Federal government funding for immigrant settlement services remained the same for more than ten years during the period 1993-2005, although it was a time of immigration growth in Canada. During that period Ontario received the highest number every year of immigrants and refugees arriving in Canada, of all other provinces and territories. This has not changed despite a reduction in the rate of immigration - Ontario's share of permanent residents declined from almost 60% of all arrivals in 2001 to a little over 42% in 2010.

Ontario sector agencies struggled to fill the gap caused by the chronic under-funding of immigrant and refugee settlement for more than those ten years by turning to other funders like municipalities and United Way. Provincial funding for immigrant settlement (not including adult language programs) while small was critically important since it helped to meet the

(Abstracted, with permission, from Debbie Douglas – Executive Director, OCASI – Ontario Council of Agencies Serving Immigrants, from Keynote Address at the Conference organized by The Canadian Association for Refugee and Forced Migration Studies (CARFMS), Friday May 18, 2012)

needs of those ineligible for CIC funded services. However it was cut by almost 50% in 1995 and in spite of steady increases since 2003 has not yet been fully restored to pre-1995 levels.

The impact of funding inadequacies was felt in some of the following ways: unique settlement needs of less-privileged groups such as refugee women, youth and seniors were unmet; a number of agencies were located in unfavourable physical space with shabby furnishing, poor lighting, poor air quality, and insufficient or inappropriate client space (i.e. lack of private counselling space); sector wages were among the lowest in the broader social service sector jobs; and jobs were characterized by heavy workloads, lots of overtime and uncertainty over employment due to funding issues.

At the same time changing refugee and immigrant demographics produced a growing complexity of services needed. They resulted in part from barriers to labour market entry such as credential recognition, and the different systemic barriers to settlement faced by newcomers who were now predominantly from the global south and were racialized.

In November 2005, the federal government signed an immigration agreement with Ontario which provided five-year funding that would grow incrementally to a total of \$920 million. Funding for the national immigrant settlement program was also increased, with a significant increase for Ontario represented by the \$920m over 5 years. This measurable increase was in part a response to the his-

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"The national budget for Citizenship and Immigration Canada's (CIC) immigrant settlement services was cut by \$53 million in 2011-2012. Ontario absorbed almost \$44 million, representing more than 80% of the cuts."

torical under-funding of full program delivery costs including infrastructure and workers' salaries.

Notable improvements included youth-specific programs, enhancement of language training, programs to support labour market access, and expansion of the service delivery model – including offsite services provided in local schools and libraries (SWIS and SWIL programs). This latter model of partnership with public institutions allowed sector agencies to provide information and referral services to all newcomers regardless of status in Canada, including refugee claimants.

Another impact was the growth of Ontario's immigrant and refugee-serving sector. The number of agencies funded by CIC grew and the number of funding agreements with CIC increased by 97% compared to the pre-COIA period. Agencies already receiving funds expanded operations and increased capacity. The change was reflected in the growth in OCASI's membership – now at around 220 member agencies across Ontario.

The Agreement formally recognized the role of municipalities in immigrant settlement, and this was realized through financial support of municipal immigration portals and the creation of Local Immigration Partnerships (LIPs). The latter initiative brought together a broad range of stakeholders with the goal of undertaking local planning for immigration. The creation of new relationships and strengthening existing ones allowed some agencies among other things, to expand and intensify efforts to work with under-served groups.

The major amount of funding in the Agreement was to be spent in year five (the final year). CIC was responsible for administering the agreement, specifically the disbursement of funding. At the inception of the Agreement, Citizenship and Immigration Canada and the provincial Ministry of Citizenship and Immigration did not have the administrative capacity required for full implementation. New federal government financial accountability rules also delayed implementation. A combination of these factors caused delays in rolling out the funding, and led to the under-spending of funds committed to the Canada-Ontario Immigration Agreement (COIA). This under-spent money was never invested in Ontario and continues to be a point of contention between the provincial and federal governments.

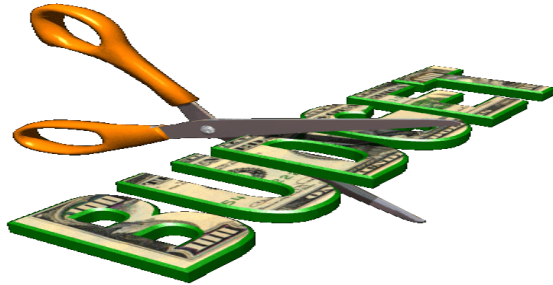
In late August 2010 the provincial Minister of Immigration and OCASI, among others were informed that the Department of Citizenship and Immigration (CIC) had undertaken a Strategic Review intended to find efficiencies, and this resulted in a 5% reduction to the Settlement and Integration funding envelope across Canada. The national budget for Citizenship and Immigration Canada's (CIC) immigrant settlement services was cut by \$53 million in 2011-2012. Ontario absorbed almost \$44 million, representing more than 80% of the cuts. BC experienced the second highest cut at \$8.5 million. The Ontario situation produced an all-party motion from the Parliamentary Standing Committee on Citizenship and Immigration to reverse the cuts. That did not happen.

