

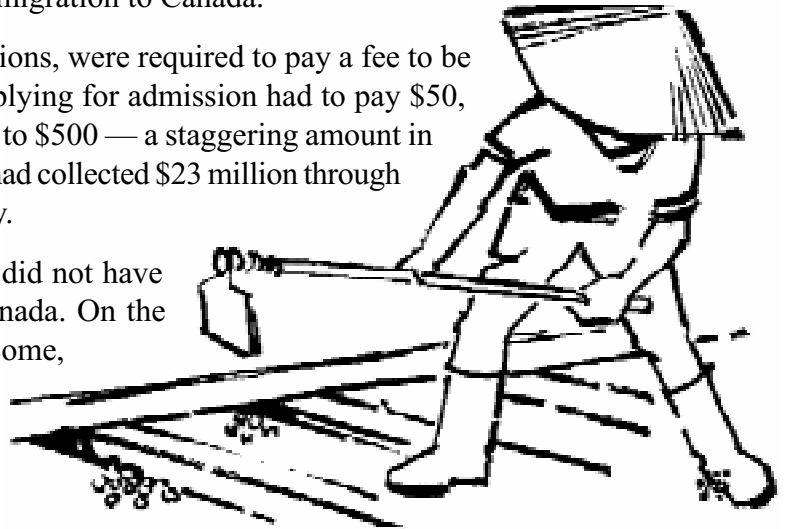
THE HEAD TAX AND ITS EARLY HISTORY

In 1858, Chinese settlers came to work in British Columbia mines. By 1880, thousands of Chinese contract workers arrived to help build the Canadian Pacific Railway. However, when the railway was finished, a law was passed to restrict and regulate Chinese immigration to Canada.

From 1885-1923, all Chinese, with few exceptions, were required to pay a fee to be admitted to Canada. Every Chinese person applying for admission had to pay \$50, progressively raised to \$100 and later, in 1903, to \$500 — a staggering amount in those days. By 1923, the Canadian government had collected \$23 million through that fee, which is equivalent to \$1 billion today.

European immigrants fared much better; they did not have to pay any fees or taxes to be admitted to Canada. On the contrary, they were given many incentives to come, including vast tracts of land for development.

A century later, a young Chinese immigrant has this to say about that Head Tax:



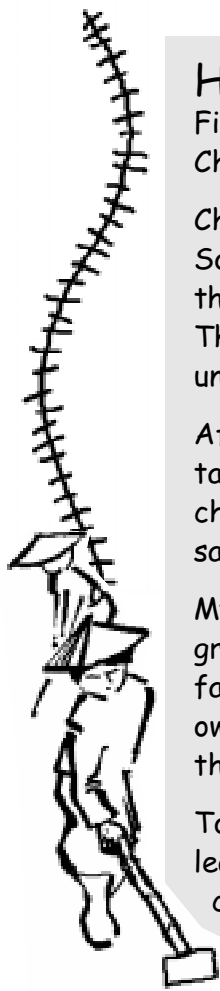
Hello, my name is Debbie Yam. I am nine years old, and I'm in Grade Five at Clinton Street Public School in Toronto, and I have done a project on the Chinese Head Tax.

Chinese-Canadian railway workers were the ones who connected Canada together. Soon after the last spike of the Canadian Pacific Railway (CPR) was driven in 1885, the Canadian government passed an act to limit Chinese immigration by a Head Tax. The Head Tax started out as \$50 in 1885, and went up to \$500 in 1903. It lasted until 1923 - 38 years!

After they paid the Head Tax, Chinese immigrants got a certificate. They had to take their Head Tax certificate everywhere, just in case the police wanted to check them. In 1923, the government passed The Chinese Exclusion Act, which said no Chinese could come to Canada at all. It lasted until 1947 - 24 years!

My grandparents were already in their forties when my father was born. My grandmother was 47 years old when she had her last child. Did you know that my father's sister is 21 years older than my father? And that he is younger than his own nephew, and that I have a niece who is 13 years old? Well, it is all because of the Chinese Head Tax and The Chinese Exclusion Act.

