JOINT SUBMISSION TO THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

By

COLOUR OF POVERTY/COLOUR OF CHANGE
CHINESE & SOUTHEAST ASIAN LEGAL CLINIC
ONTARIO COUNCIL OF AGENCIES SERVING IMMIGRANTS and
SOUTH ASIAN LEGAL CLINIC OF ONTARIO

February 7, 2020

INTRODUCTION

Colour of Poverty Campaign/Colour of Change Network (COP-COC) is a community initiative based in the province of Ontario, Canada, which is 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 across Ontario.

The Chinese & South East Asian Legal Clinic (CSALC) is a Canadian NGO which is 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.

OCASI - Ontario Council of Agencies Serving Immigrants is a council of autonomous immigrant and refugee-serving organizations in Ontario. Formed in 1978, it is a registered charity governed by a volunteer board of directors, and has 230 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 Canadian NGO that provides free legal services to low income people with a number of South Asian communities in Ontario. In addition to legal services, SALCO engages in community development, public legal education, and law reform on issues that impacts low-income racialized communities across Canada. SALCO has appeared in front of the United Nations at the Status of Women Commission, the Committee on the Elimination of Racial Discrimination, and at Canada's Universal Periodic Review. SALCO is also a national leader on gender-based violence in South Asian communities in Canada.

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

This joint submission is our List of Concerns for the seventh periodic review of Canada by the Committee on Economic, Social, and Cultural Rights, and focuses on the issues facing racialized communities, immigrants, refugees and migrants in Canada. *Also attached is the submission made by COP-COC for Canada's sixth review.*

LIST OF CONCERNS:

1. Domestic Application of UN Covenants: Canada has no mechanism to engage with civil society organizations on a regular basis to ensure the implementation of treaty rights and recommendations;

2. Data Collection: Canada continues to fail to collect and track disaggregated data across all Ministries, Departments and relevant institutions in order to identify racialized and other structural and systemic disadvantage. Canada also continue to use the term "visible minority" in its data collection despite repeated recommendations from the UN to change the language;

3. Poverty: Canada continues to have disproportionate rates of poverty for Indigenous and racialized communities because of a number of barriers, including systemic racism. Canada's current Poverty Reduction Strategy lacks a race equity lens and only makes passing reference to the over-representation of racialized people in poverty. Canada's data collection on poverty does not disaggregate for race on poverty indicators;

4. Income Security: Canada continues to have barriers, like requiring certain levels of immigration status, to access federal income entitlements like the Canada Child Benefit. Racialized communities are disproportionately disqualified and subject to increased rates of poverty;

5. Income Security: Canada continues to have barriers to access to federal income entitlements for seniors based on residency, namely Old Age Security. Racialized seniors are disproportionately disqualified from the Old Age Security Benefits and subject to increased rates of poverty;

6. Employment: Canada has failed to strengthen its employment equity legislation, and has failed to ensure a strong enforcement mechanism. Canada has failed to push provinces and territories to legislate employment equity. As a result, racialized communities across Canada continue to face significantly poorer labour market outcomes and discrimination in employment;

7. Employment: Canada continues to have a gender-wage gap, and an even larger gender-race wage gap;

8. Human Rights: Canada has not included socio-economic status as a prohibited ground of discrimination in the *Canadian Human Rights Code*;

9. Immigration (Migrant Workers): Canada has not legislated protections for temporary / migrant workers that will ensure pathways to permanent residence and safety from abuse in the workplace. Canada continues to introduce "pilot projects" that expire and has not altered the law to provide substantive change for migrant workers. Canada has not ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*;

10. Immigration (Family Violence): Canada has not offered immigration security for women fleeing gender-based violence. Again, it has only introduced "pilot projects" that will expire. It has not changed the law to enshrine strong protections for women with precarious immigration status who leave relationships of abuse;

