

RUNNING HEAD: Refugee Policy

Canadian Refugee Policy

Kristy Fornwald

SOWK 320: Anti-Racist and Cross-Cultural Social Work Knowledge and Practice

Dr. Adrienne S. Chan

Word Count: 3858

November 12, 2008

Introduction

While early Canadian policies explicitly excluded immigrants based on race or nationality, adherence to international human rights conventions have since purged such language. In its place, many have noted the similar effects of complex application procedures, strict border controls, public immigration discourse and negative media portrayal on refugees. This paper will examine Canada's historical and present refugee policies from an anti-racist perspective. Specifically, I will examine the way in which immigration discourse has viewed refugees as "foreign", "other" and a threat to Canadian society. I will conclude by discussing implications for social work practice, noting how an anti-oppressive approach reveals the structural oppression refugees face both in and out of country.

Immigration History Context

Pre-Confederation Immigration Policy

Millions of Europeans immigrated to Canada throughout the 19th and 20th centuries, plundering its vast lands populated by Aboriginal peoples with the objective of prosperity (Aiken, 2008). British and French settlers offered individuals from North American colonies unlimited access to participate in building Canada and making its lands as productive as possible (Knowles, 2007; Aiken). The goal of European settlers aiming to construct a "white" Canada has translated into explicit discriminatory and racist immigration policies, excluding certain groups of people based on 'race' and geography (CCR, 2000; Aiken).

The Chinese Exclusion Act (the Act) in 1885 and the "continuous passage rule" in 1907 exemplify the government of Canada's underlying ideology on immigration equating 'desirable' immigrants with "those of hegemonic white race". (Aiken, 2008; CCR, 2000). In attempts to keep Chinese people out of Canada, the government imposed a head tax on Chinese immigrants,

generating more than \$22 million in revenue from 1886-1923 (CCR). Ironically, secretary of state Joseph-Adolphe Chapleau acknowledged the efforts of Chinese men working on the Canadian Pacific Railway in the same speech in which he introduced the head tax, pronouncing; “it is a natural and well-founded desire of the white population of the Dominion...that their country should be spoke of abroad as being inhabited by a vigorous energetic white race of people” (Knowles, 2007, p. 72).

While the Act was used as a racist control over Chinese immigrants, the “continuous journey regulation” targeted prospective immigrants from India by banning all individuals from immigration if they did not travel directly from their country of origin (Knowles, 2007; CCR, 2000). As steamships could not directly connect from South Asia to Canada, the government in effect cut off immigration from India, while appearing to abandon the practices of deeming “undesirable” immigrants according to race or nationality (Knowles; CCR). In 1914, the *Komagata Muru*, a ship hired by Gurdit Singh, carried 376 prospective Indian immigrants to Vancouver's shores (Knowles, p. 121). The ship and its human cargo sat for two months in a harbor awaiting a provincial court decision on whether Canada would accept the immigrants. Eventually the Supreme Court of BC upheld the Federal exclusion order and sent the immigrants back to Asia (Knowles).

The Introduction of Refugees

The blatant racism evident in Pre-Confederation immigration policies revealed Canada's hostile stance toward the plight of refugees trying to escape dangerous situations or hardships in their countries of origin. It was not until the implementation of the Immigration Act of 1976 that refugees were acknowledged and included into legislation (Aiken, 2008). Canada uses the 1951 Convention on the Status of Refugees (the Refugee Convention) to define refugees as being

“individuals, who because of a 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 to or, owing to such fear, is unwilling to avail himself of the protection of that country...” (CIC, 2005).

Two types of refugees are recognized by Canadian law - those selected to resettle from outside Canada and those who claim refugee status while in Canada (CIC, 2005). Knowles (2007, p. 229) quotes Geoffrey Howson, member on the Immigration and Refugee Board of Canada (IRBC) in saying, “It is not easy to determine who is a Convention Refugee and who is not. It is, at times, a heart-wrenching experience to...listen to such horrific stories”. Howson goes on to say that no matter how desperate certain cases may be, refugees who struggle economically do not qualify as Convention Refugees (Knowles). Canadian Council for Refugees (CCR) (2003) notes that while the distinction between who qualifies as a refugee and who does not is left to the discretion of various members of the IRBC, the inconsistency within these decisions creates injustice and disadvantage to refugee claimants.