Today, each new immigrant has to pay \$975 and \$500 in fees so that it costs at least \$1,475 per person to immigrate to Canada (and that doesn't include travel costs, which are often very high). That is too much money, especially for a whole family. This will separate families and make it hard for people to bring their families together.





WHAT IS WRONG WITH THE HEAD TAX

The Right of Landing Fee or ROLF, commonly known as the Head Tax, is a \$975 fee every adult immigrant applying for permanent residency status must pay. This fee is in addition to other landing processing fees of \$500 per adult and \$100 per child. It was introduced in 1995 as a way of paying down the federal deficit, which has since been eliminated.

Sustained criticism and action against the Head Tax caused the government to rescind the Head Tax on refugees in February 2000. However, immigrants must continue to pay it. All the following arguments that led to its rescinding for refugees continue to be valid, and thus the Head Tax should be removed for immigrants.

THE ROLF DISCRIMINATES AGAINST NEWCOMERS:

There is no justification for targeting refugees and immigrants for a special tax. They pay other taxes just like other Canadians. Immigration is an investment and immigrants ultimately contribute more to the Canadian economy than is spent on them. Moreover, immigrants arrive at our shores with skills and education that Canada has not had to pay for! There is an inherent injustice in requiring newcomers – and particularly low income immigrants – to pay an exorbitant fee for the right to stay in Canada. Even assuming that all who need them are given loans, the discriminatory impact of the Head Tax remains the same.

THE ROLF DISCRIMINATES AGAINST THE POOR AND PEOPLE OF COLOUR:

Because the Head Tax is a flat rate tax and does not reflect newcomers' ability or inability to pay, it has a deeply inequitable impact on immigrants from the Third World, most of whom are relatively poor and of colour. The same \$975 might be just a few weeks of pay for an accountant from Italy, but for an accountant from India, it might be several months, if not a full year's pay.

THE ROLF VIOLATES THE PRINCIPLE OF FISCAL FAIRNESS:

As a flat rate, the Head Tax violates the principle of fiscal fairness. It is doubly regressive: First, it is charged to the individuals and families that are least able to shoulder the burden. Second, for those who must borrow money to pay the fee – i.e. those without the ability to pay – the total cost is higher than for those with more resources, because interest must be paid on the principal loan. It is not a fee for any particular service – indeed it is levied on top of existing immigration service fees.

THE ROLF PLACES A HEAVY FINANCIAL BURDEN ON NEWCOMERS:

In Canada, immigrants who borrow in order to be landed are saddled with heavy debt loads that they continue to pay for a long time. For many, the choice that faces them is whether to pay immigration debts, to pay their rent, or to put food on the table for their children.

Even those who are accepted overseas must pay this fee for landed status before coming to Canada, usually through a government loan. They begin their new life as permanent residents with a substantial debt to the federal government hanging over them.

THE HEAD TAX AND CANADA'S OBLIGATIONS

The Head Tax contravenes Canada's international and national obligations.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Head Tax violates the principle of family reunification enshrined in the Universal Declaration of Human Rights and the United Nations Convention on the Rights of the Child. In the publication "Building on a Strong Foundation for the 21st Century," the Minister of Immigration stated: "Family reunification will remain the cornerstone of Canadian policy." Yet the Head Tax, which is one of the main obstacles to family reunification, remains in place. For if one cannot pay the \$975 Fee, one cannot apply for landing and therefore sponsor one's spouse and family members.

GENEVA CONVENTION ON THE STATUS OF REFUGEES

When directed at refugees, the Head Tax also violated, in spirit if not in law, the 1951 Refugee Convention, which requires governments to make every effort to "expedite the naturalization proceedings and to reduce as far as is possible the charges and costs of such proceedings." (Article 34, Convention Relating to the Status of Refugees.) The United Nations High Commissioner for Refugees has expressed to the government of Canada concerns about this situation.

CHARTER OF RIGHTS AND FREEDOMS

The Head Tax is also at variance with Canada's own Charter of Rights and Freedoms which guarantees the equality of "every individual before and under the law and the right to the equal protection and equal benefit of the law without discrimination ..." (section 15, Charter of Rights and Freedoms, Constitution Act 1982). The racial, economic and gender-based discrimination inherent in the Head Tax, because of who it affects, is indicative of its violations of the Canadian Charter of Rights. In fact, the Court Challenges Program has funded the development of a challenge to the constitutionality of the Head Tax on these bases.