11. Immigration (Criminal Inadmissibility): Canada continues to double punish non-citizens (permanent residents, temporary residents, etc…) convicted of crime by automatically triggering their removal from Canada without appeal rights in many instances. Canadian immigration law allows for the loss of status and eventual removal of many criminally convicted persons in Canada who do not hold citizenship. Racialized communities are disproportionately subject to immigration criminal inadmissibility law;

12. Health: Health outcomes for racialized women in Canada continue to be disproportionately worse, and are exacerbated by the lack of data on health within many racialized communities, including the Black, Chinese, and South Asian community. For example, Black women, other racialized women and im(migrant) and refugee women who experience different health outcomes, circumstances and support systems are not represented in health research and are consequently excluded from and do not benefit from health and/or policy remedies or interventions.

13. Access of Justice: Canada has not increased funding for legal aid services across Canada to support access to justice for low-income Canadians.

COPC Steering Committee Members:

Access Alliance Multicultural Health & Community Services
Black Legal Action Centre
Canadian Arab Federation
Chinese Canadian National Council Toronto Chapter
Chinese & South East Asian Legal Clinic
Council of Agencies Serving South Asians
Hispanic Development Council
Karuna Community Services
Mennonite New Life Centre of Toronto
Midaynta Community Services
Ontario Council of Agencies Serving Immigrants
La Passerelle – I.D.E.
South Asian Legal Clinic of Ontario
Thorncliffe Neighbourhood Office
Professor Grace-Edward Galabuzi (Ryerson University)
Punjabi Community Health Centre
Urban Alliance on Race Relations

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METRO TORONTO CHINESE & SOUTHEAST ASIAN LEGAL CLINIC
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January, 2016

INTRODUCTION

Colour of Poverty Campaign/Colour of Change Network (COP-COC) is a community initiative based in the province of Ontario, Canada, which is 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 across Ontario.

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

OCASI - Ontario Council of Agencies Serving Immigrants is a council of autonomous immigrant and refugee-serving organizations in Ontario. Formed in 1978, it is a registered charity governed by a volunteer board of directors, and has 230 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 Toronto. Since 1999, SALCO has been working to serve the growing needs of South Asians in a culturally and linguistically sensitive manner. SALCO's mandate is to provide access to justice for low-income South Asians in the Greater Toronto area. As a specialty clinic funded by Legal Aid Ontario, SALCO provides advice, brief services and/or legal representation in various areas of poverty law.

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

This joint submission on the sixth periodic report of Canada focuses on the issues facing racialized communities, immigrants, refugees and migrants in Canada, and in particular, the following issues:

1. Income and Employment Disparities Facing Racialized Communities and Racialization of Poverty
2. Migrant Workers' Rights

3. Family Reunification and Conditional Permanent Resident Status for Sponsored Spouses
4. Support for Community Organizations, and Programs, Policies and Infrastructure that advance Racial Equity and Justice

Many of these issues were never addressed by the Canadian Government in its previous reports. To the extent that they were addressed, the Government of Canada has either not accepted the recommendations or has not acted on the recommendations. Some of these issues involve legislative changes that were implemented since the last CESCR report. A few issues were raised but not addressed in the context of the experiences of racialized communities and immigrant communities specifically.

On October 19, 2015, Canadians elected a new Government. While the change in Government has ignited some hope for change, and the new Federal Government has promised to address some longstanding and historic issues facing Indigenous peoples in Canada, challenges facing Indigenous peoples remain. At the same time, the Canadian Government has yet to acknowledge the issues facing communities of colour (or the so-called "visible minority groups") in Canada, let alone propose any concrete measures to tackle the issues these communities face.

