Precarious Migratory Status in Canada
Implications for Social Work and Social Service Delivery

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While Canada has historically welcomed immigrants for economic, family and humanitarian reasons, a growing proportion of people living in Canada have precarious migratory status—forms of insecure and irregular migrant status including refugees, temporary workers, and non-status immigrants. This article examines the implications that precarious migratory status has for social work and social service delivery in Canada. This research is part of a larger study designed to explore the construction of social rights in public policy and social service delivery. In this article, we highlight our findings from interviews with service providers who work with a particularly vulnerable group of migrants—women seeking shelter from domestic violence. We present our analysis of the strategies employed by service providers to maximize social rights for migrants while mitigating the ill effects of immigration enforcement. Our research indicates that amidst economic and political pressure to restrict social entitlements overall, it is imperative that social workers and other service providers organize across service sectors to develop individual, organizational, and policy alternatives to redress the current state of injustice facing migrants with precarious status in Canada.

Keywords: Precarious migratory status • immigration • social rights • service delivery • violence against women
service providers in the Greater Toronto Area (GTA) who work with a particularly vulnerable group of migrants—women seeking shelter from domestic violence (Alaggia, Regehr & Rischynski, 2009; Salcido & Adelman 2004). We present our analysis of the strategies employed by service providers to maximize social rights for migrants while mitigating the ill effects of immigration enforcement.

Background

Migration and immigration policy in Canada

Pressures related to neoliberal restructuring and increased transnational mobility have contributed to new waves of migration. In response, states have adopted strategies to restrict migrants and their claims to the social rights associated with liberal democracy (Calavita, 2005). Canada offers three primary channels for immigration via employment, family reunification, and humanitarian relief (See Table 1 for 2008 figures).

The proportion of permanent residents as a percentage of Canada’s population has remained consistent in recent years, ranging from 0.7% to 0.9% between 1990 to 2008. The number of authorized temporary residents was stable during the 1990s—averaging 492,283 people per year—but has risen steadily since 2000 at an average rate of 5% each year to a total of 879,641 temporary residents in 2008 (See Table 2).

While the temporary foreign worker program has grown, the Canadian immigration system—which includes the bureaucracies of Citizenship and Immigration Canada, Canada Border Service Agency (CBSA), and the Immigration and Refugee Board—has augmented measures to deter asylum seekers and irregular migrants (i.e. those who do not qualify for the established immigration paths into Canada). Crépeau and colleagues argue that strategies to discourage immigration include: “faster refugee determination, elimination of appeals, restricted access to the labour market, reduced legal aid and social protection, increased detention... excessive penalties for migrant smuggling and safe third-country agreements” (Crépeau, Nakache & Atak, 2007, p. 319). Each of these measures contributes to political, economic, and social barriers that people with temporary or precarious migratory status face when seeking to obtain legal permanent residency.

Increased scrutiny of immigrants is bolstered by measures to monitor citizenship identity in the everyday functions of civic life.

### Table 1
Permanent resident and temporary resident categories and percentages for 2008

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
<th>%</th>
<th>Category</th>
<th>Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family class</td>
<td>65,567</td>
<td>26.5</td>
<td>Foreign workers</td>
<td>363,494</td>
<td>41.3</td>
</tr>
<tr>
<td>Economic immigrants</td>
<td>149,072</td>
<td>60.3</td>
<td>Foreign students</td>
<td>242,861</td>
<td>27.6</td>
</tr>
<tr>
<td>Refugees</td>
<td>21,860</td>
<td>8.8</td>
<td>Humanitarian population</td>
<td>124,835</td>
<td>14.2</td>
</tr>
<tr>
<td>Other immigrants</td>
<td>10,742</td>
<td>4.3</td>
<td>Other</td>
<td>148,451</td>
<td>16.9</td>
</tr>
<tr>
<td>Total</td>
<td>247,243</td>
<td>100</td>
<td>Total</td>
<td>879,641</td>
<td>100</td>
</tr>
</tbody>
</table>

Adapted from CIC (2009)
For example, citizenship identity is now an assumed part of demonstrating eligibility for public benefits. In turn, specific forms of identity—the provincial health card and driver’s licence—have become mechanisms to deny access to services such as emergency shelter and food banks. While verifying identity may be a useful strategy to screen for eligibility, inability to document identity may disenfranchise citizens as well as immigrants (Bhuyan, 2010; Wilson, 2009).

