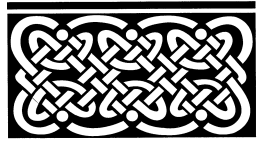


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Equal Access to Student Loans for Convention Refugees

This commentary focusses on a policy with a severe impact on a small group of vulnerable people in Canada: recognized refugee youth who are in legal limbo, and are therefore unable to acquire postsecondary education and training.

In response to the need for assistance for refugee students, The Maytree Foundation has launched a small scholarship program to help 12 students who are awaiting permanent resident status undertake postsecondary studies. These are individuals who have been recognized as Convention refugees by the Immigrant and Refugee Board and are now waiting to be granted permanent resident status.

The students profiled in this commentary have been accepted into this scholarship program. While the Foundation hopes to help these individual students, the larger goal is a change in eligibility for federal and provincial student loans that will make the Foundation program unnecessary. By enabling Convention refugee

students to demonstrate their abilities, the Foundation hopes to encourage federal and provincial governments to recognize the situation of Convention refugees and meet their international obligations by granting Convention refugees equal access to student loans on the same basis as Canadian and landed immigrant students in need. The goal is not special treatment, but equal treatment, for refugees.

the problem

“For young people today...access to postsecondary education has become the precondition for access to full participation in the economy of the future” [HRDC 1998: preface]. Indeed, the jobless rate for those with a university or college education is just one-third that for workers with less than a high school education [HRDC 1998: 1]. While the federal government has asserted its commitment to “ensuring access to advanced learning opportunities for individuals everywhere in Canada” [HRDC 1998: 2],

some of Canada's most vulnerable people are being left out: Convention refugees. These are individuals who fall within the definition of the UN Convention relating to the Status of Refugees (1951) and the associated 1967 Protocol [Brouwer 1998].

Federal law and provincial regulations exclude Convention refugees from public student loan programs until they have been granted permanent resident status. Without a loan, few of these Canadians-in-waiting can afford rising tuition costs.¹

Perhaps some of these young people will still be in a position to enter university or college down the road, when their landing papers come through. But for others, the opportunity for full-time studies may well have passed them by forever. This is a tragedy, not just for the individuals and their families, but also for Canadian society. Consider some of the refugees affected:²

One young woman from Somalia, for example, arrived in Canada in 1995 and was accepted as a Convention refugee. Two years later, she graduated from high school as an Ontario Scholar, with an average of 92.5 percent. She won a Governor General's Academic Medal. She has long dreamed of becoming a doctor and wanted to study biochemistry at university last fall. Finances, however, have forced her to abandon her dream. She is ineligible for a loan, her parents are back in Somalia and her only relative in Canada is her brother, who is also struggling financially.

Then there is the young man from Bangladesh. He fled to Canada on his own at age 21 and was recognized as a Convention refugee. He has supported himself since arriving in 1995, and last spring graduated from high school with an average in the 90s. At the same time, he has taken

up volunteer tutoring, wanting to share with younger students what he has learned. A computer whiz who helps keep his school's system up and running, he was accepted in computer programming at the University of Toronto, but he could not afford to go on his meagre income. And he could not get a loan.

Canada has a long-standing commitment to ensuring access to postsecondary education for all who have the ability and desire to attend. A C.D. Howe report on student loans notes:

...this goal has been pursued by having postsecondary institutions admit all students deemed 'academically able,' regardless of family income, with governments then providing heavy subsidies to keep tuition fees relatively low and to provide loans and grants to those in need, thus keeping postsecondary education within the financial reach of all [Finnie and Schwartz 1996: 96].

