

**Joint Submissions to the Standing Committee on Citizenship and Immigration on
Immigration, Refugee, Citizenship**

Re

Study of the impact of COVID-19 on the immigration system

By

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I. INTRODUCTION

Colour of Poverty - Colour of Change (COP-COC) is a community initiative based in the province of Ontario, Canada, made up of individuals and organizations working to build community-based capacity to address the growing racialization of poverty and the resulting increased levels of social exclusion and marginalization of racialized communities (both Indigenous Peoples and peoples of colour) across Ontario.

CSALC, OCASI and SALCO are founding Steering Committee members of Colour of Poverty - Colour of Change.

The Chinese & Southeast Asian Legal Clinic (CSALC) is a community based legal clinic mandated to provide free legal services to low income members of Chinese and Southeast Asian communities in Ontario. Apart from providing legal services, CSALC also engages in systemic advocacy to advance the rights of immigrants, racialized communities and other disadvantaged members of society. CSALC has ECOSOC consultative status at the UN.

Ontario Council of Agencies Serving Immigrants (OCASI) is a council of autonomous immigrant and refugee-serving organizations in Ontario and the collective voice of the immigrant and refugee-serving sector in the province. Formed in 1978, OCASI has 22 member organizations across the province of Ontario. OCASI's mission is to achieve equality, access and full participation for immigrants and refugees in every aspect of Canadian life.

South Asian Legal Clinic of Ontario (SALCO) is a not-for-profit organization established to enhance access to justice for low-income South Asians in Ontario. Since 1999, SALCO has been working to serve the growing needs of South Asians in a culturally

and linguistically sensitive manner. As a specialty clinic funded by Legal Aid Ontario, SALCO provides advice, brief services and/or legal representation in various areas of poverty law.

CSALC, OCASI and SALCO have all appeared on numerous occasions before the Standing Committee on Citizenship and Immigration, other Parliamentary Committees as well as Senate Committees on numerous occasions to present on issues that affect immigrants, refugees and racialized communities.

II. POSITIVE CHANGES SINCE COVID-19

The pandemic has created many devastating impacts, particularly on the most marginalized in our society. But it has also dramatically changed the way governments carry out their businesses and have led to some surprisingly positive outcomes.

In the context of immigration, this means, for instance:

- Much faster processing time for certain types of applications (e.g. issuing work permits, some H&C approvals, and certain approvals on multiple pilot projects like the vulnerable worker open work permit and TRP for domestic violence victims)
- Fewer people being held in immigration detention, shorter length of detention, and more willingness to implement alternatives to detention
- Most deportations are temporarily halted, thus allowing more people who are not eligible for Pre-Removal Risk Assessment a chance to access this process after more time has elapsed.
- Allowing for a longer period of time for those who have lost temporary status to restore their status
- Provinces and Territories have extended health care to those with precarious or no immigration status; workers, international student and others who are not eligible for services can get the help they need

COVID-19 has shown it is possible to run Canada's immigration program differently while producing positive and constructive outcomes for individuals, communities and Canadian society. IRCC and CBSA should find ways to make these short term positive changes permanent.

III. PERSISTENT SYSTEMIC ISSUES WITHIN THE IMMIGRATION SYSTEM

COVID-19 has exposed and exacerbated inequities that have long existed in Canadian society, caused by structural and systemic racism and other forms of discrimination.

These inequities are felt most harshly by people with no or precarious immigration status including but not limited to refugees, migrant workers, and international students.

While governments have responded favourably by reallocating resources to address the challenges faced by some groups, it has either ignored or in fact diverted resources from others who are in just as much desperate need.

Parents and Grandparents Sponsorship

The federal government has taken steps to speed up spousal sponsorship which is a positive move. At the same time the parents and grandparents sponsorship program was put on hold for months.

The program is now re-opened for new applicants but it continues to subject to an arbitrary quota and equally arbitrary lottery system. The government recently announced it will allow the entry of extended family and temporarily ease the Minimum Necessary Income (MNI) requirement. The MNI requirement and the later 30% increase has been a tremendous hardship for many Canadian residents. Racialized Canadians are over-represented among those who are low-income in Canada, and they have been disproportionately impacted by this rule. Until Canada dismantles structural disadvantage and ends income inequality, racialized Canadians – especially racialized women – will be disproportionately excluded from family reunification.

