

# Social work with asylum seekers in Canada

## The case for social justice

● Marie Lacroix

Migration is an area that social work has started to address and there is a need to understand not only the meaning of migration (Soydan and Williams, 1998) but also the marginalization often associated with precarious immigration status. As Valtonen (2001) points out, the reception and resettlement of immigrants have become part of the social work agenda. Social workers are thus functioning in different scenarios of immigrant resettlement and integration. One of those scenarios involves asylum seekers, who present a special case for resettlement as their status is insecure, which impedes the process. It is only after being accepted as refugees that the settlement process begins.

Asylum seekers in Canada constitute one category of migrants entering the country. They enter the country on a temporary basis and must go through a refugee determination process to confer Geneva Convention refugee status that may take up to four years (Lacroix, 2002). Initial contact with the host society is therefore through the refugee determination system. Convention refugees have special needs related to their refugee experience: some may experience post-traumatic stress disorder (Lie, 2002; Rousseau, 2000; Weine et al., 2001), long family separations (Bertot and Mekki-Berrada, 1999), and loss of country, of social status, of personal identity (Ward and Styles, 2003), consequences of having lost time while waiting for status (Lacroix, 2000).

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Not much attention has been given to the impact of living with a precarious status and recent studies are pointing to the importance of including the experience of asylum seekers in the incorporation processes (ECRE, 1999; Mestheneos and Ioannidi, 2002; Mestheneos et al., 1999). Social workers' capacity to welcome asylum seekers and to respond to the social justice needs inherent in their situation are two central elements in the welcoming phase.

To understand the plight of asylum seekers in Canada, social workers need to have a general understanding of the international context as it relates to asylum seekers, and the policies and practices that have been put in place. It also means understanding policies and practices in Canada that have a direct impact on the lives of asylum seekers both as a marginalized group and as individuals seeking help.

This article explores some of the most salient factors of oppression that are directly related to international and Canadian policy discourses and practices. We present a conceptual framework for understanding how the policy intersects with people's lives and for identifying the issues that need to be addressed by social work practitioners.

## **Theoretical framework**

The theoretical framework that informs the article is drawn from structural social work (Moreau, 1979, 1982, 1987; Mullaly, 1997) and anti-oppressive social work (Mullaly, 2002). Following Mullaly (2002), oppression is defined as a social justice issue. As he points out (2002: 32), in order to promote social justice in social work its relationship to oppression and anti-oppression needs to be clarified. It is the precariousness of their immigration status that defines asylum seekers as a marginalized and oppressed group. For practice, the challenge for social workers working with asylum seekers in a social justice framework is understanding the social structures, processes and practices that have caused oppression while advocating for the rights and opportunities of oppressed groups.

## **The international refugee regime**

Asylum seekers find themselves part of an international scene which comprises large migration movements, efforts by nation-states to stop the flow of unwanted migrants, and policy and administrative

practices since 11 September 2001 preoccupied with security (Aiken, 2000; van Selm, 2003).

The dominant discourse on asylum seekers is torn between humanitarian and economic, social, and political concerns, and policies and practices are primarily directed at reducing the numbers of asylum seekers by any administrative means (Santel, 1995). Many will argue that 'the logic of exclusion predominates' (Thänhardt and Miles, 1995: 3). This discourse is set in a context where attempts to harmonize immigration policies across Europe have intensified since the late 1980s. At the same time there is a parallel process where economies and markets are internationalized and transnational economic interests override states' control and capacity to respond to social needs. In this context, 'social dispossession and political disenfranchisement have been spreading' (Mayer and Roth, 1995: 299).

The international refugee regime was formally institutionalized with the Geneva (UN) Convention on the Status of Refugees in 1951. This definition now dominates western countries' definition and treatment of refugees and produces the social, political and legal constructions that we now recognize as 'refugeeness' (Malkki, 1995: 506).

