THE INVISIBLE VICTIMS:

EXAMINING THE IMPACTS OF A MINIMUM RESIDENCY REQUIREMENT FOR SOCIAL ASSISTANCE ON REFUGEE CLAIMANTS

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Executive Summary

The purpose of this study is to demonstrate the severely negative effects that a minimum residency requirement for social assistance would have on refugee claimants in Canada. After conducting a survey of service providers who work directly with refugees as well as gathering personal testimonies from claimants, the report provides ample evidence that the policy would be inadvisable on economic, humanitarian, and legal grounds.

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INTRODUCTION

Refugees are among the most vulnerable populations in the world. Many of those escaping conflict and persecution come to Canada in search of safety and protection. However, changes to our federal immigration system since 2012 have created further obstacles for those seeking refugee status. Most recently, the federal government passed legislation that has the potential to restrict access to social assistance for refugee claimants by allowing provinces and territories to require a person live there for a certain period of time before they can be eligible for welfare.

Historically, in Canada, provinces and territories have risked losing federal funding if they imposed a residency requirement. This stipulation was governed by the *Federal-Provincial Fiscal Arrangements Act* (FPFAA) of 1985. On December 16, 2014, the FPFAA was amended when the federal government passed its omnibus budget bill C-43. Now, as a result of sections 172 and 173, provinces and territories have the power to require a minimum residency period without risking the withholding of funds by the federal government.[1]

Certain groups would not need to meet the residency requirement to be eligible for social assistance. These include Canadian citizens, permanent residents, victims of human trafficking with a temporary resident permit, and refugees who have been recognized as such by the Immigration and Refugee Board (IRB).[2] It is the categories of people who are not listed that would be the most adversely affected; namely, refugee claimants who have filed their claim at a port of entry or inland at a Citizenship and Immigration Canada (CIC) office. If this policy was implemented, these individuals would not be able to access social assistance until they have lived in a province or territory for a specified period of time (to be determined by each respective government).

What is the federal government's rationale for this policy?

To reduce costs for taxpayers

To deter refugees from coming to take advantage of Canada's "generous" welfare system

To give more autonomy to provinces and territories for issues within their jurisdiction

Federal funding is provided through the Canada Social Transfer (CST) in support of "post-secondary education, social assistance, and social services, including early childhood development and early learning, and childcare."[3] It provides for such essentials as food, clothing, and shelter, and is crucial for refugee claimants who typically do not have any other source of income. In the absence of this assistance, they will be forced to rely on shelters, food banks, and charities, which already

Background on sections 172 and 173

The idea to remove the prohibition on a minimum residency requirement for social assistance was originally presented in Private Member's Bill (PMB) C-585 on April 4, 2014 by Conservative Member of Parliament Corneliu Chisu (Pickering-Scarborough East). Second Reading of the bill was postponed three times owing to the member's absence in the House of Commons each time the bill was scheduled for debate. Its provisions were later included in the budget bill. An official from Citizenship and Immigration Canada testified before the Standing Committee on Citizenship and Immigration that the government began its work on these provisions in March 2014 and "wouldn't comment on the motivations of a particular [PMB]."

[1] *Economic Action Plan, 2014 Act, No. 2*, s. 172-173. http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=6836481.
[2] *Economic Action Plan*, s. 173(2).
[3] Canada. Department of Finance Canada. *Federal Support for Child care*. http://www.fin.gc.ca/fedprov/fsc-eng.asp.

operate on limited funds, or, they will end up homeless and destitute.

Going through the refugee status determination (RSD) process can take months, if not years. Typically, between forty and fifty per cent[4] of refugee claimants are eventually accepted as protected persons.[5] To give an example in absolute numbers, around 13,652 refugee claims were made in 2014, 49 per cent of which received a positive determination.[6] That means that 6,689 people were ultimately recognized as what the government calls "legitimate refugees." If minimum residency requirements were in force, these individuals would have been unable to access social assistance for these first crucial months, or years, depending on the waiting period decided by the provincial or territorial government. The amendment to the FPFAA does not *require* a province or territory to impose a residency requirement, nor will they be penalized if they choose not to do so. It simply allows the option without the threat of withholding federal transfer payments. Many provinces and territories have stated that they have no plans to change their social assistance requirements. However, while there may not appear to be much interest in changing current policies at the moment, this may not always be the case. Multiple factors – a change in government, pressure from the public, budget deficits, or additional incentives from the federal government – could lead to new provincial policy routes. By removing this national standard for social assistance, the federal government has left a highly vulnerable population open to increased hardship.

DISPELLING THE MYTH

While approximately 45 per cent of refugee claims are denied, this **does not mean that they were not filed in good faith**. An application may be denied for many reasons. For example, it can be very difficult or expensive to get supporting documentation from the country of origin, or the claimant may not have had access to adequate legal counsel. **Only 3 per cent** of claims are found to be "manifestly unfounded" or to have "no credible basis."