Processing delays

There are delays in almost all immigration, refugee, international student and migrant worker streams. For many the delays existed even before the pandemic. A big concern for all streams is that dependent children would age out and become ineligible to be sponsored.

Inequitable processing times

Processing times around the world are not equitable, especially for countries with a significant racialized population. We have heard applications from racialized sponsors seem to be subject to more scrutiny and requirements, for example more proof of family connections such as DNA testing. This can be expensive, time-consuming and sometimes impossible to obtain especially now when many services and facilities around the world have been shut down due to the pandemic. Despite many requests IRCC still has not posted processing times on its website.

Inadequate Coordination for Landing

Family members who were approved for sponsorship still cannot travel into Canada in most cases, because of the travel ban or difficulty in arranging travel. Many families overseas have not been able to find out what will happen when their visa to land in Canada expires, or how and when a new one would be issued to allow them to land. Many of those same families have already left employment, gave up homes and schooling in preparation to come to Canada and are now left in limbo.

Permanent Resident Card

Permanent Resident Card renewals are also delayed. Some permanent residents whose cards expired are stranded outside Canada, with no hope of being able to return.

Most if not all embassies are still closed, and stranded permanent residents have nowhere to turn to for help.

Migrant Workers

The vulnerability of migrant workers was made bare by the astounding number of outbreaks in farms and factories across Canada with devastating loss of lives. Even then, both federal and provincial governments have been slow to implement measures to protect them from further exploitation and harm.

Violence against women

Domestic violence incidents have skyrocketed, particularly among women who are trapped in abusive relationship because of their immigration status. Yet meanwhile, more and more abused women are being denied status under the pilot projects specifically designed to address their needs.

Access to benefits

Longstanding issues such as the denial of Canada Child Benefits (CCB) to children of parents with precarious immigration remain unabated, leaving women living in poverty with even less resources to support themselves and their children.

International students are shut out of all aid programs for students, while most people with precarious are denied access to all federal COVID related benefits, leaving them with no means to support themselves.

Interdiction of refugee claimants

On the refugee side, the travel ban has meant a complete shutdown of our borders to people seeking asylum. Meanwhile, the Federal Government continues to fight a much welcome and well-reasoned decision by the Federal Court declaring unconstitutional the Canada -U.S. Safe Third Country Agreement which restricts the entry of refugee claimants seeking to enter Canada from the US.

Family reunification levels and delays

IRCC's family reunification levels are significantly lower than the number of people accepted every year for permanent residence, leading to significant family reunification delays for all categories. The delays have a particular impact on refugee families that typically face far more rigorous restrictions and barriers to travel, and entry and exit into countries where family members may be in temporary residence or asylum. The combination of low numbers, existing processing delays and COVID-related delays will only make people wait longer for family reunification.

Hong Kong special protection measures

While the Government has made a special announcement to address the political crisis in Hong Kong, the five-year open work permit is only available to those with university education and essential work experiences, thereby excluding the vast majority of pro-democracy activists in Hong Kong including high school students, people without an university education, and people work in blue collar jobs or trades. On the other hand,

the decision to remove the one year PRRA Bar for failed Hong Kong refugees is a welcome news, and should be extended to all failed refugee claimants, regardless of where they come from.

Detention

While detention has been significantly curtailed in light of COVID-19, Canada has yet to legislate an end to indefinite immigration detention, including detention of children.

Permanent Residence Pilot Programs

The federal government has introduced several permanent residence programs on a pilot basis to various limited categories of migrant workers and people with precarious immigration status. They include programs for workers in construction, agriculture, caregiving, and most recently for failed refugee claimants in Montreal working in health and long-term care during the COVID-10 pandemic. All of these programs have significant restrictions that exclude applicants, such as language levels that are higher than those required for Canadian citizenship. Applicants that are excluded as a result are typically in low-wage jobs and doing work that is considered low-skilled, even if those jobs are deemed essential to the Canadian economy – particularly during the pandemic.

Other people with precarious immigration status that have continued to work during the pandemic in jobs at high risk of COVID exposure, or those who have lost their jobs as a result of the pandemic shut-down have no avenues to apply for permanent residence.