Equality for "every individual before and under the law and the right to the equal protection and equal benefit of the law without discrimination"

Canadian Charter of Rights and Freedoms

THE HEAD TAX EXEMPTIONS / REFUNDS

The Minister of Citizenship and Immigration announced that the Right of Landing Fee (ROLF) has been removed for refugees as of 4 p.m. EST, February 28, 2000. The following is additional information regarding exemptions and applicability:

?

TO WHOM DOES THE EXEMPTION APPLY?

People in one of the following categories who were landed (i.e. got their permanent residency) after 4 p.m. EST on February 28, 2000:

- a) Convention refugees determined by the Immigration and Refugee Board in Canada, including members of the Undocumented Convention Refugee in Canada Class, and any dependants processed concurrently;
- b) Members of the Post Determination Refugee in Canada Class and their dependants;
- c) Convention refugees selected abroad and their dependants processed concurrently;
- d) Members of the Humanitarian Designated Classes — this includes Country of Asylum and Source Country and their dependants processed concurrently;
- e) Persons who are being landed in Canada under Humanitarian and Compassionate (H&C) provisions due, at least in part, to reasons set out in the immigration manual, Chapter IP-5, section 8.9, titled “Refugees who apply for landing too late and their dependants processed concurrently”;
- f) Persons who are being landed in Canada under H&C provisions due, at least in part, to reasons set out in the immigration manual, Chapter IP-5, section 8.8, titled “Personalized risk,” and their dependants processed concurrently. Such persons would normally have received a “positive risk assessment opinion.” This includes members under PDRCC who could not be landed due to ineligible dependants and have applied and have been accepted for landing under H&C;
- g) Persons who are being landed in Canada under H&C provisions due, at least in part, to their relationship with someone in (a) to (f) above.

?

HOW WILL REFUNDS BE PAID / LOANS ADJUSTED?

There is no need to apply: Citizenship and Immigration Canada has said it will look after repaying amounts paid or adjusting loans.

- A. People are owed refunds IF they paid their ROLF and were not landed by February 28, 2000.
 - Those who were landed after February 28 should have been given a letter saying that the refund will be automatically processed. However, they must contact the nearest Call Centre if they have not received the refund by the end of April, 2000.
 - Those who are still waiting for landing will probably have to wait longer.
- B. Those who have taken out a government loan to cover the ROLF: those landed after Feb. 28, 2000 will receive a notice from Citizenship and Immigration Canada adjusting the amount of the loan.

?

WHAT ABOUT THOSE WHO WERE LANDED BEFORE THIS DATE AND WHO STILL HAVE A LOAN OUTSTANDING FOR THE ROLF?

Unfortunately, the announcement does not affect them and they still have to repay the loan.



WHAT IS WRONG WITH THE ROLF LOAN PROGRAM

Some immigrants must take out a loan to pay the Head Tax, or Right of Landing Fee. When the government created the ROLF, it also set up the ROLF Loan Program as a component of the Immigrant Loans program. Ostensibly put in place to mitigate the impact of the Head Tax, loan approval guidelines require a loan officer to follow two policy objectives:

1. Loans should only be approved for applicants who demonstrate a *need*; and
2. Loans should be approved only for those applicants who demonstrate an *ability to repay*.

Refugees and most immigrants can usually demonstrate a need. However, many applicants are refused the Head Tax loan, despite the evident need, because they cannot demonstrate an ability to repay the loan. A combination of factors (receipt of social assistance and/or heading a large family with many children) result in denial of the loan application.¹

An applicant's country of origin can also play a role in the approval process, if the previously mentioned factors predominates among the population from a given country of origin. In the ROLF Loan Review it is noted that "Somalia is the largest source country relative to the number of loan applications and their approval rating was lower than the average rate."²

Even those newcomers who access the Loan Program start their new life in Canada with a huge debt (see the real life stories).

- They have to repay within one year.
- They cannot acquire travel documents unless the loan is repaid in full, even though they have received "landed" status.
- They are denied citizenship unless the loan and accrued interest are paid in full.