Historical Immigration Policy

The Immigration Act – 1976 – 2001

The Immigration Act transformed previous immigration policy by clearly stating the fundamental goals and principles of immigration policy, while affirming Canada's obligation to the 1951 United Nations Geneva Convention and the 1967 Protocol on the Status of Refugees (Esses, Veenvliet, Hodson, & Mihic, 2008). Prior to the Immigration Act, immigration practices had only accepted refugees only on an ad-hoc basis (Knowles, 2007). By outlining three new categories of individuals eligible for immigration - family class, humanitarian class (including refugees and displaced persons), and independent class - refugees were now offered a proper

legal processes (Knowles). Overall, instead of focusing on who was not allowed to immigrate to Canada, the Immigration Act now outlined who could immigrate.

On the surface the Immigration Act repealed the exclusion of certain racialized groups of people through its neural requirements, yet it brought newer and more subtle systemic forms of racism (CCR, 2003). Matas (2001) describes the refugee determination system as needlessly complex, unfair, and flawed. He notes that prospective immigrants had to violate the bureaucratic measures within the Immigration Act in order to make a claim (Matas). For example, policies such as the requirement for convention refugees to produce “satisfactory identification” disqualified large groups of displaced people who are often without such identification in war torn countries before they could even start the claimant process (CCR). The inherent problems within the Immigration Act were accentuated throughout the 1980s as the effects of civil war, political unrest, and ethnic fighting increased the worldwide population of refugees and Canada experienced an influx of 'illegal' migrants (Knowles, 2007).

1987 - Bill C-55

The problem of individuals arriving at the doorstep of Canada before applying for refugee status threatened the sovereignty of border control, as well as the political will over the changing face of Canada's population (Macklin, 2005). The system by which immigration policy attempted to keep out 'undesirable' immigrants through high monetary fees, unreasonable requirements, and no appeal processes began to change as the presence of 'illegal' migrants increased (CCR, 2003; Aiken, 2008). In 1987, the conservative Mulroney administration took action against the perceived abuses of refugee claims by implementing Bill C-55, significantly reforming the application processing of refugee claimants through the IRBC (Knowles, 2007, p. 228). With provisions to cut down applicant processing wait times, as well as deal with the

backlog of refugee claimants already living in Canada, Bill C-55 gave immigration officers authority to deny entry to refugees who had already entered into a safe third country (Macklin; Knowles).

Current Immigration Policies Regarding Refugees

Safe Third Country Agreement - December 29, 2004

The Safe Third Country Agreement brought about much controversy as its primary goal was to clamp down on refugees moving from one country to another (Knowles, 2007). Audrey Macklin (2005, p. 365) discussed the detriments of the Third Country Agreement by describing a phenomena she calls the “discursive disappearance of the refugee”. She argues that public sentiment for the legitimacy of refugees is dwindling because they are viewed as 'foreign' and 'criminal' - as though all refugees have entered Canada illegally or have overstayed their visa (Macklin). As refugees continue to enter Canada illegally or claim asylum upon crossing our borders, refugees are blamed for being queue jumpers and entering the “back door”. Meanwhile little regard is raised to our racist immigration system and border control that allows few individuals legal entry (Macklin). While refugees claiming asylum are allowed to make a claim at the border, illegal migrants are seen as illegitimate because they claim reasons for fleeing their country that are non-urgent (Macklin).