While the trend has been away from subsidization of tuition in recent years, the continuation of the student loans program demonstrates Canadians' commitment to social justice and equitable treatment for all. Student financial aid programs have helped countless promising but economically disadvantaged youth from a wide range of backgrounds and communities to access otherwise unattainable educational opportunities. Yet this commitment to equity for all currently does not include Convention refugees.

the cause

Refugees who come to Canada on their own seeking protection from persecution (as opposed to refugees sponsored from overseas)

must go through several stages in order to gain permanent residence and eventually citizenship here.³ The first step is to make a claim to Convention refugee status. Once they have made the claim, they must wait for a hearing before the Immigration and Refugee Board (IRB).⁴ During this initial waiting period – a year on average – they are known as *refugee claimants*. Refugee claimants seeking to attend Canadian colleges and universities are considered ‘foreign students’ and charged international tuition rates (usually twice the domestic rate or more).⁵

Those refugees whose claims are accepted by the IRB (about 46 percent – or 12,954 – were accepted in 1999 [IRB 2000]) are recognized as *Convention refugees* and have the opportunity to apply for permanent resident status, or ‘landing,’ followed by citizenship. Convention refugee students are treated on par with Canadian and permanent resident students when it comes to tuition rates.

This difference in treatment reflects the fact that more than half of refugee claimants are denied recognition by the IRB, and are thus in Canada temporarily. Those who have been recognized as Convention refugees, by contrast, are for all intents and purposes Canadians-in-waiting.

This distinction between claimants and recognized refugees, while reflected in tuition rates, is not similarly reflected in the legislation and regulations governing access to student loans. Under the current rules, access to federal and provincial student loans is available only to Canadian citizens and permanent residents. While this policy does not appear to have been a deliberate exclusion of Convention refugees, it does not take much imagination to understand the impact of the restriction on these future Canadians.

With tuition rates 126 percent higher today than in 1990-1991 [Statistics Canada 1999], access to financial assistance for those in need has never been more important.⁶ This is particularly true in the case of economically disadvantaged groups. For children of unemployed or low-wage parents, most single-parent families or economically depressed First Nations communities, for example, the cost of three or four years of full-time postsecondary education would be out of reach today without financial assistance. The situation is no different for Convention refugees.

In most cases, refugees come to Canada with very few resources. While over time they can be expected to integrate into Canadian society and the economy, and attain income levels on par with the Canadian-born, in the first few years after arrival they face an uphill battle. Refugees frequently have to rely on social assistance as they make their way through the landing process, acquire language training and seek recognition of their occupational qualifications. Whatever resources they have are used for basic necessities such as food, shelter, clothing, and the heavy costs and fees associated with acquiring permanent residence. (For example, applicants for landing are charged a processing fee of \$500 per adult and \$100 per child as well as a right of landing fee of \$975 per adult [Brouwer 1999a].)

For most applicants, this pre-landing period – the time it takes to be processed for landing after having been determined to be a Convention refugee – lasts up to 24 months. If this were the longest it ever took to get landed, the requirement that refugees wait until landing before attending college or university might not seem unreasonable. Since 1993, however, this in-between time has grown into a long-term legal limbo for thousands of refugees lacking sat-

isfactory identity documents. For undocumented refugees from Somalia and Afghanistan, there is a mandatory three-year waiting period for landing; undocumented refugees from other countries face the possibility that they will never be landed [Brouwer 1999b].⁷ For these refugees, having to wait until they are landed before attending college or university has a much more significant impact.

the impact

The Department of Citizenship and Immigration reported in November 1998 that there were 13,025 Convention refugees in Canada who had been waiting more than six months for permanent resident status. A second survey of this same group a year later (January 2000) revealed that 8,381 of them were still waiting (i.e., they had been waiting more than a year and a half). Of these Convention refugees who have been in limbo for a year and a half or longer, 2,909 are between the ages of 18 and 30 – college or university aged – but are ineligible for student loans [Citizenship and Immigration 2000].

These are crucial years in a person's life; delaying by several years postsecondary studies for youth in this age bracket means, in many cases, denying them an opportunity for higher education. Many will be unable to wait, and have little choice but to find whatever work is available to them at their lower educational level. Once they have assumed family responsibilities, it is increasingly unlikely that they will be able to give up their employment and return to school. In an economy in which an estimated 45 percent of new jobs will require an average of three years of postsecondary education, the implications of this missed opportunity are significant [Human Resources Development Canada 1998: 1]. Having been denied access to the necessary

financial support legally available to every other disadvantaged student in Canada, many Convention refugee youth face long-term, even permanent, underemployment.