This research is part of a broader effort among service providers, community activists, and academics to address the socio-cultural and legal barriers that impede migrants from accessing social and health services (Berinstein, McDonald, Nyers, Wright & Zereh, 2006; McDonald, 1999; Smith, 2004). This study received support from CERIS–The Ontario Metropolis Centre with support from community partners based in social service organizations in the GTA¹. The objective of the study is to understand the social rights of people who reside in Canada but are not granted citizenship or lawful permanent residence. Specifically, the study explored:

a) How are social rights constructed for people with precarious status in federal, provincial, and local laws?  
b) How do service providers respond to women who have precarious status in times of crises related to domestic violence?

**Theoretical framework**

Drawing upon governmentality scholarship and theories of power (Foucault, 1979, 1980; Rabinow, 1984), we analyze how multiple interests in public policy affect efforts to regulate migrants and their participation in society (Grewal, 2005; Ong, 1996, 2003). In this framework, individuals—service providers, services users, policy makers—regulate themselves and others to adhere to principles of market participation and democratic rights and freedoms. The discretionary power that

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### Table 2

**Growth in temporary residents from 2000 to 2008**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of temporary residents</th>
<th>Increase from previous year</th>
<th>% increase from previous year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>588,935</td>
<td>59,717</td>
<td>10.0</td>
</tr>
<tr>
<td>2001</td>
<td>643,922</td>
<td>54,987</td>
<td>9.0</td>
</tr>
<tr>
<td>2002</td>
<td>670,112</td>
<td>26,190</td>
<td>4.0</td>
</tr>
<tr>
<td>2003</td>
<td>682,957</td>
<td>12,845</td>
<td>2.0</td>
</tr>
<tr>
<td>2004</td>
<td>708,781</td>
<td>25,824</td>
<td>4.0</td>
</tr>
<tr>
<td>2005</td>
<td>726,781</td>
<td>18,000</td>
<td>2.0</td>
</tr>
<tr>
<td>2006</td>
<td>752,521</td>
<td>25,740</td>
<td>3.0</td>
</tr>
<tr>
<td>2007</td>
<td>799,696</td>
<td>47,175</td>
<td>6.0</td>
</tr>
<tr>
<td>2008</td>
<td>879,641</td>
<td>79,945</td>
<td>9.0</td>
</tr>
</tbody>
</table>

**Average growth per year** 38,936 5.0

Adapted from CIC (2009)
front-line workers hold, presents a site where governance is practiced in everyday interactions between service providers and service users. Lipsky’s (1980) analysis of front-line workers—service providers who work directly with service users/clients in the delivery of social services—illustrates that each encounter a person has with a social worker “represents a kind of policy delivery” (p. 3). Given the autonomy and vast discretionary powers frontline workers wield, they play a critical role in deciding who may or may not benefit from social rights (Lipsky, 1980).

We examine immigration policy as a form of structural violence that involves intersecting forms of oppression. Feminist activism in the battered women’s movement revealed how unequal social relations fuel gender based violence (Dobash & Dobash, 1979). The focus on gender, however, must also include examination of the myriad facets of identity (i.e. race, ethnicity, age, sexual orientation, ability, socioeconomic status) that contribute to women’s experience of and response to violence (Siltanen & Doucet, 2008).

**Methodology**

The study employs an interpretive policy analysis research design; framed by theories of meaning making in public policy (Yanow, 2000). This mode of analysis utilizes a mixture of methods to identify and gain exposure to the process and effects of policy development and implementation. Using principles of discourse analysis (Allen, 1995), we examine what social rights were discussed in key informant interviews. Semi-structured interviews lasting 1-2 hours were conducted with key informants who are management staff (n=4); front-line workers (n=4) at Violence against women (VAW) shelters; and funding administrators (n=2) who work in organizations that provide funding to VAW shelters in the GTA. These conversational interviews explored how service provision is impacted by immigration status, the management of sensitive identity information, and immigration enforcement practices in VAW shelters.

**Findings**

**Social rights in Canada**

Immigrants have benefited by and large from the extension of social entitlements and civil rights that took place in the 1970s. Immigrants’ social rights in Canada vary according to their legal status and length of residence in Canada. In their cross-national comparison of social rights for migrants, Fix and Laglagaron (2002) illustrate the various forms of safety nets, social insurance, and social investments that immigrants and migrants may access, depending on the administration of programs at the provincial and municipal levels (see Table 3). Their analysis did not account for undocumented immigrants, who were assumed to be ineligible to most social entitlement programs. Refugees granted status in accordance with The Geneva Convention are accorded equal treatment as citizens with respect to public assistance and social security benefits (Sainsbury, 2006). Whilst refugee claimants whose application is in process are granted basic social and economic rights, all other people with precarious status are offered
### Table 3
Social entitlements and benefits eligibility in Canada