An additional \$31.5 million was cut in 2012-2013 in Ontario. The province was further disadvantaged by its inclusion for the first time (2011-12) in the national funding allocation model that ties funds to a per-immigrant formula on a rolling three year ar-

"A total of thirty-five agencies across the province lost 100% of their funding. Of that number 13 are members of OCASI and eight of these were located in Toronto. Almost 50% of the defunded agencies were ethno-specific and served racialized communities including new refugee arrivals."

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rivals basis. Unless a minimum funding level for Ontario is established we will continue to see a drop in settlement funding for this province since the rate of permanent resident arrivals to Ontario has been dropping over the last few years as the economic focus (and jobs) has been on the western provinces.

CIC's approach to implementing the 2010 funding cuts in Ontario, particularly in Toronto, was unprecedented. A total of thirty-five agencies across the province lost 100% of their funding. Of that number 13 are members of OCASI and eight of these were located in Toronto. Almost 50% of the defunded agencies were ethno-specific and served racialized communities including new refugee arrivals.

OCASI surveyed the 120 member agencies who received CIC funding, including those that lost funding in September 2011. The majority of the ninety agencies that responded had partial or full cuts and a tiny minority got an increase. Almost 50% of the cuts were to Toronto agencies, the region with the largest population of immigrants and refugees. Some of the main impacts were: cuts or elimination of services for vulnerable groups such as refugee claimants; loss of capacity leading to less effective or no services for marginalized client populations including clients with disabilities, isolated women and seniors; waiting lists for services such as language assessment and training; a total of 169 full-time jobs lost; increased workload which can risk service quality and burnout among workers. Agencies reported they have begun to feel the advocacy chill, and fear loss of charitable status for speaking out on client access and equity.

In response to the cuts, the Ontario government increased provincial settlement funding by 5%. The United Way of Greater Toronto provided resources and collaborated with OCASI to support agencies that lost all CIC funding to deal with issues of transitioning their operations. While these investments were important, they could not mitigate the full scope of federal funding cuts.

The federal funding cuts are an early warning to the sector of the dangers of becoming too dependent on one funder. We need to work on diversifying funding sources while at the same time reminding government of its responsibility in social services provision rather than seek market-based solutions to social issues.

As we look ahead to taking up that challenge, we can be encouraged by the growing strength of immigrant and refugee voices as they share their stories and ask that their rights be recognized and protected. The many years of sector partnership with communities to build their policy and advocacy capacity is bearing fruit. Allies are supporting progressive movement on refugee and immigrants issues for the first time, as well as emerging as leaders in pushing back against changes that speak against the values precious to Canadians. We have seen Faith leaders speak truth to power. Medical doctors' alliances are coming together nationally to inform the debate and speak to the very real impact of bad public policy on real people's lives. We can be optimistic as we move forward that Canadians with enough information and the right information will always come down on the side of compassion and of justice.

"The federal funding cuts are an early warning to the sector of the dangers of becoming too dependent on one funder. We need to work on diversifying funding sources while at the same time reminding government of its responsibility in social services provision rather than seek market-based solutions to social issues."

REFUGEE CLAIMANTS IN B.C. GET READY FOR THEIR HEARINGS

BY LOREN BALISKY, ALEXANDRA CHARLTON, LAYNE DAGGET AND LESLIE STALKER

An offer of refugee protection must be complemented by accessibility.

In Metro Vancouver, we were concerned that many refugee claimants faced a significant barrier in their claims for refugee protection: generally, and sometimes chronically, they had limited understanding of what happens at a refugee hearing, perhaps the single most important proceeding in Canada's refugee determination system. At the refugee hearing, the claimant appears in person before a member of the Immigration and Refugee Board - Refugee Protection Division (RPD) who hears claimant testimony, reviews documentary evidence, and decides whether protection should be granted.

In March, 2008, we proposed a simple, creative, and collaborative solution: guide refugee claimants on educational tours of an actual RPD hearing room. Working with the UNHCR and the RPD (Western Region), we launched READY to help refugee claimants better prepare for their hearings. We started with READY Tours, giving claimants direct, facilitated access to the RPD refugee hearing rooms, Documentation Centre, and staff. Soon after, we produced a plain language and accessible Guide to Preparing for the Refugee Hearing as a take-away aid for further learning.