No province or territory asked the federal government to pass this legislation and none were consulted during the process of its development. In response to enquiries by CPJ, Alberta, Newfoundland, the Northwest Territories, Nova Scotia, Ontario, Quebec, Saskatchewan, and the Yukon explicitly stated that they have no plans to change their current income assistance programs as a result of Bill C-43.

In this report, Citizens for Public Justice (CPJ) examines the implications if a province or territory were to choose to impose a minimum residency requirement for social assistance. This includes a survey of refugee service providers and testimony from refugee claimants themselves to determine how they would likely be affected by such a policy. First, a brief overview of the history of providing social assistance in Canada will be given to outline its importance. Second, the economic, humanitarian, and legal consequences of this policy will be discussed, using evidence collected from the survey. The report will conclude with suggestions as to how to move forward in light of this legislation.

[4] Baglay, Sasha. 2015. 'Refugee Determination Process'. Presentation, Centre for Refugee Studies, York University. Statistics received from Immigration and Refugee Board through Access to Information request.
[5] According to the *Immigration and Refugee Protection Act (IRPA)*, someone who has been determined by Canada to be either (a) a refugee according to the 1951 *Convention relating to the Status of Refugees* or (b) a person in need of protection (i.e. a person who may not meet the Convention definition but is in a refugee-like situation defined in Canadian law as deserving of protection, for example because they are in danger of being tortured if they are deported to their country of origin).
[6] Baglay, 'Refugee Determination Process.'

METHODOLOGY

CPJ designed an online survey to gather feedback from organizations that work directly with refugees.[7] They were invited to share, based on their professional experience, the effect that restrictions on social assistance would have on their clients as well as their operational capacity.[8] A total of thirty organizations responded, identifying variously as refugee agencies, community organizations, faith-based charities, legal aid clinics, and health centres. Key informant interviews were also conducted with a voluntary sample of frontline workers who expressed their opinion on this policy and its potential implications. The results of this data collection will be discussed in more detail throughout the study.

THE BEGINNING OF NATIONAL STANDARDS FOR SOCIAL PROGRAMS IN CANADA

Following the economic catastrophe caused by the Great Depression and the Second World War, it became clear that there was a need for some sort of social safety net. There was a growing expectation that the federal government would take a more active role in ensuring essential services for vulnerable Canadians, as rising unemployment rates created increased pressure for provinces, municipalities and charities.[9] The Canada Assistance Program (CAP), instated in 1966, was the first comprehensive plan that provided a vast array of social services such as "welfare, work activity programs, nursing homes [and] homecare,"[10] and established a national standard for their implementation.

While there have since been structural changes in federal-provincial funding transfers for social programs – most notably, the replacement of CAP by the Canada Health and Social Transfer (CHST) in 1996, and the division of the CHST into the Canada Health Transfer (CHT) and CST in 2004 – the one consistent condition has been a prohibition on minimum residency requirements.

Why was this prohibition considered so fundamental? First, before it was even codified into law, it was generally understood that people in Canada should be granted unrestricted mobility. The national standard for social assistance ensured that no matter which part of the country a person resided, they would be able to access social services of comparable quality. Second, the prohibition encouraged unemployed people to move to find job opportunities by guaranteeing a social safety net in their new place of residence until they were able to obtain employment. It was understood that the search for employment can take time and be a difficult process. In the meantime, people need assistance to ensure a decent standard of living, and it was believed that this should be provided by the government.

While it doesn't appear that refugees were a specific concern when the welfare system was in the process of development, it was recognized that the "needs [of migrants] in time of distress should be met on the same basis as those of anyone else in the community."[11] This demonstrates that the federal government did not intend to ensure

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[7] Survey adapted from the Oxfam/Refugee Council questionnaire used in the 2004 report *Hungry and Homeless: The impact of the withdrawal of state support on asylum seekers, refugee communities and the voluntary sector.*

[8] Depending on their function, some organizations rely on the funding claimants receive through social assistance in order to keep operating. For example, a refugee house will be given a portion of this payment as rent which contributes to their ability to continue providing services.

[9] Moscovitch, Allan. 1988. *The Canada Assistance Plan: A Twenty Year Assessment, 1966-1986*. How Ottawa Spends. Ottawa: Carleton University. http://www.canadiansocialresearch.net/allanm.htm.

[10] Stilborn, Jack. 1997. *National Standards And Social Programs: What The Federal Government Can Do*. Ottawa: Library of Parliament, Parliamentary Research Branch.

[11] Fowler, Douglas Weatherbee. 1958. 'The Unemployment Assistance Act (1956): Its Implications For Social Security And Public Welfare Administration In Canada'. Thesis Submitted in Partial Fulfilment of the Requirements for the Degree of Master of Social Work, The University of British Columbia, School of Social Work.

only the wellbeing of citizens but rather "all persons in need in Canada."[12] This necessarily involves financial support.