<table>
<thead>
<tr>
<th>Status</th>
<th>Non-permanent residents</th>
<th>Landed immigrants</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Student permit</td>
<td>Temporary workers</td>
</tr>
<tr>
<td>Social assistance—municipal</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Rent subsidy</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Social housing—municipal &amp; provincial</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Child tax benefit</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Health care and insurance—provincial or interim federal health</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Old age security</td>
<td>N/A</td>
<td>No</td>
</tr>
<tr>
<td>Employment insurance</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Immigrant settlement and adaptation program</td>
<td>No (University can grant a subsidy and permit work on campus)</td>
<td>Yes</td>
</tr>
<tr>
<td>Grants or loans for higher education—provincial</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Education for children—provincial</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Job training</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Access to labour market</td>
<td>Restricted</td>
<td>Restricted</td>
</tr>
</tbody>
</table>

* LPR: Landed Permanent Residents. Source: Fix and Laglagron, 2002
minimal or no claims to social entitlements. Because social rights are tied to one’s legal status in the Canadian immigration system (Crépeau, 2005), any change in immigration status ultimately shifts the social rights to which one is entitled. The shifting vision of obtainable rights associated with immigration status were expressed in the following statement by a shelter advocate:

Priorities change as soon as people’s status changes as well. When you do not have status any small thing is a big thing, is a big deal. If you get just a little appointment at the community health centre, it’s a big achievement, when you do not have status. When you are a refugee claimant, you have access to medical attention, but you want to go to university. So that’s your dilemma. When you’re a [legal permanent] resident, you can now access medical attention, but you want to leave the country more frequently. You see, people’s priorities change when their status changes…. Citizens have such high expectations in terms of what they want to achieve. So different from the person without status. It is heart breaking….Once you are in the ground level, anything would be a benefit. But it shouldn’t be that way. Because medical attention for a pregnant woman shouldn’t be a privilege, it should be a right. (Shelter Advocate)

Due to the large proportion of residents with immigration issues, shelter staff must often function as immigration advocates. Shelter staff and management staff, however, have varying levels of knowledge and strategies about how to connect women with legal immigration advice and how to obtain legal aide certificates.

Most women residing in VAW shelters are accompanied by children, who may also have precarious immigration status or who may be Canadian citizens. As a result, mixed-status among family members is a common feature in VAW shelters. Women without status are generally unable to support their children’s claims to rights associated with citizenship (Fix & Zimmermann, 1999). For example, shelter staff in our study reported that Canadian born children who have one or more parents with precarious status are regularly denied access to social entitlements—subsidized housing, the provincial health insurance, and the Child Tax Benefit.

Due to the large proportion of residents with immigration issues, shelter staff must
often function as immigration advocates. Shelter staff and management staff, however, have varying levels of knowledge and strategies about how to connect women with legal immigration advice and how to obtain legal aid certificates. In one shelter, a front-line staff person was a former immigration paralegal, so could assist women in filling out applications and making informed decisions about immigration options. Other staff relied on pro-bono immigration lawyers who could consult with residents who might be interested in applying for a refugee or humanitarian claim. While all shelter staff talked about the significant challenges facing women with precarious status, they also spoke about their efforts to maintain hope amidst grim circumstances.

“I know how to pick my battles”: Proactive and reactive advocacy strategies

While negotiating the complex terrain of funding, access to social services and securitization, shelter staff used both proactive and reactive strategies to secure social rights for shelter residents and deflect immigration enforcement. Advocacy with women who are awaiting a refugee claim decision are eligible for many social entitlements like housing, health insurance, and social assistance. Supporting women without status or whose refugee claim was denied is more challenging and often requires workers to challenge polices and practices across social and health service sectors; to secure entitlements for all shelter residents.

Proactive strategies refer to the ways in which front-line workers support women to access social or health services in anticipation of denied services or detection by immigration enforcement. In some cases, service providers explored opportunities unique to a woman’s case—asking a friend who is a dentist to provide free emergency dental care. Individual advocacy might also entail brokering with immigration officials to either delay the date of deportation or to notify the CBSA of a woman’s residence in the shelter, in order to secure her access to the Interim Federal Health Program. Proactively notifying immigration authorities that a woman is residing in a shelter was discussed as a strategy when a woman was vulnerable to detection through other service providers or her abuser. In the following excerpt, a shelter advocate clarified that she only contacts immigration authorities if she has assessed it would ultimately benefit a woman:

And I hope that there is a certain level of humanity there when they [immigration authorities] are receiving information because I’m not calling about any criminal, I’m calling about women who are having a difficult time. And I know how to pick my battles. I’m not gonna call if I feel it’s not gonna fly. I know how to pick my battles. (Shelter Advocate)

While these advocacy strategies were successful for individual women, they often did not address broader structural issues of inequality or exclusion. Structural or policy advocacy did occur when shelter staff worked across the VAW sector to ensure that shelters are working together to secure entitlements or to pressure administrative leaders to extend the maximum length of shelter stay for women.
without status. Many shelters, at the time of this study, were in the process of developing internal policies for responding when CBSA agents appear at the shelter to inquire about shelter residents. Other examples of proactive advocacy strategies included: shelter staff assisting all women to apply for the Personal Needs Allowance and assisting residents to relocate if they feared detection by CBSA.