¹ Dr. I. Webster: ROLF Loan Review, 1996, Page 17

² Ibid, Page 23

*Gada M. Faez
Kitchener, ON,
26 Jan. 2000*

To Whom it May Concern,

My family and I arrived as refugees in Canada on 25 November 1997. While my family and I that is to say my wife, myself and eight children are grateful to the Government and people of Canada for giving us shelter in their blessed land and rescuing us from horrible war in Afghanistan, we would be more grateful if the Government abolished the Head Tax which is a heavy burdon on refugees who come to Canada with empty hands. It is about two years that I have been paying my loan which was \$9857.63 and now \$6336.63 is remained.

I was an English instructor at Kabul University and then I got a job with UNESCO as English instructor and because of the war I lost my job, my house, my country and whatever I had. My experience shows that it is not easy to get a job easily in Canada.

This loan has deteriorated my family members' health as well as my health. Four of my children are anemic. Abolishing of Head Tax will be a real and timely remedy for our health and state of mind.

*Faithfully yours,
Gada M. Faez*

POLITICAL OPPOSITION TO THE HEAD TAX



Sensing the unfairness of this fee and the impact it has on newcomers, opposition to the Head Tax is very strong across Canada — transcending political, religious and other lines. Here are some of the denunciations made before the Head Tax was rescinded for refugees:



Maria Minna, Minister of International Cooperation

When they come here, (refugees) are not exactly flush with money. ... You have left your family behind, parts of your family may have been killed — You do not bring any resources with you quite often.



Liberal MP Derek Lee tabling a petition in the House of Commons to rescind the Head Tax

It (ROLF) can be a substantial amount of money for a refugee or an immigrant who may be just trying to get on his or her feet.



Resolution of Federal Liberal Party Convention to urge government to reduce or abolish the ROLF

It creates an impediment for those large families ..., and places a heavy burden on those seeking to integrate themselves into the Canadian economy.



Alexa McDonough, leader of the New Democratic Party

The UNHCR (United Nations High Commissioner for Refugees) has condemned it. The Canadian Human Rights Commissioner has condemned it. Even the Liberal Party has condemned it.

The **Bloc Québécois** has circulated a petition calling for the elimination of the Head Tax.



Canadian Alliance MP Grant McNally introduced in May 1999 a private member's motion calling for the elimination of immigration fees.

Progressive Conservative MP Norman Doyle expressed his concern about ROLF's violation of the Geneva Convention during Question Period in November 1997.

Ken Georgetti, President of the Canadian Labour Congress

When the Tax was put in place, it was justified as a necessary fee in a time of deficit cuts. ... Now that there is a budget surplus, there can be no excuse for maintaining this discriminatory fee at all.

OPPOSITION FROM FAITH LEADERS

Opposition to the Head Tax also crosses religious lines. In 1995 and again in January 2000, leaders of every major faith community in Canada joined hands in calling for the elimination for this Tax.

Let's reach out in mercy. Let's help these people stand on their feet. Let's not stand by and watch while they stoop and bend under the burden of the Head Tax. ... In a country that is perhaps the most multi-cultural and multi-ethnic, it is sad that an idea like this (Head Tax) was even thought of, let alone implemented.

Imam Abdoolhamid, Executive Director of Islamic Social Services and Resource Association

The fee is grossly unfair and unjust, morally offensive, shameful and contrary to the best traditions of this country.

Archbishop Barry Curtis, Anglican Archbishop of Calgary, President of the Canadian Council of Churches

Jews know what it was like to be on the exclusionary end of Canadian immigration policy. ... We need just policies. Just policies also relieve suffering.

Jack Kugelmass, Executive Director of the Jewish Immigrant Aid Society of Toronto

No country has relied more heavily on immigrants, yet we have elected to put a hurdle in their path.

Gehna Singh, Host of "Conversations on Sikhism"

... CONSEQUENCES OF NOT BEING LANDED

There are thousands of refugees and immigrants who are not landed due to barriers put in place by the system. As refugee researcher Andrew Brouwer of the Maytree Foundation has stated, without landed status, “Life in Canada is, in many ways, like living in legal limbo.” Those without landed status are denied many rights and benefits accorded to others in Canada with terrible consequences for them, their families and society at large.