THE ECONOMIC CONSEQUENCES

Shifting the burden

At first glance, there may appear to be a financial incentive for the provinces and territories to adopt this policy. According to the federal government's logic, a minimum residency requirement would reduce the number of people on social assistance. Since the CST payment from the federal government to the provinces would not be reduced,[13] funds could be redistributed among other programs according to the provinces' priorities. Indeed, Matt de Vlieger, the acting director general of international and intergovernmental relations at CIC reasoned: "If social benefits were an incentive [for refugee claimants], you [by implication] would see the number of claims reduced."[14] Fewer refugee claimants would mean less people relying on welfare.

However, there is no evidence that restricting access to social assistance would act as a deterrent for refugees filing claims, nor is the government aware of any study indicating that access to social assistance has been a pull factor for refugee claimants up until now.[15] If the number of people relying on social assistance does not decrease and a province still reduces funding in this area, costs will simply shift to municipalities and charities which do not have the resources to fill this gap. Such was the case in 1995, when the Ontario government cut provincial welfare payments by more than 20 per cent, increasing the financial burden on municipalities from 20 per cent to 50 per cent.[16]

DISPELLING THE MYTH

A common misconception is that refugees receive more or better quality social services than Canadian citizens. This is **false**. They receive the same assistance as anyone else on provincial welfare.

Proper living accommodation is a basic need for any individual. Without social assistance, it would be nearly impossible for a refugee claimant to afford rent, leaving them with no other choice but to rely on homeless shelters or sleep on the street. A 2004 report examining the effect of social assistance cuts for refugees in Britain noted that 73.5 per cent of charitable organizations reported seeing clients forced to "sleep rough," or sleep without any shelter.[17] It is worth noting that it costs more for municipalities to run shelters than for provincial governments to provide minimal income assistance to ensure refugee claimants can access affordable housing.

Provinces have a wide variety of tools they can use to raise revenue. Meanwhile, the only way for municipalities to cover these additional costs would be to raise property taxes or user fees, ultimately defeating the goal of saving money. According to Dr. Justin Paulson, Associate Professor at Carleton University in the Department of Sociology and Anthropology and the Institute of Political Economy, "'Cost-savings' measures for public services are deceptive: there's a world of difference between providing the best services for the most people in the most

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[12] Ibid.

[13] The CST is a block transfer allocated on a per capita basis. Population data is taken from Statistics Canada, which includes refugee claimants, and the per capita allocations would not change even if a residency requirement were implemented. Therefore, the federal government would not save any money with this measure.

[14] Standing Committee on Citizenship and Immigration. *Evidence*. 2nd sess., 41st Parliament, Meeting No. 33, 2014.

[15] Peter Showler of the Canadian Association of Refugee Lawyers (CARL) dismissed the claim that welfare and healthcare are the reasons refugees are drawn to Canada, stating, "What I can tell you from my thirty years' experience in the field is that… refugees are deterred when they think they will not be fairly assessed." (Standing Committee on Citizenship and Immigration, Meeting No. 34, 2014.)

[16] Curtis, Karen A. 2006. *The Impact of Welfare State Restructuring On the Nonprofit and Voluntary Sector in Canada and the U.S.: A Summary of Findings*. Newark: University of Delaware.

[17] Patel, Bharti, and Saoirse Kerrigan. 2004. *Hungry and Homeless: The Impact Of The Withdrawal Of State Support On Asylum Seekers, Refugee Communities And The Voluntary Sector*. London: The Refugee Council.

efficient way, and trying to spend the least amount of money possible. Services cost money — always. So 'cost-savings' can never be the final arbiter of how they are provided, or for whom." He added, "Provinces… are not stuck with choices between spending and cutting except when those limits are self-imposed."

> "Many community organizations that help refugee claimants rely heavily on [indirect] funding through Ontario Works. The funds from social assistance do not just provide for the refugees themselves but for the organizations that support them."
>
> *- Refugee agency (Ottawa, ON)*

By imposing a minimum residency requirement, provinces would effectively be saying that transferring financial responsibility for refugee claimants to charities is not fiscally imprudent. However, many of these organizations are already overstretched for resources. Most respondents surveyed by CPJ indicated that they rely heavily on volunteers to carry out their work and two thirds have only ten or less paid employees. Of these, one third rely on social assistance funding to cover even the most basic services such as food, shelter, clothing, and transportation costs, while refugees constitute fifty to one hundred per cent of their clientele. More than two thirds of respondents indicated that they do not have alternate sources of funding sufficient to cover these costs if their clients stop receiving social assistance.