Shelter staff attempted to broker with CBSA officials to delay the deportation date of a family residing in a VAW shelter so one of the older children could graduate from high school.

Some strategies employed by front-line workers and organizational policies reflected a more reactionary approach to service barriers and immigration enforcement. In some shelters, women without status are encouraged to apply for a refugee claim as a means to obtain social rights. While refugee claimants are able to apply for housing, health care, and social assistance, if their claim is denied, they may be subject to detention and deportation from Canada. In another example of defensive advocacy, shelter staff attempted to broker with CBSA officials to delay the deportation date of a family residing in a VAW shelter so one of the older children could graduate from high school:

There wasn’t really a lot we could do, so we just started working with a family and at some point, they said, I mean the worker that was talking with the client said, you will be going back. It’ll be sometime between this and this day. And she tried to, we tried to negotiate because her older daughter was having her graduation ceremony on a certain day of the month and could we extend it?...So the worker was pretty up front and said it is going to happen. We tried to negotiate the dates. And first he [the CBSA officer] said yes and then, unfortunately, they switched the date and stuff. So they knew it was coming and so we did have a couple of weeks of being able to do work with her, saying good bye, and she was able to get as much stuff as she could in order, and hooking up with resources back there in terms of people that she could contact or resources that were available. So, you know, it was still a really sad situation and very frustrating for everybody because it just seemed so unjust. And she still keeps in touch at least by email to let us know what’s happening. (Shelter Manager)

Although the shelter staff could not prevent the deportation, their efforts sought to minimize the trauma associated with being uprooted due to deportation. Another defensive posture was evident within an organization that preferred not to inquire details about a woman’s plans to go underground following detection by CBSA agents. In many organizations, fear of losing funding and the scarcity of resources were also shared as factors that influence service delivery.

Discussion

Social workers and other service providers have been on the frontlines of welcoming immigrants to Canada and assisting in their integration and full participation in society. While immigrants in general continue to face challenges that impede their social inclusion—employment barriers, systemic racism, and poverty—immigrants with precarious migratory status are possibly more at risk, due to their legal exclusion from the social contract associated with liberal
democracy. What then are the implications for social workers in responding to the multifarious needs of immigrants with precarious status?

In Social Work’s *Code of Ethics* (2005), it is unequivocal that social workers are called to “respect the unique worth and inherent dignity of all people and uphold human rights” (CASW, 2005, p. 4, emphasis added). Social workers are thus duty-bound to challenge inequality; pursuing social justice as a core objective of the profession. In recent years, however, a policy frame has proliferated which stigmatizes people living in Canada with precarious status in the parlance of illegality, queue jumping, or threats to national security (Lowry, 2002). Disparaging beliefs and judgments towards those without “legal” status abound and are by no means restricted to those outside the social work vocation. Consequently, raising awareness to the plight of immigrants with precarious status ought to be a focal imperative of the profession.

Despite the extreme vulnerability of non-status immigrants, the literature on this population remains under-researched (Bernhard et al., 2008). We need a new framework to conceptualize rights based on personhood versus citizenship, given our transforming (post)welfare state and its central foci on market citizenship (Crouch, Eder & Tambini, 2001) and securitization (Dhamoon & Abu-Laban, 2009). Notwithstanding the diversity of perspectives on who “should” have access to social rights guaranteed by the state, the exercise of discretionary powers in everyday interactions with immigrants provides social workers with tangible opportunities to advance the human rights of individuals, regardless of status. Amidst economic and political pressure to restrict social entitlements overall, it is imperative that social workers and other service providers organize across service sectors to develop individual, organizational, and policy alternatives to redress the injustice facing migrants with precarious status in Canada.

References


Biographical notes

Tracy Smith-Carrier has a master’s of social work degree and is currently a PhD candidate at the Factor-Inwentash Faculty of Social Work, University of Toronto. She is a member of the Canadian Association for Social Work Education and is an Ontario certified teacher. Current interests include research on social inequality, welfare and immigration in neoliberal regimes.

Note

1 Community partners in the GTA include: Sistering, Interim Place, Women Abuse Council of Toronto, Metropolitan Action Community on Violence Against Women, Women’s Health in Women’s Hands, and Nellie’s.