In particular, refugees and immigrants who are not landed **cannot**:



REUNITE WITH SPOUSES, CHILDREN AND OTHER FAMILY MEMBERS resulting in prolonged family separation (sometimes up to ten years), which is contrary to the spirit of the final text of the 1951 Refugee Convention, and the United Nations Convention on the Rights of the Child that recognizes the right of children to be united with their parents (Article 10);



GET ACCESS TO POST-SECONDARY EDUCATION AND CERTAIN TRAINING PROGRAMS as they are not eligible for provincial student loans and scholarships. This effectively bars one of the neediest student populations from the opportunity to acquire skills and training. On this issue, the Universal Declaration of Human Rights states: “Everyone has the right to education — technical and professional education shall be made generally available, and higher education shall be equally available to all on the basis of merit” (Article 26);



TRAVEL OUTSIDE CANADA AND RETURN, because those without landed status are denied Canadian travel documents and are not guaranteed re-entry to Canada if they leave the country. This restriction of mobility rights is in violation of the 1951 Refugee Convention, which binds “the contracting parties to ... issue travel documents to refugees lawfully residing in their territories” (Article 28 (1));



GET EMPLOYMENT, particularly in professions and trades that require specific insurance, which include education and health care. They must apply for and regularly renew and pay for a work permit. Moreover, most employers are unwilling to hire anyone without permanent residency status;



PARTICIPATE EFFECTIVELY IN THE POLITICAL PROCESS OF CANADA, because the right to vote or run for elective office is restricted to Canadian citizens. It is only possible to apply for citizenship three years after obtaining permanent resident status. The result can be entire communities who are politically disempowered.

OTHER CONSEQUENCES OF NOT BEING LANDED:

MENTAL HEALTH PROBLEMS such as depression and suicidal tendencies
which can result in large medical bills and the loss of health of those in limbo;

FAMILY CONFLICTS AND BREAKDOWNS;

LACK OF SELF-ESTEEM;

INABILITY TO INTEGRATE.

The **GETTING LANDED** Project

? WHO WE ARE

The process of becoming landed immigrants, or “getting landed,” is long and complicated at the best of times. Many refugees and immigrants face barriers along the way which delay the process and keep them in limbo, hoping to get status and get on with their lives.

There are real consequences to not having permanent resident status in Canada and being in limbo. Refugees and immigrants need status to get student loans, because without them, college, university and other training programs are beyond the reach of most. Without status they cannot sponsor family members and must wait to reunite with loved ones. Without status they are not guaranteed re-entry into Canada and so, in effect, travel is barred. They are barred from employment in certain sectors and they cannot participate in the political process. This limbo situation — this sense of uncertainty — causes refugees and immigrants tremendous psychological and economic hardship.

The **GETTING LANDED** Project has been launched in response to these formidable challenges and is dedicated to removing the barriers that keep refugees and immigrants in limbo.

The **GETTING LANDED** Project is an initiative of: the Southern Ontario Sanctuary Coalition, Citizens for Public Justice, the Public Justice Resource Centre, the Ad Hoc Coalition Against the Head Tax, and the Coalition for a Just Immigration and Refugee Policy. The Project is managed by the Public Justice Resource Centre and Citizens for Public Justice, and headed by Project Coordinator Ahmed Hashi.

The Project is funded in part by the Maytree Foundation. The four limbo issue kits are published by the Public Justice Resource Centre, with the partial assistance of the United Nations High Commissioner for Refugees (branch office in Canada).

? WHY WE FORMED

The primary goal of this Project is to achieve political change on specific immigration policies that cause refugees and immigrants undue delays in obtaining landed immigrant status.

? OUR OBJECTIVES

To put in place a public education and advocacy strategy
aimed at removing barriers to the landing of refugees and immigrants;

To undertake a broad based public awareness campaign
amongst the general public, politicians, media and others;

To empower the refugee community
by providing information and training on how to work with the media
and participate in the public policy-making process;

To enhance capacity-building amongst Coalition members.