While Canada has an obligation not to refoule (deport a refugee back to a country to which they fear persecution) a refugee according to Refugee Convention, Canada's strategy in avoiding the spontaneous arrival of migrants expected to claim asylum aims at preventing them from accessing its borders (Macklin, 2005). Increased pressure on airlines and other transport companies to deny travel to individuals not possessing valid visas or proper documentation is enforced by high fines as well as the increased presence of Canadian immigration officers at

borders overseas (Chute, 2005; Macklin). It is important to note that only 19% of countries predominantly “white” are required to obtain a visa to enter Canada, while 81% of countries from the Global South are required a visa to enter Canada (CCR, 2000, p. 9). As extreme political measures are taken to complicate and deter refugees from reaching our borders legally, asylum seekers are forced into the hands of smugglers and dangerous travel (Macklin).

In the name of “security” the United States and Canada signed the “Smart Border Declaration” to enable immigration officers the right to quickly pre-screen and turn away illegal migrants from claiming asylum and from transiting from one country to another (CCR, 2003; Macklin, 2005). Consequently, this legislation offers no protection for refugees to explain their motivation or desire in pursuing refugee status in Canada (CCR). The Safe Third Country Agreement is most likely to discriminate against racialized people from the South who may lack the financial means to fly directly to Canada (Aiken, 2008). Most countries in Africa and Asia fly through common routes in the United States, thus refugees destined for Canada are halted and forced to claim refugee status instead in the United States.

The Safe Third Country Agreement creates an opportunity for Canada and the United States to deny responsibility over refugees and reduce the number of asylum claims (Chute, 2005; Macklin, 2005). Canada has no assurance that by denying a refugee at our border and returning them to the United States that the United States will not return the claimant to a country which poses serious harm or risk of harm. Although Article 3 under the Agreement states that refugees cannot be sent to a country outside the United States or Canada until their claim has been determined, refugees are often deflected from Canada to the United States or vice versa pending “readmission agreements” until they are sent back to their country of origin without ever accessing the refugee determination process (Macklin, p. 373). Although Canada

accepts more refugees per capita than any other country in the world, the Safe Third Country Agreement is likely to deter refugees from entering Canada legally (Knowles, 2007). Hand in hand with enforcing the Safe Third Country Agreement is the public acceptance of exclusions based on issues surrounding security and media discourse.

Contemporary Issues

Security

After the events on September 11, 2001, the need for a tightened security agenda within the United States and Canada against outside terrorists took precedence in public thought and policy (Macklin, 2005; Adelman, 2002). As foreign terrorists were charged with committing the heinous acts of September 11, demand to seal permeable borders in an attempt to exclude foreigners from entering Canada was evident (Adelman). Immediately, the United States suspended the resettlement of over 20,000 refugees, while holding hundreds of Middle Eastern men without reason or charge (Chute, 2005, p. 4). In the years that followed, the pressure for security has not waned, evident in Prime Minister Harper's pledge to arm all 4800 of our border guards by 2017 ("Keep the Borders", 2007).

Although the alleged terrorists entered the United States with legal student visas and were not refugees, America has focused its efforts on enforcement, intelligence and restrictions rather than examining immigration policy implications (Macklin, 2005; Adelman, 2002). Canada, criticized by the United States for its lax stance on border control and reputation for being "a safe haven" for criminals, indicated that tougher requirements would be implemented for future refugee claimants ("A Haven", 2007; Adelman). The Safe Third Country Agreement came into effect because of increased fear of terrorism, Muslim extremists, and individuals that (based on physical qualities) were racialized as criminal and a threat to dominant Western group ideology

(Lacroix, 2004). In associating terrorist activity with refugee claimants, the Safe Third Country Agreement embodies systemic racism. While the policy is framed in a neutral, objective manner outlining a rationale for keeping out system abusers, the government has failed to counteract the adverse affects of the policy on racialized people (Aiken, 2008).