The Convention and the 1967 Protocol define as a refugee any person who:

As a result of events occurring before 1 January 1951 and owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (Article 1A (2) of the Convention)

States which have adhered to the Convention have instituted their own refugee regimes, according to their own historical, political, ideological and social relationships to non-citizens. Hence the disparity among refugee determination systems across the western world and conflicting national views on what constitutes a refugee.

### **The Canadian refugee regime**

Until the early 1990s Canada perceived itself as a country of resettlement, not as a country of first asylum (Dirks, 1995). Canada considered refugees selected overseas or privately sponsored to be the

most important group of refugees to resettle. Confronted with large migration movements and increasing asylum claims, Canada now recognizes that asylum seekers are an important subset of refugees entering the country. This major shift in orientation has led to increasingly restrictive administrative measures (Basok, 1996; Kelley and Trebilcock, 1998; Knowles, 1997).

On 28 June 2002, the Canadian government implemented the Immigration and Refugee Protection Act (IRPA). Two issues are factors of oppression of asylum seekers. First, the law was implemented without providing for an appeal process, even though appeal is an integral part of the law (Canadian Council for Refugees, CCR, 2003). Second, the IRPA provides for a number of immigration categories that are precarious (meaning that such persons could be refused the right to stay in Canada) and dependent on third parties, that is, asylum seekers, sponsored family members, temporary work visas, live-in caregivers (Oxman-Martinez and Lapierre Vincent, 2002). This precariousness is a central element in the asylum seeker's experience and must be taken into account when trying to understand the specific needs the process generates.

In a report in 2003, the Lawyers Committee for Human Rights in New York raised concerns that basic human rights protections and civil liberties were steadily eroded in the 18 months after the attacks of 11 September 2001. According to the CCR (2003),

For many years Canadian security provisions have unfairly hurt a few refugees who were caught up in the very wide definition of 'security risk' in Canadian law. The breadth of the definition can be seen in the fact that all members of the African National Congress, the ruling party in South Africa, are by default inadmissible to Canada, as members of an organisation that has engaged in terrorism ('terrorism' is not defined). Since September 11th, there is of course a greatly heightened focus on security, and an unfortunate and unfair association has been made between refugees and terrorism.

### **Practice: how do we make the link between the international and the local?**

How we start linking the international context to local experiences is of particular concern for the social justice side of social work. Practitioners can learn about the various treaties, conventions and covenants and work with lawyers and other experts to understand the possible repercussions on asylum seekers. This would be a first step. Below are some of the areas of current concern in working

with asylum seekers in Canada. These can be understood as particular factors of oppression and address broad issues related to social justice and entitlements.

### *Non-refoulement*

Sassen (1996) notes that the Convention on refugees asserted that the right to leave one's country is a universal right but that it remained silent on the right to entry. 'As is well known, the status of refugees and their right not to be forcibly returned are established in international law, but there is no corresponding right of asylum; such right is at the discretion of a receiving state' (Sassen, 1996: 10). This right of not being forcibly returned, called *non-refoulement*, has become a central issue in defending the rights of refugee claimants in Canada today. Indeed, the 'safe third country' clause in the Immigration Act of 1989, which allowed claimants who had sojourned in a safe third country to be returned to that country to make their claim, was never enforced as it was impractical and difficult to establish what constituted a 'safe third country'. In December 2002, still close to the panic of 11 September 2001, a new agreement between Canada and the United States was made which allows claimants who have gone through the US to be returned there rather than be allowed into Canada to make their claim. Non-governmental refugee advocate groups have denounced this situation as an attack on the *non-refoulement* principle.

### *Detention*

In 2003 the Canadian government detained even higher numbers of refugee claimants on arrival in Canada, mostly on the basis of lack of sufficient documentation. This means that many refugees who have had to flee from persecution without time or ability to get proper identification documents find themselves behind bars in Canada. Even after they get identification documents sent to them, some claimants are being told that they will not be released from detention until they post a bond, an unreasonable request for many refugees (CCR, 2003).