The barrier to student loans – which effectively prevents many Convention refugees from pursuing postsecondary education while in limbo – has the greatest impact on refugees from two countries: Somalia and Afghanistan. The reason is that, as noted, undocumented Somali and Afghan refugees face an automatic minimum three-year term in limbo. Also affected, however, are Convention refugees from a few other countries, including Sri Lanka and Iran, where identity documents are difficult or impossible to come by for people persecuted by their governments.

The exclusion of these people (unintentional though it may be) is a violation of Canada's international obligations. For example, recognizing the impact on society of preventing certain groups from acquiring technical and higher education, Article 26 of the Universal Declaration of Human Rights states: "Everyone has the right to education. . . . Technical and professional education shall be made generally available, and higher education shall be equally available to all on the basis of merit." The United Nations Convention on Economic, Social and Cultural Rights guarantees the same right [Art. 13 (1), (2c)], and both prohibit discrimination on the basis of "national origin...or other status" [UDHR Art. 2; UNCESCR Art. 2 (2)].

The United Nations Committee on Economic, Social and Cultural Rights, in its 1998 report on Canada's compliance with the Convention on Economic, Social and Cultural Rights, described the problem clearly and expressed its concern:

The Committee is concerned that loan programmes for post-secondary education are available only to Canadian citizens and permanent residents and that recognized refugees who do not have permanent residence status as well as asylum seekers are ineligible for these loan programmes. The Committee views also with concern the fact that tuition fees for university education in Canada have dramatically increased in the past years, making it very difficult for those in need to attend university in the absence of a loan or grant [UNCESCR par. 39].

Not only is this treatment of Convention refugee students contrary to human rights standards, it also goes against the values of Canadian society at large. The very existence of subsidized postsecondary education and loans programs for needy students in this country speaks to the value Canadians ascribe to ensuring equitable access to educational opportunity for all. In an increasingly knowledge-based economy, it is in everyone's interest to provide the best education possible to all who seek it. Even in simple monetary terms, public investment in postsecondary education has been demonstrated to produce a substantial net financial benefit to society through income taxes on the higher earnings of college and university graduates [Allen 1999: 9].

a simple solution

The solution to the problem is clear: to level the playing field by giving Convention refugees equal opportunity to apply for student loans. The goal is not special treatment for students who are Convention refugees, but equal treatment on par with other Canadian students in need. There are a number of policy options available to the

federal government and to the provinces to achieve this end;⁸ the best and most effective solution involves a minor change to a federal Act, and related minor amendments to provincial regulations.⁹

The Canada Student Financial Assistance Act is the legislation governing the Canada Student Loans Program. To access the program, a student must fit the Act's definition of a 'qualifying student.' Among other things, "'qualifying student' means a person who is a Canadian citizen or a permanent resident within the meaning of the Immigration Act" [s.2(1)a]. Each province has its own Provincial Student Assistance Plan, and the regulations establishing these programs directly mirror the federal Act, including its definition of 'qualifying student.'

The sole *legislative* change needed, then, is in the definitions section of the federal Act: The Minister of Human Resources Development Canada need simply table an amendment to Section 2(1)a so that it reads "who is a Canadian citizen, permanent resident *or Convention refugee* within the meaning of the Immigration Act." Having done so, she would need to get her provincial counterparts to make the same change to their regulations. Given that several provinces already have harmonized their loans programs with those of the federal government, and others are in the midst of harmonization negotiations, this would seem to be an opportune moment for such joint action.

The cost of this expansion to student loans programs would be minimal – in 1998-99, the Canada Student Loans Program provided loans to 368,694 full-time students in nine provinces and the Yukon (Quebec and the Northwest Territories have different programs).¹⁰ Even if one-third of the refugees in limbo between the ages of 18 and 30 – 970 – were to apply and be

found eligible for loans, it still would entail only a 0.26 percent increase in the number of students served, and thus in the cost of the loans program.¹¹ The total amount loaned to full-time students in nine provinces was \$1.6 billion in 1998-99. The inclusion of Convention refugees would mean only an additional \$4 million in loans. Moreover, Canada already has very positive experience in lending and loan repayment with the newcomer community. The repayment rate of the existing Immigrant Loan Program is steady at 92 percent.