> "The residency requirement will be devastating for refugee claimants who are seeking refuge in Canada. In fact, many will not be able to survive in Canada if this residency requirement is permitted. This will place additional strain on our charitable organizations and shelters."
>
> *- Refugee health clinic (Calgary, AB)*

> "Imposing a minimum residency requirement for social assistance provided to refugees and refugee claimants would be a very difficult and complex issue because it would affect directly their wellbeing. If provinces are to make this decision then there is going to be an imbalance nationally because refugees would go to the provinces that do not impose the minimum residency requirement."
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> *- Community organization (Edmonton, AB)*

According to sociologist Janet Poppendieck, "The promotion of charity makes it easier for the government to shed its responsibility for the poor, reassuring policy makers and voters alike that no one will starve… It is not an accident that poverty grows deeper as our charitable response to it multiplies."[18] In other words, charity cannot take the place of sound public policy on the part of the government.

Minimal costs and savings

Changes to the federal immigration system have included reduced timeframes for claimants to prepare their cases, no right of appeal for certain categories of claimants, and limited or restricted access to healthcare. The changes have been credited with drastically reducing the number of claims filed inland,[19] which the government has reported saved more than $600 million during the first year, with overall savings projected

[18] Poppendiek, Janet. 1998. *Sweet Charity? Emergency Food And The End Of Entitlement*. New York: Viking.
[19] Although the number of claims filed inland increased to 13,652 in 2014 from 10,356 in 2013, these figures are down from 20,223 claims filed in 2012, before the changes took effect. (IRB Statistics, 2014)

IN THE WORDS OF SERVICE PROVIDERS

In my experience, people, especially young, single people, don't want to be on welfare because it's not a dignified life. They are working towards getting off it as soon as they can get a work permit because they don't want to be dependent on government assistance. It is a necessary support as it helps them through the claims process, but people are happier when they are not on welfare. They don't want to be considered a drain on the system.

Andrew Kuipers, Settlement Director, Kinbrace Community Society (Vancouver, BC)

We are a small organization that provides housing and resettlement assistance. We don't have the capacity to fund all support needs. There is a lot of pressure on already challenged resource communities. We rely on volunteers because we don't have deep pockets or philanthropic relationships.

James Grunau, Executive Director, Journey Home Community Association (Burnaby, BC)

Social assistance is crucial for us to be able to do our work. Many women who are newcomers come with difficulties and challenges that include a lack of experience and education, language barriers and trauma that prevents them from becoming financially independent. Social assistance helps us to provide them with proper food, housing and clothing. [Refugees] are an asset and if we want a happy and healthy society, we need to provide newcomers with support so that they can give back.

Paola Gomez, Co-Founder and Facilitator of Sick Muse Art Projects (Toronto, ON)

at $1.6 billion over the next five years.[20] This figure, however, does not include any estimated savings from the FPFAA amendment. This is because no study was conducted to support the assertion that this measure would save money in any way.

It also does not consider the unintended consequences of restricting social assistance, such as an increased burden on the healthcare system when people inevitably become ill from lack of food and shelter. In fact, health practitioners have repeatedly warned and studies have shown that emergency care is much more expensive than planned or preventative care.[21] While it may intuitively make sense that denying income assistance to a particular group will save money, it is important to be aware that there will be increased costs in the long run.

The only time a minimum residency requirement has been used in Canada was in 1995, when British Columbia imposed a three-month waiting period. The policy came into force on December 1, 1995 and was in effect until March 6, 1997. The government of B.C. reported savings of around $20 million during this period as a result.[22] However, the province received $2.2 billion in federal transfer payments for social assistance during the fiscal year of 1995-1996, and $1.8 billion for 1996-1997.[23] As $20 million only accounts for half a percentage of this total allocation, these estimated savings are not very significant.

Additionally, on June 3, 1996, refugees were officially exempted from the residency

[20] Citizenship and Immigration Canada. *2014 Annual Report To Parliament On Immigration*. Ottawa: Citizenship and Immigration Canada, 2014. http://www.cic.gc.ca/english/resources/publications/annual-report-2014/index.asp.
[21] Owen, Jonathan. 'Charging Migrants For Emergency Treatment Would Cost NHS Money In Long Run, Experts Warn'. *The Independent,* 16 June 2015. http://www.independent.co.uk/life-style/health-and-families/health-news/charging-migrants-for-emergency-treatment-would-cost-nhs-money-in-long-run-experts-warn-10324799.html.
[22] Because the province violated the prohibition on residency requirements, the federal government withheld $47 million in funding. After negotiations, the fine was reduced to just over $20 million meaning B.C. ultimately did not achieve any savings. It is this financial penalty that the amendment to the FPFAA eliminates.
[23] Ministry of Finance - Province of British Columbia. '1995 Budget Report G (Province of B.C.).' http://www.fin.gov.bc.ca/archive/budget95/95rpt_g.htm.

requirement,[24] meaning they would no longer have to wait three months after arriving in the province to access social assistance. The B.C. Minister of Social Services called the change in policy a "reconsideration," stating, "The refugees have no other place to go, no other alternative, and that was the driving force behind changing the policy."[25] Officials recognized the unique circumstances of refugees and that in many cases, they rely on social assistance to survive.