While significant strides toward equality were made in the Singh decision in 1985 where refugee claimants were guaranteed the same social and legal protections as Canadian citizens under the Charter of Rights and Freedoms, the reality of these rights has failed to protect the rights of refugees (Knowles, 2007; Aiken, 2008). As fewer refugees are eligible to receive a protection hearing in Canada, and as the administrative processing within the hearings are viewed as wasteful and a drain on public resources, the political priority to protect rights has diminished and instead an anti-refugee sentiment is spread (Lacroix, 2004; Agnew, 2008). The Safe Third Country Agreement is not the first scheme Canada has used to avoid its international obligations to refugees, but it has certainly succeeded in helping Canada to avoid its duty not to refoule refugees in the current era.

Immigration Discourse

Through analyzing immigration policy relating to refugees it is clear that discourse plays an important role on how refugees are viewed by society. The desirability, worthiness, and genuineness of refugees are at the hands of the immigration system to define according to language and negative meanings implied (Lacroix, 2004). Immigration discourse then informs media. Henry and Tator (2002) report that the media uses ‘coded’ language, focuses on deviance and over-reports crimes committed by racialized persons. In the case of the plight of refugees being increasingly viewed as ‘illegal’, the language to describe refugees seeking asylum and their economic impact has caused Canadians to view refugees with contempt. The way in which

refugees are discussed in politics and economics influence the discourse used to describe refugees in the media, and consequently in the day to day lives of all Canadians.

Media Discourse

The media creates a moral panic within society as it reports the presence of refugees in terms of an “invasion” into Canada (Esses et al., 2008). Lacroix (2004) reports that after an increase of Central American refugees into Canada during in the 1980s and the arrival of a boat of Sikhs in Nova Scotia in 1987, the two occurrences were strung together and generalized as an attack on our Canadian immigration system (Lacroix). The term ‘refugee crisis’ has been widely used and publicly understood as the over-population of refugees within Canada, yet this term does nothing to explain problems within government policies (Lacroix). When phrases such as ‘refugee crisis’ are used in conjunction with reports such as the one published by *Economist* (“A Haven for Villains”, 2007) (“...all kinds of undesirables are getting into Canada under the country’s dysfunctional refugee system”) the public links our immigration problems unquestionably with refugees.

Even critics of refugee rights admit the existence of millions of refugees “out there” (Macklin, 2005). The critics are willing to send money to people far away, considering refugees such as exploited children, tortured women, or displaced families to be “genuine”, yet our immigration practices reveal an underlying attitude that we do not want “them” in our country. We seem to fear the presence of ‘others’ as is evident when a boat fills up with displaced people escaping dangerous conditions. They are reported as ‘illegal’ migrants escaping (Esses et al, 2008). At this point, we no longer view refugees as genuine but rather as ‘illegals’ (Macklin). Macklin asserts that while refugees have actually not disappeared, they are being erased from our discourse - and as more refugees are being viewed as ‘illegals’, public support for stricter

measures enlarges the population of so called illegal migrants (Macklin).

Macklin (2005) emphasizes the power of language within immigration discourse in that the media goes so far as to call immigrant people, 'illegals'. Instead of describing individuals who have committed an illegal act, we deem refugees as 'criminals'. As the Canadian media over reports articles titled, "Refugee tsunami from Asia sweeping toward Canada" and "Is America the world's Kleenex?", Canadians assume that all of refugees entering Canada are intrinsically criminal (Esses et al., 2008). By using racial identifiers to describe refugees, the media exacerbates a divide between white people and non-white people (Henry & Tator, 2002). As race is reported, immigration problems imply that the problems are due to racialized, foreign, non-white people (Henry & Tator, 2002). As such, politicians act on xenophobic fears of immigration and suspicion of refugees' motivation (Esses et al.).