ISSUE 1: INCOME & EMPLOYMENT DISPARITIES AND RACIALIZATION OF POVERTY

Relevant Facts:

- By 2017, one in four Canadians will be racialized (Indigenous or people of colour).
- Despite higher workforce participation, people of colour (racialized people) are more likely to be un- or under-employed or living in poverty.[1]
- With a few exceptions, most recent immigrants experienced higher unemployment rates and lower employment rates then their Canadian-born counterparts, including those who had postsecondary education. The immigrants' birthplace – a proxy for ethnicity – has the strongest influence over the immigrants' earnings.[2]
- While immigrant women represented nearly half of university-educated very recent immigrants, their participation in the labour force was significantly lower.[3]
- Everything else being equal, the annual earnings of young visible minority men born in Canada are significantly lower than those of young men with native-born parents. Canadian born members of racialized communities, who have even higher levels of education than other Canadians in the same age group are faring the worst.
- In 2006, "visible minority" Canadian workers earned 81.4 cents for every dollar paid to their Caucasian counterparts. Earnings by male newcomers from visible minorities were just 68.7 per cent of those who were white males. Such a colour code persisted for second-generation Canadians with similar education and age, with visible minority women making 56.5 cents for every dollar white men earned, while minority men in the same cohort earned 75.6 cents.
- The same troubling trend of racial disparities was confirmed by the National Household Survey in 2011.
- Poverty has become racialized, with members of racialized communities being at least two to four times more likely to live in poverty.
- Between 1981 and 2000, the poverty rate among non-racialized communities in Toronto (the largest city in Canada) ***dropped*** by 28%, whereas over the same time period, poverty rate among racialized communities ***increased*** by 361%.
- There is no National Poverty Reduction Strategy in Canada. While some provinces, most notably Ontario, has introduced a Poverty Reduction Strategy, the Ontario PRS does not contain any targeted measures to address the growing racialization of poverty in Ontario. This is so even though by 2017, one-third of Ontario's population will be racialized (including both Indigenous Peoples and Peoples of Colour).

Relevant Laws and Policies:

- The Canadian Government introduced the *Employment Equity Act* (*EEA)* in 1986 to level the playing field for under-represented groups. Until recently, the *EEA* applies with equal force to Federal public institutions as well as Federal Contractors. Changes were made to the *EEA*

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[1] Sheila Block, Canadian Centre for Policy Alternatives, *Ontario's Growing Gap: The Role of Race and Gender* (June 2010).

[2] Ostrovsky, Yuri. (2008). Statistics Canada Analytical Studies Branch Research Paper Series: Earnings Inequality and Earnings Instability of Immigrants in Canada. Ottawa.

[3] Sheila Block, Canadian Centre for Policy Alternatives, *Ontario's Growing Gap: The Role of Race and Gender* (June 2010).

in 2012 rendering the compliance with *EEA* voluntary for Federal Contractors. The number of Contract Compliance Officers - whose job is to monitor the compliance by Federal Contractors - was reduced.

- The Canadian Government cancelled the long form census in 2011. While the newly elected Government has reinstated the long form census, the Canadian Government does not, as a matter of practice, collect disaggregated data in order to analyze the impact of any laws, policies, programs and practices on marginalized populations, including racialized communities.

Relevant Articles of CESCR

- **Article 2**: 2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- **Article 3**: The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.
- **Article 6**: 1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

  2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.
- **Article 7:** The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

  (a) Remuneration which provides all workers, as a minimum, with:

  (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

  (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

  …

  (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence.
- **Article 11**: 1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Recommendations to the Canadian Government:

- Adopt and implement a National Anti-Poverty Strategy with targeted measures to address poverty as experienced by specific disadvantaged communities including but not limited to racialized communities.

- Amend *Employment Equity Act* to reinstate mandatory compliance by Federal Contractors with all requirements under the *EEA*.
- Establish an Employment Equity Commission to effectively enforce and monitor the implementation of the *EEA*.
- Undertake concrete measures to improve representation of racialized group members in the Federal public service.
- Develop other concrete measures to address systemic racial discrimination in the labour market.
- Encourage all provincial and territorial governments to pass employment equity law.
- Collect and track disaggregated data across all Ministries, Departments and relevant institutions in order to identify racialized and other structural and systemic disadvantage.