IV. RECOMMENDATIONS

If there is one lesson we could all learn from the pandemic, it is that we could no longer carry on business as usual, not now, nor ever. COVID-19 should serve as a wakeup call that the survival of humanity depends on all of us working together, caring for and supporting each other, especially those who are the most marginalized and disadvantaged. This principle holds true regardless of whether we are talking about rebuilding our economy, or reforming our immigration and refugee systems.

The mantra of “Build Back Better” must apply to everyone living in Canada, not just those who happen to have certain skin colour, race, gender, immigration status, ability, and other factors that put them in privileged positions.

To Build Back our immigration and refugee system Better, we ask the Standing Committee to adopt the following recommendations for the Minister of Immigration, Refugees and Citizenship and Minister of Border Security and Organized Crime Reduction:

In the Immediate Term:

- Expedite the processing of all extension applications for temporary residents (work permits, visitors, students) to allow them to continue to work, study, and/or visit in Canada
- Provide a clear directive that a person's SIN is valid while they are in implied status (Service Canada will not renew a SIN without a valid work permit). That will mitigate the risk of job loss for many people resulting from employers believing they don't have a valid SIN while they wait for IRCC to process the work permit extension; and
- Develop in consultation with community agencies a clear and strong operating manual for immigration officers on understanding workplace abuse and how considerations of abuse, evidence should be applied to any immigration processing.
- Develop in consultation with human rights groups a safe harbour program for Hong Kong activists and others in countries currently embroiled in political turmoil
- Extend all landing dates at least until after the borders are fully open and travel fully resumes, or IRCC should land overseas applicants via email, as they are doing now for people in Canada, to allow them to come here as Permanent Residents, regardless of travel restrictions.
- Lock in the age of dependent children as of March 1, 2020, so that regardless of when the application is re-opened those children are included in the application.
- Extend the deadline for restoration of temporary resident status immediately from 90 days to at least June 30, 2021. This date should be revisited as the situation continues to develop.
- Allow family class immigrants already granted visas to come to Canada for landing while subject to the appropriate quarantine requirement imposed by public health officials.
- Establish a special program for Hong Kong refugees and other pro-democracy activists already in Canada to grant them permanent resident status.
- Expand the categories of individuals eligible for an open work permit to include Hong Kong pro-democracy activists
- Legislate pilot projects including family violence pilots, vulnerable workers pilots, undeclared family member pilots with clear guidelines, while removing high language levels from the current criteria

In the Medium and Longer Term:

- Implement a regularization program to provide a pathway to permanent residence status for all people with precarious immigration status, including all migrant workers.
- In consultation with provinces and territories, develop national regulatory standards for the protection and safety of precarious workers and migrant workers to be adopted across the country.
- Rebalance the overall immigration program by increasing family reunification and relaxing criteria to be fair and more inclusive, and by extending the economic

immigration program to applicants in all occupations and skill levels (including all occupations deemed essential work during the pandemic).

- Eliminate MNI requirement for parents and grandparents sponsorship to make the immigration system more fair and equitable, and consistent with an anti-racism approach.
- Remove the cap on parents and grandparents sponsorship to facilitate reunification within a reasonable time period.
- End all immigration detention, and pursue alternatives in situations where detention is judged to be necessary, consistent with respect for human rights and dignity.
- Open up settlement and integration services funded by IRCC for all regardless of status.
- Establish a fully resourced independent oversight body for the Canada Border Services Agency.
- Repeal criminal inadmissibility in the *Immigration and Refugee Protection Act (IRPA)* to remove double punishment.
- Repeal the Canada-U.S. Safe Third Country Agreement.
- Increase the total numbers for refugee family reunification and include parents as family members for Convention Refugees applying for permanent residents
- Remove the one year PRRA Bar for all failed refugee claimants
- Eliminate citizenship fees.
- Make all “pilot programs” permanent
- Eliminate immigration status as an eligibility criteria for all current and future government benefits program, but only use the “residency” test under the Income Tax Act.
- Mandate IRCC to collect and publish disaggregated race-based data for all classes of immigration – and especially family sponsorship on factors such as demographic data on the sponsor as well as sponsored family members; data on additional requirements from IRCC such as DNA testing, and data on rejected sponsorships as well as the reasons – particularly reasons under IRPA 179(b).
- Mandate IRCC to take proactive actions to address structural and systemic racism – such as but not limited to bias in decision-making; and work with civil society groups with demonstrated knowledge and experience in addressing systemic racism.