> *"Particularly in a field marked by rhetoric and a significant amount of confusion among the general public, consistent and accurate data would go far in increasing understanding amongst all involved… The refugee community is sorely in need of [economic] research to buttress their arguments and to refute some of the anti-immigrant, anti-refugee claims in the media."*
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> - Coates and Hayward, 2005

Refugees are often accused of being a burden on the Canadian welfare system, but there is no evidence to support this claim. In fact, the evidence points to the complete opposite. In 2014, 13,652 refugee claims were filed in Canada.[26] In the same year, 1,810,597 people were receiving social assistance across the country.[27] Assuming all claimants relied on social assistance, this would still only account for less than one per cent of the total number of people on welfare. Of course, this number does not reflect the uneven distribution of refugee claimants across the country.[28] However, there are no available statistics on the breakdown of these numbers by province and territory and an Access to Information request by CPJ was denied, making it impossible to deduce whether provinces with a higher refugee population will face a disproportionate burden, or to what extent.

Conclusion

Arguing that this is a cost-savings measure for taxpayers is misleading and dangerously short-sighted. Ultimately, there is no evidence that a minimum residency requirement for social assistance would save provinces or territories any significant amount of money. All available data suggests that costs will actually increase in other areas and be absorbed by entities that do not have the resources to deal with them. Dr. Paulson supported this conclusion, saying, "There is no economic benefit that I can see to reducing social assistance provisions — none. From a purely accounting standpoint, you save money in the first few years, but the social and monetary costs to the province accumulate rapidly in future years as a result." In the meantime, such measures will simply make the lives of refugees in Canada more difficult.

THE HUMANITARIAN CONCERNS

Importance of social assistance

As stated earlier, social assistance is a crucial lifeline for refugees who arrive in Canada often with little money and few possessions. They need it to meet their most basic needs such as food, clothing and shelter. This is oftentimes their only source of income as many do not have a work permit or are otherwise unable to work. Even if they are eligible for a work permit, it takes time before one can be issued and it can be difficult to obtain employment, especially for those who are not proficient in English or French. Additionally, there are several groups of refugees

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[24] Province of British Columbia. *Order of the Lieutenant Governor in Council*. Order in Council No. 0629. http://bclaws.ca/civix/document/id/arch_oic/arc_oic/0629_1996.
[25] Province of British Columbia. *Official Report of Debates of the Legislative Assembly*, 16 July 1996 (Hon. Dennis Streifel, Minister of Social Services). https://www.leg.bc.ca/hansard/36th1st/ha0716p.htm.
[26] Baglay, 'Refugee Determination Process.'
[27] Makhoul, Anne. *Social Assistance Summaries 2014*. Ottawa: Caledon Institute of Social Policy, 2015. http://www.caledoninst.org/Publications/PDF/1062ENG.pdf.
[28] Ontario, Quebec, and British Columbia receive the majority of refugee claimants.

who are unemployable, even temporarily, including the elderly, children, or those who are physically or psychologically injured. Finally, if a claimant is from a Designated Country of Origin (DCO),[29] they are not eligible for a work permit at all. Without social assistance, how would these individuals have the means to support themselves?

CASE STUDY 1: Adella, 31, from Zimbabwe

I left because I was forced to marry an older man. As a teenager, I went to Italy and I was forced into prostitution. I was in Italy for five years and had two children. The person who was putting me to work sent me to the United States. I was in the sex trade and when I could, I escaped to Canada.

I came to Canada pregnant and had no family or friends here. I had my baby here and she is now two years old. I brought my two children from Italy so all are here now. I did not have social assistance at the beginning and I was having a hard time. Sometimes I did not have anything to eat. I was almost living on the street when I went to the hospital and they told me about a shelter. In the shelter they told me that I could get some money to buy things to eat and for the baby.

If I did not have social assistance, I would probably be dead. I could not do more. For the grace of God I went to the hospital and I learned that I could have access to some money. I almost died on the street because I did not know of these things. It was very important to have that money so I could manage and get all my family together again. Now I am working. They still give me the health coverage so I pay little if the children get sick.

I am sorry to hear that [the government] want[s] to take away that help. It is good for people. Think of the children; if you come with children or you're sick or pregnant, you need some help. Thanks for the help, please do not stop giving it.

Besides meeting their basic needs, there are other services that are hugely important for refugees to put together their claims, one of which is legal aid. Individuals coming from a foreign country cannot be expected to navigate our complex legal system on their own. Not all refugee claimants receive legal aid, however, which presents an enormous hurdle to the preparation of their cases. Even for those who do, there are additional costs. Documents must be obtained from their country of origin to support their claim. Interpreters and translators are often needed to transcribe documents as well as facilitate

CASE STUDY 2: Soraya, 70, and Hassan, 78, from Syria

We left Syria because of the war and the threats we faced there. The social assistance we receive here assists us to cover costs for our life in Canada. When we came here, we did not bring any money with us, and social assistance is the only source of income we have at the moment. As we are too old to work, receiving this is very crucial for us to cover the cost of living in Canada. Without this social assistance we [would] not be able to secure food, medication and shelter.