Proposed Questions for the Canadian Government:

- Given the growing racial disparities and racial inequities in income and employment in Canada, and the growing racialization of poverty in Canada, what measures will the Government of Canada take to remedy such systemic discrimination in all aspects of Canadian society?

ISSUE 2: Concerns with Migrant Workers Rights

Relevant Facts on Temporary Foreign Workers:

- Between 2002 and 2011, the number of Temporary Foreign Workers (TFW) coming to Canada increased by more than 80,000. In 2011, Canada received only about 58,000 more immigrants in the permanent category than as TFWs. The number of TFWs in the country exceeded annual immigrant arrivals several years ago. The majority of TFWs are racialized, and are brought in as low-skilled workers, including for jobs in coffee shops and fast food restaurants.
- With few exceptions, TFWs cannot access permanent resident status, let alone Canadian citizenship
- In April 2012 the Government of Canada changed rules for foreign workers, allowing employers to pay them 15% less wages.
- There are many incidents where foreign workers were injured or killed on the job, were denied wages, placed in sub-standard and unsafe housing, and face discrimination and harassment by the employer. The Government of Canada promised to monitor employers and post those who have violated the conditions on a government website. Despite many incidents that received wide media coverage, not a single employer has been named. Provincial governments are legally responsible for employment and workers' health and safety laws, but enforcement is insufficient. In July 2015, regulatory changes were announced to effect stronger enforcement against employers, including stiffer penalties and increased inspections. It remains to be seen whether this will adequately address these issues.
- As a result of a four-in-four-out rule introduced in 2011, many TFWs were forced to leave Canada and would not be allowed to re-enter for another four years. Concerns were raised that some TFWs opted to stay in Canada without any status after the expiry of the four year period.
- The TFW program has extremely restrictive conditions that limit the worker's mobility, separates them from family, makes them vulnerable to abuse by the employer with no recourse, and gives them no options to pursue permanent residency in Canada. As a result, a two-tier labour market exists in Canada, and a growing population of workers are without status in Canada.

Relevant Facts on Live-in Caregivers Program

- For more than a decade, the majority of workers arriving through the Live-in Caregiver Program (LCP) have been racialized women, primarily from countries in the global south. In October 2014, the government announced changes to the Live-in Caregiver Program that went into effect on November 30, 2014. The changes include two significant measures – the removal of the mandatory live-in aspect; and removal of the guaranteed pathway to permanent residency. The former is a long-standing demand from caregivers and advocates, as one way to reduce worker vulnerability to employer exploitation and abuse, and is a welcome change. However, provision should be made for effective enforcement so that caregivers who choose to live-in (for economic and related reasons) do not continue to be exploited by the employer.
- The pathway to permanent residency has been significantly narrowed with the introduction of new and tighter requirements as well as a national cap of 5,000 principal applicant applications per year, divided into two streams for childcare providers and caregivers for

high medical needs (the 'high-skilled' stream)[4]. A new language requirement has been imposed, as well as credential requirements for high medical needs caregivers. Given the lack of a national childcare strategy and lack of investment in homecare for those that need it, Canadians will continue to rely on migrant workers for childcare and elder-care for the foreseeable future. It is highly problematic that these much-needed workers are now to be denied an opportunity for permanent residency in Canada and will have precarious status permanently institutionalized.

- Under the new *Citizenship Act* that came into force in June, 2015, live-in-caregivers, among others, must wait for several more years before they can apply for Canadian citizenship, as their residency in Canada prior to becoming permanent residents would no longer be counted towards their citizenship eligibility.