Attitudes towards Refugees

In a study reported by Esses et al. (2008), attitudes towards refugees and refugee policy by Canadians were linked to social status, with individuals in socially dominant groups more likely to dehumanize refugees and vie for stricter changes to current refugee policy. As psychological theories affirm the perception of 'other' groups by dominant groups as immoral and deviant, the degree to which refugee 'outgroups' are viewed as lacking moral conduct is the degree to which they are less worthy of humane treatment (Esses et al.). As social dominance orientation has been linked to conservative political ideology, policy makers support inequality and are part of a hierarchal construction of race and class that encourages the dehumanization of refugees in order to maintain group dominance (Esses et al.). In thinking about social policy, I am reminded of the role of conservatism to remain suspicious of any influences that attempt to upset traditional process and social norms (Bannerji, 1997). It is evident that dominant groups in

society have the most power to spread conservative ideology, influencing public and foreign policies and therefore enabling negative attitudes about refugees to spread throughout society.

Recent Immigration Policies

The Immigration and Refugee Protection Act

While this paper focused on policy specific to the Immigration Act of 1976 and the Safe Third Country Agreement, many other bills have been enacted in the development of refugee policy. Within the Immigration and Refugee Protection Act (IRPA) of 2002, several basic goals relating to economic, social and cultural aspects of immigration policy are included (CCR, 2003). Of note, the IRPA also sets out four humanitarian goals for refugee protection (CCR; Knowles, 2007). While a positive aspect of this new act includes its reference to multiculturalism in Canada, many goals allude to Canada's commitment to safety ("...promoting justice and security by preventing the admission of criminal or security risks") (CCR; Knowles, p. 258). Although this Act addresses the need for refugee protection and recognition of human rights, the gap between rhetoric and reality is evident in the fact that provisions within the IRPA to provide an appeal process for refugee claimants has failed to be implemented (CCR). Additionally, changes to the Refugee Determination System that stipulates that only one member of the board, rather than two, will hear a claimant's application may be detrimental as no appeal process is in place (CCR,).

Social Work Practice

Understanding 'Refugeeness'

I chose to examine refugee policy in this paper as refugees are often stigmatized and discriminated against based on their race and class. It is imperative that social workers understand the sociopolitical context of refugees as refugees often lack power to attain equality

and justice in a complex and discriminatory immigration systems. Marie Lacroix (2004) writes about the subjective experience of refugees in an attempt to understand how refugee policy impacts refugee claimants. She claims that although refugees may have different backgrounds, cultures, and histories, “the experience of ‘refugeeness’ is defined as being universal to those who experience it” (Lacroix, p. 148). As all refugees flee countries, cross borders and enter into complicated political systems where their legal status is undermined by oppressive power relations, refugees share a similar loss of identity (Lacroix).

As social workers engage with refugees, it is important to understand the subjective experience that refugees face in relating to family, work, and state institutions. Furthermore, it is essential to realize that in being labeled ‘refugee’, individuals are forced to assume a new identity. As refugee men interviewed in a study by Lacroix (2004) stated, “...by leaving their countries and becoming refugees (someone *other* than who they were previously)... from that moment forward and outside their control, the refugee claimant subjectivity was imposed on them, one fraught with contradictions and confusion, a direct impact of Canadian refugee policy” (p. 164). Not only are refugees discriminated through “racist or ethnicizing policies” and viewed as ‘other’, they are kept on the fringe of society, due to the racialization of their image, alleged criminal nature, and motivation for claiming asylum (Bannerji, 1997).

Conclusion

Anti-Racist Social Work

As I learn about refugee experiences, navigating complex systems of refugee status determination and racist portrayals spread by political authorities and media, I am disturbed by the racism evident within Canadian political systems. Canada claims to promote equality and democracy, yet racism is infused within immigration processes (Aitken, 2008). On a global

scale, Canada holds a powerful position in the West, exploiting labour and resources from poorer countries in the South, while restricting and controlling the movement of refugees from these same countries into Canada. As a social worker and global citizen, the increasing gap of inequality divided along lines of race and class within and outside Canada stands out as an unresolved issue worsened by current refugee policy.