We as refugees are very vulnerable. We have already witnessed the horrors of war in our country and gone through various tragic events for the chance to live in peace and dignity. Access to social assistance is a crucial element of our protection.

[29] Countries that the federal government considers "safe," i.e. they respect human rights, offer state protection, and do not normally produce refugees.

CASE STUDY 3: Zecy, 33, from Kenya

I left my abusive husband who had power in government. I could not stay in Kenya because he was going to kill me. I fled to [the United] Arab Emirates and then came here. I was pregnant and had a small child with me.

I have been on welfare since I came to Canada. It helped me to have food and shelter. At the time, I did not know anyone and I was about to have the baby. It paid for my medication after the pregnancy and pays for medications for the children when they get sick. I live at a shelter and the welfare money allows me to pay for formula and diapers. I do not receive shelter money because I do not pay rent, but [social assistance] allows me to buy what the children need. I can pay also for transportation; I have to go to many lawyers appointments since my case was rejected.

Even though I live in a shelter, you still need the little money that social assistance gives. At the shelter, they give you a bed and food, but you still need to buy formula and diapers and personal items for your care and the care of the children. Also, you have to move around and the city is expensive. If I did not have the welfare money I think I could not have come this far. I don't know how I would have managed without that support. I struggle but I know that my children are fed.

This is the help to many women that are leaving violence. I am grateful and would ask the government to [keep giving] their generous hand to many others like me.

appointments between the client and their lawyer. The cost of copying documents for all necessary parties can ultimately amount to hundreds of dollars. There is also the cost of transportation to consider if a client is to be able to meet with their lawyer, and lack of funds may result in missed appointments. Peter Showler of the Canadian Association of Refugee Lawyers (CARL) has said, "If a person is really without any means, they would not be able to effectively actually prove their claim, and of course that undermines the fairness of our entire refugee system."[30]

Social assistance also allows refugee claimants to access other social services such as language and vocational training, job search assistance, and workshops to facilitate such skills as resume writing and job interview preparation. Bearing in mind that between 40 and 50 per cent of claimants will eventually be permitted to stay in Canada permanently, these services are crucial for their integration. While they wait for their claims to be processed, refugees can begin to acquire the skills necessary to enter the job

IN THE WORDS OF SERVICE PROVIDERS

Imagine having to deal with the anxiety of living in limbo and navigating a legal system that you're not familiar with, and on top of that, having to worry about how you're going to pay rent and provide for your family. As a refugee myself, I know that feeling of gratitude for the generosity I have been shown, which gives a completely different experience from feeling alone and abandoned. Taking away social assistance would be unfairly harsh.

Paola Gomez, Co-Founder and Facilitator of Sick Muse Art Projects (Toronto, ON)

We are not just a service provider. We take a community approach where we invite newcomers into relationships. If they were to lose income assistance, it would be difficult to say, sorry, we're just a service provider, we can't help you. We have established relationships, we cannot turn our backs on them.

James Grunau, Executive Director, Journey Home Community Association (Burnaby, BC)

[30] Standing Committee on Citizenship and Immigration, Meeting No. 34, 2014.

market and create a future that will allow them to live in dignity.

In the survey, CPJ asked how negatively service providers thought refugees would be affected if a minimum residency requirement were imposed, on a scale of 1 (not at all) to 10 (very much). 93 per cent chose either 9 or 10, demonstrating the severe consequences service providers foresee with this policy. Those who directly work with refugees are best positioned to communicate how the denial of social assistance would affect their clients, and government officials and policymakers must listen to their expertise. Their testimonies demonstrate that they are united in their belief that social assistance is a critical element of the survival and wellbeing of refugees when they arrive in Canada.

Conclusion

It is universally recognized that refugees comprise a very distinctly vulnerable group. For this reason, the federal government has stated that "accepted refugees" would be exempt from this policy. However, it is impossible when they first arrive in Canada to make the distinction between someone who is a refugee and someone who is not. If the policy is really intended to protect refugees, a person must be given the benefit of the doubt when they claim refugee status. Until authorities can determine whether or not they qualify for refugee status under Canadian law, it is the moral obligation of governments to provide enough to ensure the survival and wellbeing of all those who reside within their borders.

THE LEGAL IMPLICATIONS

The Immigration and Refugee Protection Act (IRPA)

The IRPA states that "the refugee program is in the first instance about saving lives and offering protection to the displaced and persecuted."[31] Denying basic social assistance to refugees in no way furthers this goal and in fact has the potential to have severely adverse effects on the health and safety of those seeking protection in Canada.

The IRPA also states that "fair consideration" should be given to refugee claimants "as a fundamental expression of Canada's humanitarian ideals."[32] As previously expressed, social assistance is an important aspect of preparing one's case to be heard by the IRB as it often helps to cover legal costs. Without it, the claimant may not have the necessary assistance which may affect the outcome of their hearing and status determination. Preventing a refugee from being able to present the strongest case possible does not allow for "fair consideration."