Currently, READY Tours are held monthly, hosting 15-20 refugee claimants (and service providers if space allows). The READY Coordinator registers participants through direct contact or by referral from settlement agencies and lawyers. The Coordinator also arranges volunteer interpreters for READY tours. At the Tour, an RPD Tribunal Officer escorts participants to a hearing room, provides an orientation covering important procedural and conceptual information, then answers questions. Following the Tribunal Officer's presentation, refugee claimants participate in a debrief session where they are offered useful tips to prepare for their hearings. Participants also receive a hard copy of

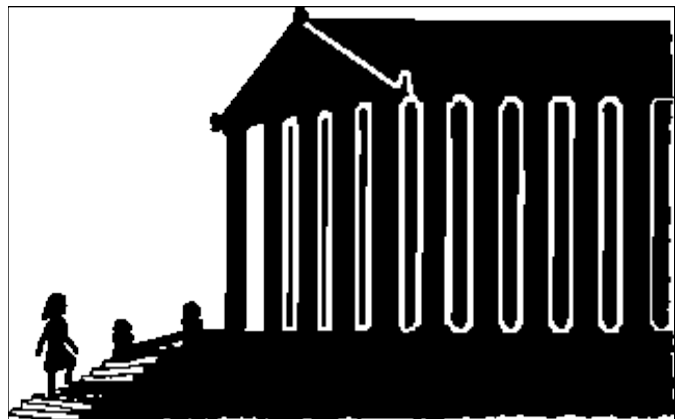
the Guide to Preparing for the Refugee Hearing ([available](#) online in English and Spanish).

In anonymous post-Tour feedback questionnaires, claimants have been reporting that being in the hearing room, meeting a Tribunal Officer, and receiving information about how to disclose evidence and conduct themselves at a hearing relieves anxiety and orients them to the realities of the process. They express an increased sense of responsibility for their claims and knowledge of basic principles of refugee law which facilitate their ability to engage in the process. We feel our goal of enabling refugee claimants to be hearing-READY is being achieved.

Responding to Bill C-31 refugee reform, Kinbrace (READY) is partnering with the Law Foundation of BC and several other agencies to revise and update the Guide to Preparing for the Refugee Hearing and to provide BC's service providers with educational workshops on changes to Canada's refugee protection system.

READY is currently led by Kinbrace, in collaboration with the RPD, Vancouver Airport Chaplaincy, Settlement Orientation Services (SOS), refugee lawyers, Stronger Together, and numerous referring agencies.

For further information, please contact Fran Gallo, READY Coordinator, at ready@kinbrace.ca.



LOCALLY GROWN, LOCALLY EXPLOITED: THE CONDITION OF MIGRANT FARM WORKERS IN BRITISH COLUMBIA

BY ADRIANA PAZ RAMIREZ,
JUSTICIA FOR MIGRANT WORKERS B.C. FOUNDER AND ORGANIZER.

Introduction

The agricultural industry in British Columbia has historically relied on migrant labour, particularly Punjabi Indians who have toiled the fields of BC for generations under exploitative conditions.

Since 2004, this traditional source of labour has been steadily replaced by a new workforce of temporary migrant workers from Mexico and, most recently, Guatemala. The low wages and substandard conditions of migrant workers have been supporting a multi-million dollar agribusiness sector.

Background

In 2004, powerful B.C. agrobusiness lobbyists convinced the B.C. government to sign an agreement with Mexico to bring agricultural workers as temporary workers under the federal Seasonal Agricultural Workers Program (SAWP). The SAWP is one of the longest and most established guest worker programs, operating continuously in Canada since 1966.

The SAWP was originally conceived by the Canadian government as a ‘temporary solution’ to address labour shortages claimed by the agricultural industry. Yet, here we are forty-six years later and the SAWP is still con-

“Often, workers are fired for exercising their employment rights, such as demanding safe work conditions or applying for workers compensation. The Canadian government, the Ministry of Labour and the Ministry of Immigration turn a blind eye to the injustices.”



sidered a “temporary” program—continuing to supply cheap labour to the agribusiness sector.

In BC, the SAWP started as a pilot project with 47 workers who were brought to work on daffodil farms in Victoria. Today, the same program brings more than 4,000 workers to work in the Fraser and Okanagan Valleys. In 2008, farm workers from Guatemala, Philippines, and Thailand began to arrive under the newest stream—the Low Skilled Pilot Project Program (LSPP).