Social Work Implications

Social workers are involved in the life of refugees on a micro level, assisting refugees to claim asylum and access legal, social and economic resources. Social workers are also involved on a macro level as the power dimensions we work within are influenced and dictated by larger national and international political structures and institutions. As I have come to learn that social work is constrained by policies driven by budgets, I also realize that immigration policy is largely driven by economic forces and not humanitarian conditions. In my desire to assume an anti-oppressive approach to social work practice, I believe it is critical to comprehend the ways the system we work within oppress refugees. While awareness of systemic racism that has permeated our immigration laws is one step to bringing change to structural inequalities, it is but the first step. Awareness must also open the door to practicing in a manner that helps refugees experience their own critical consciousness - to empower and discover themselves outside of their “refugeeness” and outside of the oppression they internalize. Through awareness of systemic racism and practice promoting conscientization, I believe social workers can help return power back to refugees who have lost much autonomy along their journey.

References

- A haven for villains. (2007, Sept. 15). *Economist*, 384, 48. Retrieved November 4, 2008, from Academic Search Premier database.
- Adelman, H. (2002). Canadian borders and immigration post 9/11. *International Migration Review*, 36, 15-28.
- Aiken, S. J. (2008). From slavery to expulsion: Racism, Canadian immigration law, and the unfulfilled promise of modern constitutionalism. In V. Agnew (Ed.), *Interrogating race and racism*. (pp. 55-111). Toronto, ON: University of Toronto Press.
- Bannerji, H. (1997). Geography lessons on being an insider/outsider to the Canadian Nation. In L. Roman & L. Eyre (Eds.), *Dangerous territories: Struggles for difference and equality in education*. New York, NY: Routledge.
- Canadian Council for Refugees (CCR). (2003) *First annual report card on Canada's refugee and immigration programs*. Retrieved November 4, 2008 from <http://www.ccrweb.ca/reportcard2003.htm>.
- Canadian Council for Refugees (CCR). (2000). *Report on systemic racism and discrimination in Canadian refugee and immigration policies*. Retrieved November 3, 2008 from <http://www.ccrweb.ca/antiracrep.htm>.
- Chute, T. (2005). CRS working paper #3: Globalization, security and exclusion. *Centre for Refugee Studies*. Retrieved from <http://www.yorku.ca/crs/Publications/CRS%20Working%20Paper%203.pdf>.
- Citizenship and Immigration Canada (CIC). (2005) *Facts and figures 2006: Immigration overview - Permanent and temporary residents*. Ottawa, Canada: Minister of Public Works and Government Services Canada.
- Esses, V. M., Veenvliet, S., Hodson, G., & Mihic, L. (2008). Justice, morality, and the dehumanization of refugees. *Social Justice Research*, 21, 4-25. Retrieved November 4, 2008, from Academic Search Premier database.
- Henry, F., & Tator, C. (2002). Racialization of crime. In F. Henry & C. Tator. *Discourses of domination: racial bias in the Canadian English-language press*. Toronto, ON: University of Toronto Press.
- Keep the borders open. (2008, January 5). *Economist*, 386, 8. Retrieved November 4, 2008, from Academic Search Premier database.
- Knowles, V. (2007). *Strangers at our gates: Canadian immigration and immigration policy, 1540-2006*. Toronto, ON: Dundurn Press.

- Lacroix, M. (2004). Canadian refugee policy and the social construction of the refugee claimant subjectivity: Understanding refugeeness. *Journal of Refugee Studies*, 17(2), 147-166. Retrieved November 8, 2008 from <http://jrs.oxfordjournals.org/cgi/content/abstract/17/2/147>.
- Macklin, A. (2005). Disappearing refugees: Reflections on the Canada-U.S. safe third country agreement. *Columbia Human Rights Law Review*, 36, 365-426. Retrieved November 8, 2008 from <http://www.rcusa.org/uploads/pdfs/SSRN-id871226%5b1%5d.pdf>.
- Matas, D. (2001). Refugee determination complexity. *Refugee*, 19(4), 48-54. Retrieved November 7, 2008 from <http://pi.library.yorku.ca/ojs/index.php/refuge/article/viewFile/1072/608>.