The federal government has cited the change to the FPFAA as a "facilitative amendment" to grant more autonomy to provinces and territories in an area of their jurisdiction, namely the provision of social assistance.[33] However, while the IRPA encourages consultation with provincial and territorial governments regarding immigration and refugee protection policies, this area remains within the sole jurisdiction of the federal government.

The Canadian Charter of Rights and Freedoms

In 1985, the Supreme Court of Canada ruled that refugee claimants in Canada are not exempt from protection under the *Canadian Charter of Rights and Freedoms*.[34] In this case, the following sections of the Charter are particularly relevant:

- *Section 7,* which guarantees everyone the right to "life, liberty and security of the person"

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[31] *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 3(2)(*a*).
[32] Ibid., s. 3(2)(*c*).
[33] Peter Showler questioned this motivation, stating, "If there is a sincere belief that the power should lie with the provincial government, then why [is the federal government] not transferring the entire power?" (Standing Committee on Citizenship and Immigration, Meeting No. 34, 2014.)
[34] *Singh v. Canada (Minister of Employment and Immigration)* [1985] 1 S.C.R. 177.

- *Section 12*, which recognizes the right of everyone "not to be subjected to any cruel and unusual treatment or punishment"
- *Section 15*, which states that "every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination"

When the federal government placed restrictions on access to the Interim Federal Health (IFH) program in 2012, several refugee rights organizations challenged their decision in court. The IFH program provides healthcare for refugees until they are eligible for provincial coverage. Ultimately, the Federal Court ruled that the 2012 changes violated section 12 of the Charter as they amounted to "cruel and unusual punishment" in a way that "shocks the conscience and outrages [Canadians'] standards of decency."[35] The court also stated that the Canadian government seemed to have "intentionally set out to make the lives of these disadvantaged individuals even more difficult than they already are in an effort to force those who have sought the protection of this country to leave Canada more quickly, and to deter others from coming here."[36]

The preservation of a non-discriminatory national standard, which guarantees the basic necessities of life for refugees while they make their claims, is the means by which this government ensures its obligations under the Charter and international law are honoured. Anything less constitutes an abdication of these important legal and humanitarian responsibilities.

Canadian Association of Refugee Lawyers, 2014

Given the similar consequences of a lack of healthcare and lack of social assistance, it is not unreasonable to assume that a legal challenge of the decision to impose a minimum residency requirement would also be deemed a violation of the Charter on the same grounds. Additionally, when the United Kingdom removed access to social assistance for certain asylum seekers in 2003, the House of Lords ultimately ruled that the provision constituted "inhuman and degrading treatment," and ordered that it be repealed. However, the policy here cannot be challenged unless it is implemented and then shown to have had a negative impact on refugees, and as Peter Showler has pointed out, "… then you're waiting for human suffering and you have to take that suffering and put it before the court. Surely it's not necessary."[37]

International treaties

Canada is signatory to several international conventions that legally require it to provide protection to refugees.

- According to Article 23 of the *Convention relating to the Status of Refugees*, the "contracting states shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals." Every person who files a refugee claim in Canada is legally entitled to be here while they go through the RSD process and therefore is entitled to receive the same amount of public assistance as other low-income Canadians.
- The *International Covenant on Civil and Political Rights* prohibits "cruel, inhuman or degrading treatment," along the same lines as section 12 of the Charter, which the IFH program cuts were found to have violated.
- The *International Covenant on Economic, Social and Cultural Rights* protects the "right of everyone to social security, including social insurance." It also recognizes that everyone has the right to an "adequate standard of living… including adequate food, clothing and housing, and to the continuous improvement of living

[35] *Canadian Doctors for Refugee Care et al. v. Canada (Attorney General) et al.* [2014] FC 651 at para. 11.
[36] Ibid., at para. 10.
[37] Standing Committee on Citizenship and Immigration, Meeting No. 34, 2014.

conditions." A minimum residency requirement for social assistance would be a clear violation of this covenant as it would deprive certain categories of people of social assistance at least for a time which surely would not facilitate an "adequate standard of living" or contribute to the "improvement of living conditions." The covenant also holds that "State Parties will take appropriate steps to ensure the realization of this right," which obliges the federal government to take steps to remedy such a situation if it were to arise.

- The *Convention on the Rights of the Child* expresses the intention of all state parties to make the best interests of "each child within their jurisdiction" a primary concern. Specifically, Article 22 of the Convention requires that states "take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee [receives] appropriate protection and humanitarian assistance." Children are also granted the "right to benefit from social security, including social assistance" and states are required to "provide material assistance and support programmes, particularly with regard to nutrition, clothing, and housing." Denying social assistance to families impedes the ability of parents to fulfill their responsibilities by creating the risk that they will not be able to access proper care for their children. This violates the dignity of the child and the rights afforded them under this convention.