Abuse & Exploitation

The SAWP and LSPP are employer-driven programs which are endemically exploitative. Workers are bound by debt to either a labour recruiter who works for the employer or by one single employer in one single sector, as required by the work visa.

When workers lose their jobs, they lose their right to remain in Canada. Often, workers are fired for exercising their employment rights, such as demanding safe work conditions or applying for workers compensation.

The Canadian government, the Ministry of Labour

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and the Ministry of Immigration turn a blind eye to the injustices. Despite advocacy efforts by migrant worker justice groups, no progress has been made to improve the conditions of indentureship.

To the contrary, the latest changes introduced by the Minister of Immigration, Jason Kenney, further punishes migrant workers with a four-year ban from working in Canada after having worked here for four years; this, instead of addressing the human rights and labour rights violations committed by labour recruiters, labour contractors, employers, and the system at large.

Instead of viewing migrant workers as human beings with dignity and rights, our federal and provincial governments see them as economic units to be used for profit maximization and disposed of at whim when no longer needed.

Calls for Justice

Some of the rights which migrant justice groups such as Justicia for Migrant Workers (J4MW) and others have been advocating for are:

Right to Regularization. Grant permanent status to migrant farm workers and their families

Full protection under provincial employment standards regulations.

Abolition of employer-driven program that effectively establishes an indentured workers system. No worker should be indentured to one site of employment, or one employer, or one sector.

Right to equal access to social programs, including Employment Insurance, health care, settlement services, social services and Workers' Compensation.

Right to a fair appeal process prior to a removal order, and termination of arbitrary deportations until the appeal process is in place.



Follow the CCR on Facebook, Twitter and YouTube:

Stay informed about refugee and immigration issues in Canada and share ideas and actions with others online. If you already use these social networking applications, simply:



Become a fan of the CCR on Facebook and receive regular updates:
www.facebook.com/ccrweb



Sign up to follow the CCR on Twitter at: www.twitter.com/ccrweb



Find videos on the CCR's YouTube channel: youtube.com/ccrwebvideos



TAKE ACTION! CCR CAMPAIGN UPDATES AND ACTIVITIES

Join the Canadian Council for Refugees in raising public awareness of challenges to refugee rights and successful integration in Canada. Here are some areas where your actions can make a difference:

Who is the Canadian Council for Refugees?

Founded in 1978, the Canadian Council for Refugees is a non-profit network of more than 170 organizations across Canada involved in the settlement, sponsorship and protection of refugees and immigrants. It is committed to the rights and protection of refugees in Canada and around the world and to the settlement of refugees and immigrants in Canada. For more information, visit: ccrweb.ca

2012 has been a year of big changes for refugees, immigrants and those people that work with them. Policy-makers have had their say, but what is happening to refugee and immigrant families because of these new government policies?

Find out what refugee and immigrant families and their supporters are seeing and doing to work through these changes.

What is a 'consultation'?

CCR consultations are designed to move from issues to action. Discussions will address issues that challenge refugees, immigrants, and those that work on behalf of newcomers. In addition to larger plenary sessions, workshops and working sessions will produce strategies for further collaboration, specific actions and policy recommendations.

Canadian Council for Refugees Fall Consultation

*Our Vision: A fair and honourable future
for refugee and immigrant families*

29 November - 1 December 2012, Toronto

Hyatt Regency Toronto, 370 King Street West

> **Work together** with more than 300 others experienced in refugee and immigrant issues from the Toronto area and from across Canada.

> **Participate** in ongoing dialogue on refugee and immigration policy and programs.

> **Learn** about the latest developments in refugee and immigration issues.

> **Gain professional training** and strategize on a wide range of topics on refugee protection, refugee sponsorship, newcomer integration, migrant workers, trafficking, and more.

REGISTER NOW!

The Consultation program and registration forms are available at: ccrweb.ca/meetings



The Consultation will bring together more than 300 people from across Canada including refugees, immigrants, representatives of community organizations, governments, the United Nations Refugee Agency (UNHCR), academics, community workers, lawyers and youth advocates.

Everyone is welcome to participate!

REFUGEE UPDATE

FOUNDED BY JESUIT REFUGEE SERVICE - CANADA
CURRENTLY PUBLISHED 3 TIMES PER YEAR BY THE FCJ REFUGEE CENTRE AND THE
CANADIAN COUNCIL FOR REFUGEES

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SUBSCRIPTIONS:

3 issues per year: Individuals \$15, Institutions \$25;
Bulk (20 or more) \$3.50 per copy.

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ISSN 1916-1530

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