

She went from undocumented to undeniable. Advocate whose fight against Canadian government reached the UN remembered as an ‘inspiration’



Nell Toussaint, who lived with irreversible sicknesses after Canada denied her essential health care for diabetes and other chronic illnesses, fought for the rights of nonstatus migrants till her death.



By [Nicholas Keung](#) Immigration Reporter
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She suffered through her life for not having the benefits many Canadians take for granted.

But Nell Toussaint's tireless advocacy work in this country for the rights of undocumented migrants like herself would lead many to see the Toronto woman as an "inspiration and role model."

After losing a leg, her sight and her kidneys due to health that had been compromised by her lack of access to care as an undocumented resident, Toussaint would go on to take her fight for others all the way to the United Nations — shedding light on the vulnerabilities of marginalized people in the process.

And though she will not see its conclusion, her legal battle against the Canadian government is still wending its way through the courts.

Toussaint died this month. She was 53.

"Ms. Toussaint bore injustice in her bones throughout her life but refused to let it define or silence her," said Ketty Nivyabandi, secretary general of Amnesty International Canada.

"Her tireless fight for dignity and the right to essential health care for all in Canada will never be forgotten."

Born on July 14, 1969, in Grenada, Toussaint migrated to Trinidad and Tobago when she was five and was raised by her uncle, Pastor Desmond "Mano" St. Louis.

"My mother had 10 of us and I'm the second. Five of us were the 'big set,' who were born in Grenada. The other five, the 'small set,' were born in Trinidad," Toussaint said in a four-page biography she once wrote.

"I liked school but I didn't have time to enjoy it or give much time to homework. I was the oldest (there) and had to do the chores. I did the cleaning, the cooking and keeping the yard clean. My uncle was nice but my aunt-in-law was strict."

When she was about 30, a relative in Canada encouraged her to move here. She arrived here in 1999 as a visitor and never left.

"I did babysitting, domestic work, house cleaning and factory work. It wasn't easy. Staying with relatives, they smiled, but soon they let you know that you have to find a place of your own," she continued in the 2013 bio.

"In a big city like Toronto, you have to be careful. People might exploit you if you trust them too much. You have to have street sense as well as book sense."

That distrust came partly from her experience of being taken advantage of by unscrupulous people who took her hard-earned money and made unfulfilled promises to get her immigration status.

Toussaint had diabetes and her health slowly deteriorated because she had no access to health care. She also suffered kidney problems, fibroid tumours and blood clots.

While staying at a hostel in 2008, she was connected with immigration consultant Macdonald Scott, who finally helped her obtain her permanent residence in 2013 on humanitarian and compassionate grounds.

Although she could now be eligible for OHIP, her health was compromised by delayed treatment and she later lost a leg, her sight and her kidneys.

“I’m still fighting, but now it’s for other people in my situation to get health care,” she said after she got her own status.

Over the course of her advocacy, Toussaint demanded Ottawa waive costly application fees for undocumented migrants, that it regularize status, and that it abide by a UN order to provide essential health care to all.

Lawyer Andrew Dekany met Toussaint in 2009 when the woman agreed to participate in litigation to waive immigration application fees for nonstatus migrants. They also worked on the campaign to ask Ottawa to provide essential health care for undocumented residents.

Though both legal actions failed, Dekany was impressed by his new friend’s dedication.

“She was able to handle all the things that came with a complex piece of constitutional litigation. She was great at giving instructions and directions. She was a very clear and fast decision-maker,” Dekany said.

“She was not fazed by anything. She was very progressive in her thinking. She was that kind of person that things are there for the people.”

In 2013, Toussaint made a submission to the UN Human Rights Committee, arguing that Canada had violated her right to life and her right to non-discrimination.

In 2018, the committee concluded her rights had been violated and that Canada was obligated to offer her an effective remedy, including appropriate compensation, and to take all steps necessary to prevent similar violations in the future.

In 2020, after Ottawa failed to act on the UN directive, Toussaint took the federal government to the court in Ontario, suing for \$1.2 million and demanding that irregular migrants be granted access to essential health care.

The Ontario Superior Court of Justice last August gave the green light for the lawsuit to proceed — a decision that has since been appealed by the federal government.

“Nell never gave up. She was looking forward to this. She wanted it to go forward,” said Dekany, adding that the civil law does allow an action to continue even if the litigant passes away and that the legal battle will continue without Toussaint.

“I think of her as a role model, as someone who is very courageous and steadfast, and as an inspiration for me and for others.”

Toussaint suffered a cardiac arrest last November and had remained in a coma until her death on Jan. 9.

She leaves behind her mother, Ann Toussaint, in the United States; partner Anthony Kato; many siblings, cousins, nephews and nieces; and friends, supporters and advocates in her long legal fight.

Her funeral will be held at 10 a.m. Saturday at Scott Funeral Home in Toronto, followed by a burial at Glenview Memorial Gardens.



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