> *Both national and international legal standards require that Canada, like all signatories to fundamental human rights instruments, provide basic assistance – food, shelter, and basic necessities – to all those refugees who are legally seeking Canada's protection and are without the means to support themselves.*
>
> **Canadian Association of Refugee Lawyers, 2014**

Conclusion

In order to fulfill Canada's constitutional and international obligations, every level of government must ensure that all refugee claimants in Canada receive basic income assistance. It is contrary to both the spirit and letter of domestic and international law to restrict access to such resources. While assertions have been made that it would be the provinces in violation of these international covenants if they were to implement a minimum residency requirement, it is ultimately the responsibility of the federal government to ensure that this does not come to pass since they have signed these conventions on behalf of Canada.

CONCLUSION AND NEXT STEPS

Contrary to the cuts to refugee healthcare, the legislation removing the prohibition on a minimum residency requirement for social assistance was passed largely without notice. Also unlike the cuts to healthcare, its effect will not be immediately apparent, nor may it ever become an issue of concern if provinces and territories choose not to use it. So why is it important to know that this legislation exists?

It is important because it points to a broader pattern of disentitlement towards refugees and refugee claimants through policies passed by the federal government, and the concern is that this will not be the end of such punitive action. Every justification by the government has proven to have no merit. By removing the prohibition on residency requirements, the guarantee of a national standard for social assistance has been eroded and it is important to understand what the effects would be if this legislation were used by the provinces or territories. While there are no concrete cases by which to judge, the evidence outlined throughout this study demonstrates that a minimum residency requirement for social assistance would have severely negative impacts that far outweigh any potential benefits.

Firstly, far from reducing costs for taxpayers, restrictions on social assistance would merely shift the responsibility for providing these services from the provinces to municipalities and charities, which do not have sufficient resources to cover these costs. Additionally, lack of social assistance will exacerbate other problems, such as health issues, thereby increasing reliance on other tax-funded services such as emergency care. Any savings to the provinces would be insignificant compared to the increased costs associated with the indirect effects of this policy. It is much more cost-effective to provide enough funds for individuals to be able to sustain themselves.

Secondly, the denial of social assistance to those who typically do not have any other source of income is unduly harsh. Refugees are often fleeing horrific circumstances of war, persecution, and violence, and they deserve to be treated with compassion when they arrive in Canada. At the very least, this should include basic income assistance to allow them to live with some dignity while they go through the status determination process. In the case studies presented earlier in this study, refugee claimants conveyed in their own words just how crucial social assistance is during this time and their deep appreciation for these services. Their personal testimonies should not be ignored.

Photo credit: Takver, 2013 (Flickr)

Lastly, Canada has legal obligations, both domestically and internationally, requiring to government to provide a certain level of care to refugees. These include the *Immigration and Refugee Protection Act,* the *Charter of Rights and Freedoms*, the *Convention relating to the Status of Refugees,* the *International Covenant on Civil and Political Rights,* the *International Covenant on Economic, Social and Cultural Rights,* and the *Convention on the Rights of the Child.* While it is true that some claimants may ultimately not be declared refugees by the IRB, they must be given the benefit of the doubt until such time and granted the rights afforded them under these covenants. Many of these specifically include a right to social assistance and reinforce that when claiming asylum, a person is legally entitled to be in the country. Additionally, the fact that the limitations placed on healthcare for refugees were struck down by the Federal Court as unconstitutional raises the likelihood that restrictions to social assistance would have the same result given the similar consequences of lack of healthcare and lack of social assistance.

It is unclear why the federal government is targeting one of the most vulnerable populations in the world but it is unlikely that this will be the last action they take. It is crucial that awareness is raised not only around this legislation but among the systematic disenfranchisement of refugees in Canada. To this end, it is CPJ's sincere hope that this document can be used as a resource for refugee agencies, policy and decision-makers, and individuals with an interest in refugee issues to provide a compelling case for why imposing a minimum residency requirement for social assistance would not be a sound policy choice on economic, humanitarian, and legal grounds.

We also hope that it can also be used to refute any claims that refugees are a drain on our welfare system and to combat anti-refugee sentiments. The only way to deconstruct negative government rhetoric and dispel the myth that "bogus" refugees are filing "fraudulent" claims in order to "take advantage of our generous welfare system" is to ensure that the public is accurately informed.

Most of all, we hope that the information provided herein will encourage the leaders of provincial and territorial governments to continue to refuse any actions that would create further hardship for refugees, and to demonstrate that Canada is willing to continue its proud tradition of welcoming those in need of our protection.

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Citizens for Public Justice is a non-partisan, ecumenical Christian organization that promotes public justice in Canada by shaping key policy debates through research and analysis, publishing, and public dialogue. CPJ encourages citizens, organizations, and governments to support policies and practices which reflect God's call for love and justice.

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