Relevant Facts on Seasonal Agricultural Workers

- Migrant agricultural workers arrive in Canada through both the TFWP agricultural stream and the Seasonal Agricultural Workers Program[5] (SAWP). Through SAWP, migrant workers from Mexico and participating Caribbean countries arrive on seasonal visas to work in Canada's agricultural sector, which heavily depends on such labour. TFW positions under the SAWP have risen drastically in the past few years, to over 34,000 in 2013.[6] Despite the fact that many SAWs are returning annually, their "temporary" presence for up to 8 months of each year has justified the lack of the same employment regulations, enforcement and protections that Canada affords its non-temporary workforce. The large majority of SAWP positions are located in Ontario.
- The structure of the SAWP has the effect of rendering SAWs vulnerable to exploitation by employers and restricting their labour mobility. SAWs are pressured into silence by the need to earn a living, since a negative employer evaluation can result in suspension from SAWP, and negative reports of working conditions may delay their return to work. Therefore, SAWs are reluctant to report abuse despite documented cases of dangerous working conditions, extremely long workdays without overtime pay, lack of necessary breaks and unacceptable housing conditions. Monitoring and enforcement protections against such abuses are inadequate. "Blacklisting" practices in the recruiting originating countries serve to punish unionization efforts.
- Migrant agricultural workers also risk "medical repatriation", immediate involuntary deportation, when their employment contracts are terminated due to health conditions or workplace injury. This may impede their access to healthcare, as coverage ends upon expiration of their work visa, which can occur even before adequate medical attention to the worker's health condition or injury is provided.[7]

Relevant Articles of CESCR

[4] CIC Backgrounder – Improving Canada's Caregiver Program. (2014). http://news.gc.ca/web/article-en.do?nid=898719&_ga=1.204690000.1775841331.1413416521

[5] ESDC, "Hiring Seasonal Agricultural Workers" http://www.esdc.gc.ca/eng/jobs/foreign_workers/agriculture/seasonal//index.shtml.

[6] Labour Market Impact Assessments, "Number of temporary foreign worker positions on positive Labour Market Impact Assessments (LMIAs) under the Agricultural Occupations, by location of employment" http://www.esdc.gc.ca/eng/jobs/foreign_workers/lmo_statistics/annual-agriculture.shtml.

[7] Aaron M Orkin, et al, "Medical repatriation of migrant farm workers in Ontario: a descriptive analysis", http://cmajopen.ca/content/2/3/E192.full.#ref-5

- **Article 6**: 1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
  2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.
- **Article 7:** The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:
  (a) Remuneration which provides all workers, as a minimum, with:
    (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
    (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
  (b) Safe and healthy working conditions;
  (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
  (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays
- **Article 8:** 1. The States Parties to the present Covenant undertake to ensure: (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
- **Article 12:** 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
  2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Recommendations to the Canadian Government

- Reserve the TFW program only for highly skilled workers who are needed for very specific and time-limited assignments, while at the same time opening up permanent residency opportunities for low-skilled workers and workers in trades and service occupations.
- Create pathways to permanent residency for all TFWs who are already in Canada, including those who have lost status but have continued to work to support themselves and their families and provide access to settlement services and language training programs. (Note: non-status migrants are not entitled to free government services or income support).
- Implement the recommendations from the 2009 UPR to ensure migrant workers' rights are respected and protected.
- Lift the cap on LCP and repeal the restrictive measures around language and education requirements.

- Provide permanent resident status to LCP applicants upon their arrival in Canada.
- Revoke all the 2015 changes to the *Citizenship Act.*
- Work with provincial and territorial governments to ensure substantive realization of the same legal protections to TFWs as all other workers in Canada, through effective regulation and enforcement.

Questions to the Canadian Government

- Given the vulnerability of TFWs, how will the Government of Canada ensure that TFWs are not exploited?
- What measures will the Government of Canada adopt to address racism and xenophobia targeting TFWs and all migrants?