### *Length of the refugee determination process*

The refugee determination process has been documented as being difficult in most western countries and waiting for status has been identified as a major barrier to the integration process (Drozdek et al., 2003; ECRE, 1999; Lacroix, 2000; Mestheneos and Ioannidi, 2002; Rousseau et al., 2002; Tribe, 1999). The procedure in Canada

is lengthy and complicated. Recent academic research confirms empirical knowledge from refugee practitioners on the inadequacies of the system (Barsky, 2000; Rousseau et al., 2002). Although some refugee claims may be channeled down a fast-track system with decisions rendered within a few months, research indicates that for many claimants in Québec the average waiting period is seven months for a hearing and another 22 months for the permanent residency application to be processed (Renaud and Gingras, 1998). During this period asylum seekers have limited access to work, social welfare, and health and social services.

#### *Access to work*

Access to work, underemployment (Beiser and Feng Hou, 2001) and lack of recognition of professional credentials have been identified as major elements impeding the integration process of refugees (Aldridge and Waddington, 2001; Austin and Este, 2001; Krahn et al., 2000; Li, 2001). Renaud and Gingras (1998) stated that in Québec only three out of 10 asylum seekers worked each month. Work was concentrated in four main industry sectors: manufacturing other than clothing, clothing, restaurants and other service industries. Not being able to work or having access to restricted areas of work forces asylum seekers to ask for social welfare (Bloch and Schuster, 2002; Lacroix, 2000; Marr and Siklos, 2001). In the long term, this situation may lead to economic marginalization and lack of opportunity to participate in the labour market (Kazempur and Halli, 2001; Valtonen, 2001). For asylum seekers who were highly qualified professionals in their countries of origin, not being able to work and feel they are full contributing members of the host society causes feelings of worthlessness and loss of self-esteem (Lacroix, 2000).

#### *Family separation*

Secondary effects of immigration policy such as family separations contribute to a process of ongoing marginalization and may degenerate into serious psychological traumas, depression, family breakdown, integration difficulties and financial struggles, according to the literature (Freckler, 1995; Inter-Church Committee for Refugees, ICCR, 1990; Rousseau, 1990; Rousseau et al., 2002). Bertot and Mekki-Berrada (1999) indicated that 80 percent of asylum seekers arrive without their immediate families, 62 percent are separated from their whole families, and 18 percent are separated from some

members of their families (spouse and/or children less than 19 years of age).

#### *Access to settlement services*

The failure of the Canadian and Québec governments to provide adequate social services for asylum seekers has been documented by various non-governmental organizations working with this population (Bertot and Mekki-Berrada, 1999; ICCR, 1990; Rousseau, 1990). Academic research indicates ‘a need for a one-stop service whereby asylum seekers can access information, advice and guidance over a range of issues’ not only in Canada but also in European countries (Aldridge and Waddington, 2001: 19).

One Montréal research team notes that: ‘by not offering more services to those thousands of vulnerable people and those on the road to becoming full citizens, they experience post-migratory difficulties which potentialise the negative effects of pre-migratory traumas (organised violence, torture, rape, imprisonment, threats, etc.’ (Bertot and Mekki-Berrada, 1999, our translation).

### **Conclusion**

At the beginning of his book, Mullaly (2002) decries the dearth of explanation of the nature and causes of social problems. Although this article has not attempted to present an explanation of the nature of the causes of social problems, what have been raised as major issues in the marginalization and oppression of asylum seekers do constitute a glimpse of the genesis of problems asylum seekers confront as they unwittingly find themselves on social workers’ caseloads.

The international refugee regime, the Canadian discourse and practices concerning refugee policy, in a globalized and security-minded context, allow us to understand the severity of the problems suffered by those who form part of the irregular movements of migrants all over the world, fleeing persecution and hoping for a better and safer life. Linking social justice and oppression appears to be a crucial and necessary perspective for social workers in order to promote the rights and opportunities for oppressed groups.

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**Marie Lacroix** is assistant professor at the School of Social Work, Université de Montréal. Address: École de Service Social, Université de Montréal CP 6128, Succursale Centre-ville Montréal, Québec H3C 3J7, Canada.  
[email: Marie.lacroix@umontreal.ca]

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