The short-term financial costs of adding these students are more than outweighed by the benefits of providing future Canadians with an opportunity to educate themselves to their full potential.

conclusion

The vast majority of Convention refugees, once granted protection, are here to stay. They have proved to the Immigration and Refugee Board that they would face persecution if they went back to their countries of origin. Furthermore, having applied for permanent resident status, they clearly have signalled their intent to settle in Canada permanently. They therefore should be treated for what they are – future Canadians, or Canadians-in-waiting.

Canadian governments provide Convention refugees in need access to social programs such as welfare (albeit reluctantly), yet deny them the support they require to attain self-sufficiency through higher education. What sense does it make to prevent these people from full participation in Canadian life?

Withholding student loans from recognized refugee youth clearly serves no one's

interests, and harms both the individual refugees affected and society at large. It is time to make a change.

Andrew Brouwer

Andrew Brouwer is Program Manager, The Maytree Foundation. He can be reached at (416) 944-2627.

Endnotes

1. There are a variety of grant, scholarship and bursary programs provided by provinces, institutions and private funders. Some of these are merit-based, others needs-based and a few of them are available to refugees. This commentary is limited, however, to the national, public, needs-based, renewable student financial aid system: the Canada Student Loans Program and related provincial Student Assistance Plans.
2. Some details have been changed to protect the identities of the individuals.
3. The focus of this paper is on those refugees accepted in Canada; refugees selected overseas and sponsored to Canada are granted permanent resident status upon arrival and therefore do not face the same barrier when seeking student loans.
4. An independent administrative tribunal empowered to recognize Convention refugees on behalf of the Government of Canada.
5. For example, in 1999-2000, full-time tuition for first-year students in the Bachelor of Arts program at the University of Toronto was \$3,835 for domestic students and \$8,639 for international students. At the University of Victoria, domestic students paid \$2,265, while international students paid \$6,795. The University of Alberta simply doubles the domestic tuition rate for international students.

6. This percentage increase applies to arts undergraduate programs.

7. The reduction of the waiting period from five years to three years for undocumented refugees from Somalia and Afghanistan seeking landing under the Undocumented Convention Refugee in Canada Class was announced by Citizenship and Immigration Minister Elinor Caplan on December 3, 1999.

8. Other approaches also might be taken to address the access to loans problem. For example, should the Minister of Human Resources Development choose not to make the simple legislative amendment proposed here, the Minister of Citizenship and Immigration could take unilateral action to expand the existing settlement programs or the Immigrant Loans Program to include a student loans category. After all, refugees are within her portfolio. A different approach – and certainly a worthy policy measure in its own right – would be to eliminate the automatic waiting period for undocumented refugees altogether, allowing them to prove their identity by other means and then be landed. This approach, which is discussed in *What's in a Name?* [Brouwer 1999a], would solve the student loan problem for the vast majority of refugees in limbo. (However, those refugees whose landing delays stem not from a lack of identity documents but from the processing system itself would remain ineligible for student loans.)

9. The fact that the federal and provincial governments are engaged in an ongoing process of harmonizing their student assistance regimes, as part of the Social Union Framework Agreement, suggests that this is an opportune moment to undertake such joint action.

10. 1998-1999 student loans data, derived from the Canada Student Loans Research Database, are preliminary.

11. This is a very liberal projection. According to the 1996 Census, the rate of full-time postsecondary school attendance among Canadians aged 20-24 was 39 percent, but fell to 11 percent for those aged 25-29. Part-time attendance rates were 9 percent and 10 percent, respectively [Statistics Canada 1998]. Furthermore, following the Immigration Minister's recent announcement of a shortened waiting period for undocumented Somali and Afghan refugees seeking landing (endnote 7), the total number of refugees in limbo should begin to decrease very soon.

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The Caledon Institute of Social Policy
1600 Scott Street, Suite 620
Ottawa, Ontario, Canada
K1Y 4N7

Phone: (613) 729-3340
Fax: (613) 729-3896
E-mail: caledon@caledoninst.org
Website: www.caledoninst.org