ISSUE 3: FAMILY CLASS IMMIGRANTS AND CONDITIONAL PERMANENT RESIDENTS

Relevant Facts on Family Reunification:

- Family reunification is a core principle of Canada's immigration law. Yet the percentage of family class immigrants has continued to decline over the last two decades from over 50% in the 1980s to under 25% today.
- Canadian permanent residents and citizens who wish to sponsor their parents and grandparents are subject to a Minimum Necessary Income (MNI) requirement which, before January 1, 2014 was the Low Income Cut Off (LICO) and since then has been increased to LICO plus 30%.
- Even when the MNI was set at LICO, many low income Canadians were denied the opportunity to reunite with their loved ones. Racialized community members, women, and people with disabilities are disproportionately affected by this requirement because of their over-representation among the low income population in Canada. The inability to bring their families to Canada also make it difficult for racialized Canadians, women and people with disabilities to integrate fully in the labour market and in society without the emotional, financial and physical support from their family.
- Since January 1, 2014, the increase of MNI to LICO plus 30% has exacerbated the difficulties facing these groups. While the government has introduced a Super Visa to allow some Canadians to bring their parents over on a 2 year temporary permit, this is only available to Canadians whose income exceeds LICO and who can afford private health care insurance for their parents during their visit in Canada.
- There was an additional burden that the sponsor must be able to verify his/her income for a continuous three year period, and proof must be provided by Canada Revenue Agency (CRA) documents only.
- The changes also included increasing the sponsorship undertaking to 20 years instead of 10 years to effectively relieve the government from its obligations of providing any social services, income supplements, allowances, or housing subsidies, as sponsored parents and grandparents are ineligible for these benefits – including federal Guaranteed Income Supplement - within the sponsorship period.
- Also since January 1, 2014, the Government has put a cap on the number of applications for parents and grandparents applications it will process every year. The new Government has doubled the cap from the original 5,000 to 10,000, but the cap will nevertheless remain.

Relevant Facts on Conditional Permanent Residency

- As of October 25, 2012, spouses and common law partners sponsored to Canada under the spousal sponsorship program are subject to a two-year condition, which requires them to reside with their sponsor in a conjugal relationship or risk losing their status. This requirement is subject to certain exceptions. Individuals may also apply to be exempted from the requirements on the basis of neglect and abuse at the hands of their sponsor or his/her family and based on forced marriage.
- Women are disproportionately over-represented among the sponsored spouses class. They are also more likely to be victims of domestic violence. The two-year conditional permanent resident thus has the impact of keeping sponsored women trapped in an abusive relationship, notwithstanding the possibility of exemption. This is so because many women victims of violence do not report their violence or seek help and many are too afraid of losing their status, fear deportation for themselves or child, fear losing child custody, fear family separation, and also fear homelessness and poverty.
- This provision puts sponsored permanent residents from the same sex community at additional disadvantage due to their vulnerabilities of potential risk of maltreatment in their home countries.
- Since the changes in the immigration law, there is a noted surge in cases of blocking the spouse's immigration sponsorship and holding them back from immigrating to Canada by sponsors in their home country better known as abandoned bride's situation worldwide.
- In the event of breakdown of relationship within the period of 2 years, in order to avoid deportation, the sponsored spouse has to fit into an exception category. To prove the exception before the court or immigration authorities, documentary evidence such as medical reports, photographs, emails, police reports, shelter and other social support, is required to prove their case. In domestic violence cases, where reporting to authorities is a challenge to a victim who is new to the country, not understanding the system, face language barriers, and the nature of violence inside the house where the victim is isolated poses significant challenges to applying for an exception.
- While the government has been very keen to make sure that intention of marriage in sponsorship cases should not be primarily for the purpose of Canadian immigration, there has been almost no emphasis on free consent of the intending spouses. In fact the forced marriage exception from conditional permanent residence has been legislated without any clarity around protection provisions from potential misrepresentation under immigration law on disclosure of abuse.
- This provision is a state imposed restriction not only on the immigration status of the sponsored spouse it also puts them in a position of servitude *vis-a-vis* their sponsor and their familial network.
- Conditional permanent residency creates higher level of dependency on the sponsor for housing, food and social interaction by sponsored immigrants which put women, who are the majority of sponsored spouses, in exploitative position and reinforce gender-based discrimination.
- The current Government has promised to revoke the CPR, but it has not indicated when the revocation will take effect, and whether it will apply retroactively to sponsored spouses who are already subject to the condition.

Relevant Articles of CESCR

- **Article 1**: 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- **Article 3**: The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.
- **Article 4**: The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.
- **Article 10:** The States Parties to the present Covenant recognize that:
    1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
    2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
    3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.
- **Article 12:** 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Recommendations to the Canadian Government:

- Repeal the CPR
- Repeal the MNI as a sponsorship requirement
- Repeal the cap on Sponsorship of Parents and Grandparents
- Repeal the 5 year ban on sponsorship

Proposed Questions for the Canadian Government:

- When will the Government of Canada revoke the CPR provision and will the revocation apply retroactively to all the sponsored spouses who are currently subject to the provision?
- What measures will Canada take to strengthen the numbers of family class immigrants and to ensure all immigrant families receive the support they need to thrive?
- What steps will Canada take to stamp out violence against women, in particular immigrant and racialized women?

ISSUE 4: SUPPORT FOR COMMUNITY ORGANIZATIONS, AND PROGRAMS, POLICIES AND INFRASTRUCTURE THAT ADVANCE RACIAL EQUITY AND JUSTICE

Relevant Facts on Community Programs and Infrastructure:

- Over the last several years the federal government introduced significant funding cuts to programs and services across Canada (with the exception of Quebec which has a separate agreement) that facilitate the settlement of immigrants and refugees, starting with a cut of $53 million in December 2010, with further cuts introduced almost every other year since then.
- Ontario, the province receiving the largest number of immigrants, bore more than $43 million of the cuts in 2010, forcing the closure of many immigrant settlement agencies and resulting in job losses across the sector. Agencies serving racialized communities were disproportionately targeted by the cuts.
- The cuts were introduced at a time of significant change to the immigration and refugee system in Canada when the support of immigrant and refugee-serving agencies was most needed to assist those populations to navigate applications for needs such as family reunification and refugee protection.
- The cuts were introduced at a time when more complex interventions were needed to facilitate labour market participation and overcome barriers, and to address complicated social and health issues facing refugees and immigrants.

Relevant Facts on International Credentials Recognition

- Immigrants continue to encounter systemic barriers to international credentials recognition, including institutional barriers, burdensome and discriminatory requirements and financial barriers.
- An even bigger barrier however is lack of recognition of international credentials and international experience by employers, as well as discrimination in hiring, retention and promotion in both regulated and non-regulated occupations.
- Despite the introduction of the federal government's Pan-Canadian Foreign Credential Recognition Framework and Program, systemic barriers remain.
- Most importantly there is little government investment in initiatives that lead to employment consistent with experience and credentials for internationally-trained immigrants and refugees, and no investment in initiatives that will address systemic discrimination in the labour market.

Relevant Articles of CESCR

- **Article 2**: 2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- **Article 3**: The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

- **Article 6**: 1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

  2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.
- **Article 7:** The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

  (a) Remuneration which provides all workers, as a minimum, with:

  (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

  (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

  …

  (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence.

Recommendations to the Canadian Government:

- Restore investments in programs and services to support immigrant settlement and integration, and make ongoing investments on the basis of need.
- Address systemic barriers in International Credentials Recognition including by working with provincial and territorial governments.
- Address labour market discrimination of immigrants and refugees, particularly those facing racial discrimination, by investing in initiatives that will lead to employment that is consistent with experience and credentials.

Proposed Questions for the Canadian Government:

- What measures will the Government of Canada take to ensure that immigrant and refugee programs and services are able to gain the ground they lost as a result of funding cuts over the last several years, and ensure they are adequately resourced so they can support immigrant and refugee settlement consistent with the Covenant articles?
- What measures will the Government of Canada take to remove the continued and growing systemic barriers to International Credentials Recognition faced by immigrants and refugees?
- What measures will the Government of Canada take to remedy systemic labour market discrimination experienced by immigrants and ensure they become employed in jobs consistent with their experience and credentials?

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